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Washington, DC
(3 blocks north of Union Station Metro)

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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

Agricultural Marketing Service

7 CFR Part 905

[Docket No. FV00–905–1 FR]

Oranges, Grapefruit, Tangerines and Tangelos Grown in Florida; Increased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule increases the assessment rate established for the Citrus Administrative Committee (Committee) for the 2000–2001 and subsequent fiscal periods from $0.00385 to $0.0055 per 4/5-bushel carton of citrus handled. The Committee locally administers the marketing order which regulates the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida. Authorization to assess citrus handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program. The fiscal period began on August 1 and ends July 31. The assessment rate will remain in effect indefinitely unless modified, suspended, or terminated.

EFFECTIVE DATE: August 23, 2000.

FOR FURTHER INFORMATION CONTACT: Doris Jamieson, Marketing Specialist, Southeast Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 2276, Winter Haven, FL; telephone: (863) 299–4770, Fax: (863) 299–5169; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 720–5698.

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

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 84 and Order No. 905, both as amended (7 CFR part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida, hereinafter referred to as the ''order.'' The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

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

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, Florida citrus handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable oranges, grapefruit, tangerines, and tangelos beginning August 1, 2000, and continue until amended, suspended, or terminated. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

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

This rule increases the assessment rate established for the Committee for the 2000–2001 and subsequent fiscal periods from $0.00385 to $0.0055 per 4/5-bushel carton or equivalent of citrus handled.

The Florida citrus marketing order provides authority for the Committee, with the approval of the Department, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The members of the Committee are producers and handlers of Florida citrus. They are familiar with the Committee's needs and with the costs for goods and services in their local area and are thus in a position to formulate an appropriate budget and assessment rate. The assessment rate is formulated and discussed in a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

For the 1998–99 and subsequent fiscal periods, the Committee recommended, and the Department approved, an assessment rate that would continue in effect from fiscal period to fiscal period unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the Committee or other information available to the Secretary.

The Committee met on May 26, 2000, and unanimously recommended 2000–2001 expenditures of $255,500 and an assessment rate of $0.0055 per 4/5-bushel carton or equivalent of citrus. In comparison, last year's budgeted expenditures were $245,425. The assessment rate of $0.0055 is $0.00165 higher than the rate currently in effect. The quantity of assessable oranges, grapefruit, tangerines, and tangelos for the 2000–2001 fiscal period is expected to be 55,000,000 4/5-bushel cartons. The Committee projected 60,500,000 assessable 4/5-bushel cartons of citrus for the 1999–2000 fiscal period. The actual quantity of assessable citrus for 1999–2000 is expected to be 53,500,000 4/5-bushel cartons. Because of this shortfall, the Committee has had to use money from its authorized reserve fund to cover approved expenses. The increase in assessment rate for 2000–2001 is needed to bring the reserve fund to an acceptable level, and to cover increases in the Committee's budgeted

expenditures for the 2000–2001 fiscal period.

The major expenditures recommended by the Committee for the 2000–2001 fiscal period include $118,300 for salaries, $36,000 for Manifest Department—FDACS, $19,900 for insurance and bonds, $18,500 for retirement plan, $12,450 for miscellaneous and reserve, and $10,000 for telephone. Budgeted expenses for these items in 1999–2000 were $118,300, $14,000, $19,900, $12,600, $9,075, and $9,000, respectively.

The assessment rate recommended by the Committee was derived by dividing anticipated expenses by expected shipments of Florida citrus. Citrus shipments for the year are estimated at 55 million cartons, which should provide $302,500 in assessment income. Income derived from handler assessments, along with interest income and funds from the Committee's authorized reserve, should be adequate to cover budgeted expenses. Funds in the reserve (approximately $111,371) will be kept within the maximum permitted by the order (one-half of one fiscal period's expenses; § 905.42).

The assessment rate established in this rule will continue in effect indefinitely unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the Committee or other available information.

Although this assessment rate will be in effect for an indefinite period, the Committee will continue to meet prior to or during each fiscal period to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Committee meetings are available from the Committee or the Department. Committee meetings are open to the public and interested persons may express their views at these meetings. The Department will evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking will be undertaken as necessary. The Committee's 2000–2001 budget and those for subsequent fiscal periods would be reviewed and, as appropriate, approved by the Department.

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

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

There are approximately 11,000 producers of oranges, grapefruit, tangerines, and tangelos in the production area and approximately 80 handlers subject to regulation under the marketing order. Small agricultural producers are defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $5,000,000.

Based on the Florida Agricultural Statistical Service and Committee data for the 1998–99 season, the average annual f.o.b. price for fresh Florida citrus during the 1998–99 season was $8.66 per 4/5-bushel carton for all shipments, and the total shipments for the 1998–99 season were 63.6 million cartons of citrus. Approximately 68 percent of the handlers handled 93 percent of Florida citrus shipments. Using information provided by the Committee, about 60 percent of citrus handlers could be considered small businesses under the SBA definition. Although specific data is unavailable, the Department believes that the majority of Florida citrus producers may be classified as small entities.

This rule increases the assessment rate established for the Committee and collected from handlers for the 2000–2001 and subsequent fiscal periods from $0.00385 to $0.0055 4/5-bushel carton of citrus. The Committee unanimously recommended 2000–2001 expenditures of $255,500 and an assessment rate of $0.0055 per 4/5-bushel carton. The assessment rate of $0.0055 is $0.00165 higher than the current rate. The quantity of assessable citrus for the 2000–2001 fiscal period is estimated at 55 million 4/5-bushel cartons. Thus, the $0.0055 rate should provide $302,500 in assessment income. Income derived from handler assessments, along with interest income and funds from the Committee's authorized reserve, should be adequate to cover budgeted expenses. Assessment funds in excess of those needed for approved expenses will be used to increase the Committee's operating reserve.

The major expenditures recommended by the Committee for the 2000–2001 fiscal period include $118,300 for salaries, $36,000 for Manifest Department—FDACS, $19,900 for insurance and bonds, $18,500 for retirement plan, $12,450 for miscellaneous and reserve, and $10,000 for telephone. Budgeted expenses for these items in 1999–2000 were $118,300, $14,000, $19,900, $12,600, $9,075, and $9,000, respectively.

The quantity of assessable oranges, grapefruit, tangerines, and tangelos for the 2000–2001 fiscal period is expected to be much less than in previous seasons. The Committee projected 60,500,000 assessable 4/5-bushel cartons of citrus for the 1999–2000 fiscal period. The actual quantity of assessable citrus for 1999–2000 is expected to be 53,500,000 4/5-bushel cartons. Because of this shortfall, the Committee has had to use money from its authorized reserve fund to cover approved expenses. In an effort to recover from assessment income shortfalls in 1997–98 and 1999–2000, and to bring the reserve fund to an acceptable level, the Committee voted unanimously to increase its assessment rate.

The Committee reviewed and unanimously recommended 2000–2001 expenditures of $255,500 that included increases in administrative costs. Prior to arriving at this budget, the Committee considered information from various sources, such as the Budget Subcommittee, the Grapefruit Subcommittee, and the Regulatory Subcommittee. Alternative expenditure levels were discussed by these groups, based upon the estimated number of assessable cartons of citrus. The assessment rate of $0.0055 per 4/5-bushel carton of assessable citrus was recommended to provide enough income to cover the Committee's estimated expenses for 2000–2001 and to increase its operating reserve. This rate is expected to generate $302,500. This is $47,000 above the anticipated expenses, which the Committee determined to be acceptable.

A review of historical information and preliminary information pertaining to the upcoming fiscal period indicates that the grower price for the 2000–2001 fiscal period could range between $4.10 and $19.65 per 4/5-bushel carton of oranges, grapefruit, tangerines, and tangelos. Therefore, the estimated assessment revenue for the 2000–2001 fiscal period as a percentage of total grower revenue could range between .03 and .13 percent.

This action increases the assessment obligation imposed on handlers. While assessments impose some additional costs on handlers, the costs are minimal and uniform on all handlers. Some of the additional costs may be passed on

to producers. However, these costs are offset by the benefits derived by the operation of the marketing order. In addition, the Committee's meeting was widely publicized throughout the citrus production area and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the May 26, 2000, meeting was a public meeting and all entities, both large and small, were able to express views on this issue.

This rule imposes no additional reporting or recordkeeping requirements on either small or large Florida citrus handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

The Department has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

A proposed rule concerning this action was published in the **Federal Register** on July 6, 2000 (65 FR 41608). Copies of the proposed rule were also mailed or sent via facsimile to all citrus handlers. Finally, the proposal was made available through the Internet by the Office of the Federal Register. A 30-day comment period ending August 7, 2000, was provided for interested persons to respond to the proposal. No comments were received.

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

After consideration of all relevant material presented, including the information and recommendation submitted by the Committee and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because the fiscal period began August 1 and the marketing order requires that the rate of assessment for each fiscal period apply to all assessable citrus handled during such fiscal period, and the Committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis. Further, handlers are aware of this rule which was recommended at a public meeting. Also, a 30-day comment period was provided for in the proposed rule.

List of Subjects in 7 CFR Part 905

Grapefruit, Marketing agreements, Oranges, Reporting and recordkeeping requirements, Tangelos, Tangerines.

For the reasons set forth in the preamble, 7 CFR part 905 is amended as follows:

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

1. The authority citation for 7 CFR part 905 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 905.235 is revised to read as follows:

§ 905.235 Assessment rate.

On and after August 1, 2000, an assessment rate of $0.0055 per 4/5-bushel carton or equivalent is established for assessable Florida citrus covered under the order.

Dated: August 16, 2000.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 00–21369 Filed 8–21–00; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–CE–62–AD; Amendment 39–11874; AD 2000–17–01]

RIN 2120–AA64

Airworthiness Directives; Fairchild Aircraft, Inc. Models SA226–T, SA226–AT, SA226–T(B), SA226–TC, SA227–AT, SA–227–TT, and SA–227–AC Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes Airworthiness Directive (AD) 92–01–02, which currently requires you to accomplish the following on certain Fairchild Aircraft SA226 and SA227 series airplanes: modify the parking brake system; and inspect (repetitively) certain landing gear brake assemblies. That AD resulted from wheel brake system malfunctions on several of the affected airplanes where regular brake system maintenance had been performed. This AD retains the modification and inspection requirements of AD 92–01–02 and incorporates inspection and replacement requirements for additional landing gear brake assemblies. The actions specified by this AD are intended to prevent wheel brake system malfunctions that could result in a fire in the brake area.

DATES: This AD becomes effective on October 6, 2000.

The Director of the Federal Register previously approved the incorporation by reference of certain publications listed in the regulation as of January 16, 1992 (56 FR 65824, December 19, 1991).

ADDRESSES: You may get the service information referenced in this AD from Fairchild Aircraft, Inc., P.O. Box 790490, San Antonio, Texas 78279–0490; telephone: (210) 824–9421; facsimile: (210) 820–8609 and B.F. Goodrich Aircraft Wheels and Brakes, P.O. Box 340, Troy, Ohio 45373.

You may examine this information at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 99–CE–62–AD, 901 Locust, Room 506, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Werner Koch, Aerospace Engineer, FAA, Airplane Certification Office, 2601 Meacham Boulevard, Fort Worth, Texas 76193–0150; telephone: (817) 222–5133; facsimile: (817) 222–5960.

SUPPLEMENTARY INFORMATION:

Discussion

What Caused This AD?

AD 92–01–02 , Amendment 39–39–8125 (56 FR 65824, December 19, 1991), currently requires you to accomplish the following on certain Fairchild SA226 and SA227 series airplanes:

—Modify the parking brake system; and

—Inspect (repetitively) certain landing gear brake assemblies.

The inspection requirements of AD 92–01–02 only apply to airplanes equipped with B.F. Goodrich landing gear brake assemblies, part number 2–1203–3. The FAA has received service reports on B.F. Goodrich landing gear brake assemblies, part numbers 2–1203 and 2–1203–01, that indicate these brake assemblies should also be inspected for wear.

Has FAA Taken Any Action to This Point?

We issued a proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that

would apply to certain Fairchild SA226 and SA227 series airplanes. This proposal published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on February 16, 2000 (65 FR 7794). The NPRM proposed to supersede AD 92–01–02, Amendment 398125, by retaining the modification and inspection requirements of AD 92–01–02, and would incorporate the additional landing gear brake assemblies previously referenced.

What Is the Potential Impact if FAA Took No Action?

These actions are necessary to prevent wheel brake system malfunctions. If we did not take action, this could result in a fire in the brake area.

Was the public invited to comment?

The FAA encouraged interested persons to participate in the making of this amendment. The following presents the comments received on the proposal and FAA's response to each comment:

Comment Issue No. 1: Incorrect Part Number Referenced

What Is the Commenters' Concern?

Two commenters state that FAA incorrectly referenced in several places the part number (P/N) 2–1203–1 B.F. Goodrich landing gear brake assemblies as P/N 2–1203–01.

What Is FAA's Response to the Concern?

We concur and have corrected all reference to this part number in the final rule.

Comment Issue No. 2: Change the Wording in the AD

What Is the Commenter's Concern?

One commenter requests that FAA revise the last sentence in paragraph 3 of the Discussion section in the NPRM to indicate that our intent is to reduce the wear and clearance limits, not focus on the inspection. The commenter states that because all brake assemblies are inspected for wear and clearance per the aircraft maintenance manual, the emphasis of the AD should be to reduce the maximum allowed clearance.

What Is FAA's Response to the Concern?

We agree with the proposed wording change and will incorporate it into the final rule as appropriate. We also concur that the focus should be on reducing the maximum allowed clearance. However, the AD must also emphasize the inspection since one of the main actions of the AD is to repetitively inspect and conduct measurements of the brake wear and clearance limits.

Comment Issue No. 3: Service Difficulty Reports

What Is the Commenters' Request?

One commenter requests copies of the service difficulty reports on the P/N 2–1203 landing gear brake assemblies.

What Is FAA's Response to the Request?

You may obtain service difficulty reports from: Regulatory Support Division, AFS–600, Federal Aviation Administration (FAA), P.O. Box 25082, Oklahoma City, OK 73125; Telephone: (405) 954–6501, Facsimile: (405) 954–4104.

Comment Issue No. 4: Apply the AD to Brake Assemblies Modified by a Rapco Parts Manufacture Approval (PMA)

What Is the Commenters' Concern?

One commenter states that, as written, the proposed AD does not apply to B.F. Goodrich brake assemblies that have been modified with Rapco PMA parts. The commenter requests that FAA change the proposed AD to reflect these parts.

What Is FAA's Response to the Concern?

We concur that the NPRM, as written, may not communicate that the action should also affect B.F. Goodrich brake assemblies modified with Rapco PMA parts. FAA policy is to not reference specific equivalent PMA parts in AD's. If the PMA parts are not equivalent and the unsafe condition applies specifically to these PMA parts, we will write the AD against these parts. However, we generally include a statement of ''or FAA-approved equivalent part number(s)'' after the referenced part number to account for PMA equivalent parts. The FAA inadvertently left this phrase out of the NPRM, and will add it to the final rule accordingly. If these Rapco PMA parts are installed, then the actions of this AD will apply because the parts are an FAA-approved equivalent to the B.F. Goodrich brake assemblies.

Comment Issue No. 5: The Cost Impact Is Incorrect Because FAA Does Not Take Into Account the Reduced Life of the Brake Linings

What Is the Commenters' Concern?

One commenter states that FAA did not take into account the effect the reduced life of the brake linings have on the cost impact of the proposed AD. We infer that the commenter wants us to change the cost impact to reflect this effect.

What Is FAA's Response to the Concern?

We concur that the reduced allowable wear life of the B.F. Goodrich brake assemblies will present a cost impact. However, we are unable to determine these associated costs because we cannot predict the usage rate of the Fairchild SA226 and SA227 series airplane fleet. Therefore, we are not changing the AD as a result of this comment.

Comment Issue No. 6: The Proposed Compliance Time Does Not Account for the Reduced Wear and Clearance Limits

What Is the Commenters' Concern?

One commenter states that FAA did not take into account the effect that the reduced wear and clearance limits would have when establishing the compliance times. The commenter suggests inspection of the brake assemblies every 50 landings because the brake life will be reduced 23.4 percent and the average life will be approximately 6 months of service.

What Is FAA's Response to the Concern?

We partially concur with the commenter's assessment of the reduced brake life. Assuming a nominal adjustment brake clearance of .0175 inches, we calculate the reduction in brake wear life to 17.7 percent instead of 23.4 percent when the maximum clearance is reduced from .300 inches to .250 inches.

The repetitive inspection compliance time interval will remain at 250 hours time-in-service (TIS), unless the clearance is .200 inches or more, but less than .250 inches. If the clearance is in this range, you would have to inspect at intervals of 75 hours TIS until the brake assembly is replaced (when the maximum clearance is .250 inches or more).

Comment Issue No. 7: Certain Aspects of the Plain Language Writing Style Are Not Appropriate for AD's

What Is the Commenters' Concern?

One commenter provides feedback to FAA on its initiative to improve the writing style used in regulatory documents. The initiative is based on a Presidential memorandum of June 1, 1998, which requires federal agencies to communicate more clearly with the public.

What Is FAA's Response to the Concern?

We appreciate the feedback on our initiative to better communicate with those affected by airworthiness directives. We will consider the specific ideas of the commenter, along with

those that others submitted on other AD actions, in determining what changes or improvements are needed in the way we draft AD's.

The FAA's Determination

What Is FAA's Final Determination on This Issue?

We carefully reviewed all available information related to the subject presented above and determined that air safety and the public interest require the adoption of the rule as proposed except for the changes discussed above. These changes provide the intent that was proposed in the NPRM for correcting the unsafe condition and do not impose any additional burden than what was intended in the NPRM.

Are There Differences Between This AD and the Service Information?

B.F. Goodrich Service Letter No. 1498, dated October 26, 1989, specifies maximum clearance brake wear limits of .300-inch for the B.F. Goodrich landing gear brake assemblies, part numbers 2–1203 and 2–1203–01. This AD will establish these limits at .250-inch to coincide with the wear limits on the part number 2–1203–03 landing gear brake assemblies.

Cost Impact

How Many Airplanes Does the Proposed AD Impact?

The FAA estimates that 330 airplanes in the U.S. registry will be affected by this AD.

What Is the Cost Impact of the Initial Inspection on Owners/Operators of the Affected Airplanes?

We estimate that it will take approximately 6 workhours per airplane to accomplish the modification and initial inspection, and that the average labor rate is approximately $60 an hour. Parts to accomplish the modification cost approximately $500 per airplane. Based on these figures, the total cost impact of this AD on U.S. operators is estimated to be $283,800, or $860 per airplane.

What About the Cost of Repetitive Inspections?

The figures above only take into account the cost of the initial inspection and do not take into account the cost of repetitive inspections. The FAA has no way of determining how many repetitive inspections each owner/operator of the affected airplanes will incur.

What Is the Cost if I Already Accomplished the Initial Inspection and Modification as Required by AD 92–01–02?

The only impact for those airplane owners/operators who already complied with both the initial inspection and modification requirements of AD 92–01–02 will be the cost of the repetitive inspections. The only difference between this AD and AD 92–01–02 is the addition (to the inspection requirement) of the B.F. Goodrich landing gear brake assemblies, part numbers 2–1203 and 2–1203–01.

Regulatory Impact

Does This AD Impact Various Entities?

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

Does This AD Involve a Significant Rule or Regulatory Action?

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. FAA amends Section 39.13 by removing Airworthiness Directive (AD) 92–01–02, Amendment 39–8125 (56 FR 65824, December 19, 1991), and by adding a new AD to read as follows:

2000–17–01 Fairchild Aircraft, Inc.: Amendment 39–11874; Docket No. 99–CE–62–AD; Supersedes AD 92–01–02, Amendment 39–8125.

(a) *What airplanes are affected by this AD?* The following airplane models and serial numbers, certificated in any category.

Model	Serial numbers
SA226–T	T201 through T275, and T277 thru T291.
SA226–T(B)	T(B) 276 and T(B) 292 through T(B) 417.
SA226–AT	AT001 through AT074.
SA226–TC	TC201 through TC419.
SA227–TT	TT421 through TT555.
SA227–AT	AT423 through AT599.
SA227–AC ...	AC406, AC415, AC416, and AC420 through AC599.

(b) *Who must comply with this AD?* Anyone who wishes to operate any of the above airplanes on the U.S. Register must comply with this AD.

(c) *What problem does this AD address?* The actions specified by this AD are intended to prevent wheel brake system malfunctions that could result in a fire in the brake area.

(d) *What actions must I accomplish to address this problem?* To address this problem, you must accomplish the following:

Action	Compliance time	Procedures
(1) Modification: For all affected airplanes, modify the parking days after brake system.	Within 90 calendar days after January 16, 1992 (the effective date of AD 92–01–02).	The instructions included in either Fairchild Service Bulletin (SB) 227–32–017 or Fairchild SB 226–32–049, both Issued: November 14, 1984, as applicable.

Action	Compliance Time	Procedures
(2) Initial Inspection: For all affected airplanes equipped with a B.F. Goodrich landing gear brake assembly, part number 2–1203, 2–1203–1, 2–1203–3, or an FAA-approved equivalent part number, inspect and conduct measurements of the brake wear and clearance limits.	Required at the times that follow: ..... (i) For any installed B.F. Goodrich landing gear brake assembly, P/N 2–1203–3 (or FAA-approved equivalent part number): Within 100 hours time-in-service (TIS) after January 16, 1992 ((the effective date of AD 92–01–02). (ii) For any installed B.F. Goodrich landing gear brake assembly, P/N 2–1203 or 2–1203–1 (or FAA-approved equivalent part number): Within the next 100 hours TIS after October 6, 200 (the effective date of this AD). (iii) For any B.F. Goodrich landing gear brake assembly, P/N 2–1203, 2–1203–1, or 2–1203–3 (or FAA-approved equivalent part number), that is installed after October 6, 2000 (the effective date of this AD): Within 250 hours TIS after installation.	Use the procedures in B.F. Goodrich No. 1498, Issued: October 26, 1989. The wear and maximum clearance limits specified in this AD take precedence over those specified in the service information.
(3) Overhaul or Replacement: For all affected airplanes equipped with a B.F. Goodrich landing gear brake assembly, part number 2–1203, 2–1203–1, 2–1203–3, or an FAA-approved equivalent part number, if wear measure is found that exceeds the maximum allowable clearance (0.250-inch (6.35 millimeter), overhaul or replace the landing gear brake assembly.	Prior to further flight after the inspection where the wear or maximum clearance is exceed.	The instructions included in the applicable maintenance manual.
(4) Repetitive Inspections: For all affected airplanes equipped with a B.F. Goodrich landing gear brake assembly, part number 2–1203, 2–1203–1, 2–1203–3, or an FAA-approved equivalent part number, repetitively inspect and conduct measurements of the brake wear and clearance limits.	(i) If the clearance is .200 inches or more, but is less than .250 inches: inspect at 75-hour TIS intervals until the clearance is .250 inches or more at which time replacement is required. (ii) If clearance is found that is less than .200 inches: inspect at 250-hour TIS intervals until the clearance is .200 inches or more.	Use the procedures in B.F. Goodrich Service Bulletin No. 1498, Issued: October 26, 1989. The wear and maximum clearance limits specified in this AD take precedence over those specified in the service information.

(e) *Can I comply with this AD in any other way?* (1) You may use an alternative method of compliance or adjust the compliance time if:

(i) Your alternative method of compliance provides an equivalent level of safety; and

(ii) The Manager, Fort Worth Airplane Certification Office, approves your alternative. Submit your request through an FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager.

(2) Alternative methods of compliance approved in accordance with AD 92–01–02, which is superseded by this AD, are approved as alternative methods of compliance with this AD.

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

(f) *Where can I get information about any already-approved alternative methods of compliance?* Contact the Fort Worth Airplane Certification Office, 2601 Meacham Boulevard, Fort Worth, Texas 76193–0150; telephone: (817) 222–5133; facsimile: (817) 222–5960.

(g) *What if I need to fly the airplane to another location to comply with this AD?* The FAA can issue a special flight permit under sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate your airplane to a location where you can accomplish the requirements of this AD.

(h) *Are any service bulletins incorporated into this AD by reference?* Actions required by this AD must be done in accordance with B.F. Goodrich Service Bulletin No. 1498, Issued: October 26, 1989; and Fairchild Service Bulletin 227–32–017 or Fairchild Service Bulletin 226–32–049, both Issued: November 14, 1984.

The Director of the Federal Register previously approved this incorporation by reference under 5 U.S.C. 552(a) and 1 CFR part 51, as of January 16, 1992 (56 FR 65824; December 19, 1991). You can get copies from Fairchild Aircraft, Inc., P.O. Box 790490, San Antonio, Texas 78279–0490; and B.F. Goodrich Aircraft Wheels and Brakes, P.O. Box 340, Troy, Ohio 45373. You can look at copies at the FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri; or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

(i) *Does this AD action affect any existing AD actions?* This amendment supersedes AD 92–01–02, Amendment 39–8125.

(j) *When does this amendment become effective?* This amendment becomes effective on October 6, 2000.

Issued in Kansas City, Missouri, on August 11, 2000.

Marvin R. Nuss,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00–21053 Filed 8–21–00; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 524

Ophthalmic and Topical Dosage Form New Animal Drugs; 2-Mercaptobenzothiazole Solution

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the

animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Combe, Inc. The supplemental NADA provides for the topical use of 2-mercaptobenzothiazole solution as an aid in the treatment of certain common skin inflammations in dogs.

DATES: This rule is effective August 22, 2000.

FOR FURTHER INFORMATION CONTACT: Melanie R. Berson, Center for Veterinary Medicine (HFV–110), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–7540.

SUPPLEMENTARY INFORMATION: Combe, Inc., 1101 Westchester Ave., White Plains, NY 10604, filed a supplement to NADA 5–236 that provides for the use of Sulfodene® (2-mercaptobenzothiazole) skin medication for dogs as an aid in the treatment of hot spots (moist dermatitis) and as first aid for scrapes and abrasions. The supplemental NADA provides for revisions to labeling. The NADA is approved as of July 3, 2000, and the regulations in 21 CFR 524.1376 are amended to reflect the approval.

Approval of this supplemental NADA did not require review of any safety or effectiveness data. Therefore, a freedom of information summary is not required.

The agency has determined under 21 CFR 25.33(d)(1) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This rule does not meet the definition of ''rule'' in 5 U.S.C. 804(3)(A) because it is a rule of ''particular applicability.'' Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801–808.

List of Subjects in 21 CFR Part 524

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 524 is amended as follows:

PART 524—OPHTHALMIC AND TOPICAL DOSAGE FORM NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 524 continues to read as follows:

Authority: 21 U.S.C. 360b.

§ 524.1376 [Amended]

2. Section 524.1376 *2-Mercaptobenzothiazole solution* is amended in paragraph (c)(2) by removing the phrase ''treating moist dermatitis and hot spots'' and by adding in its place the phrase ''the treatment of hot spots (moist dermatitis)''.

Dated: July 21, 2000.

Claire M. Lathers,

Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 00–21414 Filed 8–21–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 556 and 558

New Animal Drugs for Use in Animal Feeds; Fenbendazole

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Hoechst Roussel Vet. The supplemental NADA provides for use of an approved fenbendazole Type A medicated article to make Type B and Type C medicated feeds used for the removal and control of gastrointestinal worms in growing turkeys. Also, tolerances for fenbendazole residues in turkey liver and muscle are being established.

DATES: This rule is effective August 22, 2000.

FOR FURTHER INFORMATION CONTACT: Janis R. Messenheimer, Center for Veterinary Medicine (HFV–135), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–7578.

SUPPLEMENTARY INFORMATION: Hoechst Roussel Vet, Perryville Corporate Park III, P.O. Box 4010, Clinton, NJ 08809–4010, filed a supplement to NADA 131–675 that provides for the use of Safe–Guard® (fenbendazole) 20% Type A medicated article to make Type B and Type C medicated feeds for cattle, swine, and zoo and wildlife animals. The supplemental NADA provides for the use of the approved fenbendazole Type A medicated article to make Type B and Type C medicated feeds used for the removal and control of gastrointestinal worms: Round worms, adult and larvae (*Ascaridia dissimilis*) and cecal worms, adult and larvae (*Heterakis gallinarum*), an important vector of *Histomonas meleagridis* (Blackhead) in growing turkeys. Also, tolerances for fenbendazole sulfone in turkey liver and muscle are established. The supplemental NADA is approved as of July 3, 2000, and the regulations are amended in §§ 556.275 and 558.258 (21 CFR 556.275 and 558.258) to reflect the approval.

In accordance with the freedom of information provisions of 21 CFR part 20 and 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

Under section 512(c)(2)(F)(iii) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(c)(2)(F)(iii)), this approval for food-producing animals qualifies for 3 years of marketing exclusivity beginning on July 3, 2000, because the application contains substantial evidence of the effectiveness of the drug involved, any studies of animal safety, or in the case of food-producing animals, human food safety studies (other than bioequivalence or residue studies) required for the approval of the application and conducted or sponsored by the applicant. The 3 years of marketing exclusivity applies only to the new species for which the supplemental application was approved.

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

This rule does not meet the definition of ''rule'' in 5 U.S.C. 804(3)(A) because it is a rule of ''particular applicability.'' Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801–808.

List of Subjects

21 CFR Part 556

Animal drugs, Food.

21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner

of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR parts 556 and 558 are amended as follows:

PART 556—TOLERANCES FOR RESIDUES OF NEW ANIMAL DRUGS IN FOOD

1. The authority citation for 21 CFR part 556 continues to read as follows:

Authority: 21 U.S.C. 342, 360b, 371.

2. Section 556.275 is amended by redesignating paragraph (b)(3) as paragraph (b)(4) and by adding new paragraph (b)(3) to read as follows:

§ 556.275 Fenbendazole.

* * * * *

(b) * * *

(3) *Turkeys*—(i) *Liver (the target tissue*). The tolerance for fenbendazole sulfone (the marker residue) is 6 ppm.

(ii) *Muscle*. The tolerance for fenbendazole sulfone (the marker residue) is 2 ppm.

* * * * *

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

3. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: 21 U.S.C. 360b, 371.

4. Section 558.258 is amended by redesignating paragraphs (d)(1), (d)(2), (d)(3), and (d)(4) as paragraphs (d)(2), (d)(3), (d)(4), and (d)(5) and by adding new paragraph (d)(1) to read as follows:

§ 558.258 Fenbendazole.

* * * * *

(d) * * *

(1) *Turkeys*—(i) *Amount*. Fenbendazole, 14.5 grams per ton (16 parts per million).

(A) *Indications for use*. For the removal and control of gastrointestinal worms: Round worms, adult and larvae (*Ascaridia dissimilis*); cecal worms, adult and larvae (*Heterakis gallinarum*), an important vector of *Histomonas meleagridis* (Blackhead).

(B) *Limitations*. Feed continuously as the sole ration for 6 days. For growing turkeys only.

(ii) [Reserved]

* * * * *

Dated: July 25, 2000.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 00–21413 Filed 8–21–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Bacitracin Methylene Disalicylate, Robenidine Hydrochloride, and Roxarsone

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Alpharma, Inc. The NADA provides for use of approved bacitracin methylene disalicylate (BMD), robenidine hydrochloride, and roxarsone Type A medicated articles to make three-way combination Type C medicated broiler chicken feeds used for prevention of coccidiosis; as an aid in the prevention and control of necrotic enteritis; and for increased rate of weight gain, improved feed efficiency, and improved pigmentation.

DATES: This rule is effective August 22, 2000.

FOR FURTHER INFORMATION CONTACT: Charles J. Andres, Center for Veterinary Medicine (HFV–128), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–1600.

SUPPLEMENTARY INFORMATION: Alpharma, Inc., One Executive Dr., P.O. Box 1399, Fort Lee, NJ 07024, filed NADA 141–155 that provides for use of BMD® (10, 25, 30, 40, 50, 60, or 75 grams per pound (g/lb) BMD), ROBENZ® (30 g/lb robenidine hydrochloride), and 3-NITRO® (45.4, 90, 227, or 360 g/lb roxarsone) Type A medicated articles to make three-way combination Type C medicated feeds containing 30 g/ton robenidine hydrochloride, 22.7 to 45.4 g/ton roxarsone, and 50 or 100 to 200 g/ton BMD for use in broiler chickens.

The combination Type C medicated feeds containing 50 g/ton BMD are used for prevention of coccidiosis caused by *Eimeria tenella*, *E. necatrix*, *E. acervulina*, *E. brunetti*, *E. mivati*, and *E. maxima*; for increased rate of weight gain, improved feed efficiency, and improved pigmentation in broiler chickens; and as an aid in the prevention of necrotic enteritis caused or complicated by *Clostridium* spp. or other organisms susceptible to bacitracin. The combination Type C medicated feeds containing 100 to 200 g/ton BMD are used for prevention of coccidiosis caused by *E. tenella*, *E. necatrix*, *E. acervulina*, *E. brunetti*, *E. mivati*, and *E. maxima*; for increased rate of weight gain, improved feed efficiency, and improved pigmentation in broiler chickens; and as an aid in the control of necrotic enteritis caused or complicated by *Clostridium* spp. or other organisms susceptible to bacitracin. The NADA is approved as of July 3, 2000, and the regulations are amended in §§ 558.76 and 558.515 (21 CFR 558.76 and 558.515) to reflect the approval. The basis of approval is discussed in the freedom of information summary.

Section 558.76 is also amended editorially to consolidate the cross-references for approved combinations in paragraph (d)(3) and list them in alphabetical order. Section 558.515 is amended editorially to display the conditions of use in paragraph (d) in a table format.

In accordance with the freedom of information provisions of 21 CFR part 20 and 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.33(a)(2) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This rule does not meet the definition of ''rule'' in 5 U.S.C. 804(3)(A) because it is a rule of ''particular applicability.'' Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801–808.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 558 is amended as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

1. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: 21 U.S.C. 360b, 371.

2. Section 558.76 is amended by revising paragraph (d)(3) to read as follows:

§ 558.76 Bacitracin methylene disalicylate.

* * * * *

(d) * * *

(3) Bacitracin methylene disalicylate may also be used with:

(i) Amprolium as in § 558.55.

(ii) Amprolium and ethopabate as in § 558.58.

(iii) Carbarsone (not USP) as in § 558.120.

(iv) Decoquinate alone and with roxarsone as in § 558.195.

(v) Fenbendazole as in § 558.258.

(vi) Halofuginone hydrobromide alone and with roxarsone as in § 558.265.

(vii) Hygromycin B as in § 588.274.

(viii) Ivermectin as in § 558.300.

(ix) Lasalocid sodium alone and with roxarsone as in § 558.311.

(x) Monensin alone and with roxarsone as in § 588.355.

(xi) Narasin alone and with roxarsone as in § 558.363.

(xii) Nicarbazin alone and with narasin and roxarsone as in § 558.366.

(xiii) Nitarsone as in § 558.369.

(xiv) Robenidine alone and with roxarsone as in § 558.515.

(xv) Salinomycin alone and with roxarsone as in § 558.550.

(xvi) Semduramicin alone and with roxarsone as in § 558.555.

(xvii) Zoalene alone and with arsanilic acid as in § 558.680.

3. Section 558.515 is amended by revising paragraphs (c) and (d) to read as follows:

§ 558.515 Robenidine hydrochloride.

* * * * *

(c) *Related tolerances.* See § 556.580 of this chapter.

(d) *Conditions of use.* It is used in feed for chickens as follows:

Robenidine hydrochloride in grams/ton	Combination in grams/ton	Indications for use	Limitations	Sponsor
30 (0.0033 pct)		For broiler and fryer chickens: As an aid in the prevention of coccidiosis caused by *E. mivati*, *E. brunetti*, *E. tenella*, *E. acervulina*, *E. maxima*, and *E. necatrix*.	Feed continuously as sole ration. Do not feed to layers. Withdraw 5 days prior to slaughter.	063238
	Bacitracin (as bacitracin methylene disalicylate) 4 to 30	For broiler and fryer chickens: As an aid in the prevention of coccidiosis caused by *E. mivati*, *E. brunetti*, *E. tenella*, *E. acervulina*, *E. maxima*, and *E. necatrix*. For increased rate of weight gain.	Feed continuously as sole ration. Do not feed to laying chickens. Withdraw 5 days prior to slaughter.	046573
	Bacitracin (as bacitracin methylene disalicylate) 27 to 50	For broiler and fryer chickens: As an aid in the prevention of coccidiosis caused by *E. mivati*, *E. brunetti*, *E. tenella*, *E. acervulina*, *E. maxima*, and *E. necatrix*. For improved feed efficiency.	Feed continuously as sole ration. Do not feed to laying chickens. Withdraw 5 days prior to slaughter.	046573
	Bacitracin (as bacitracin methylene disalicylate) 50 and roxarsone 22.7 to 45.4	For broiler chickens: As an aid in the prevention of coccidiosis caused by *E. mivati*, *E. brunetti*, *E. tenella*, *E. acervulina*, *E. maxima*, and *E. necatrix*. As an aid in the prevention of necrotic enteritis caused or complicated by *Clostridium* spp. or other organisms susceptible to bacitracin. For increased rate of weight gain, improved feed efficiency, and improved pigmentation.	Feed continuously as sole ration. Use as the sole source of organic arsenic; poultry should have access to water at all times; drug overdose or lack of water intake may result in leg weakness or paralysis. Do not feed to laying chickens. Withdraw 5 days prior to slaughter.	046573

Robenidine hydrochloride in grams/ton	Combination in grams/ton	Indications for use	Limitations	Sponsor
	Bacitracin (as bacitracin methylene disalicylate) 100 to 200 and roxarsone 22.7 to 45.4	For broiler chickens: As an aid in the prevention of coccidiosis caused by *E. mivati*, *E. brunetti*, *E. tenella*, *E. acervulina*, *E. maxima*, and *E. necatrix*. As an aid in the control of necrotic enteritis caused or complicated by *Clostridium* spp. or other organisms susceptible to bacitracin. For increased rate of weight gain, improved feed efficiency, and improved pigmentation.	To control necrotic enteritis, start medication at first clinical signs of disease; vary bacitracin dosage based on the severity of infection; administer continuously for 5 to 7 days or as long as clinical signs persist, then reduce bacitracin to prevention level (50 g/ton). Use as the sole source of organic arsenic; poultry should have access to water at all times; drug overdose or lack of water intake may result in leg weakness or paralysis. Do not feed to laying chickens. Withdraw 5 days prior to slaughter.	046573
	Bacitracin (as bacitracin zinc) 4 to 30	For broiler and fryer chickens: As an aid in the prevention of coccidiosis caused by *E. mivati*, *E. brunetti*, *E. tenella*, *E. acervulina*, *E. maxima*, and *E. necatrix*. For increased rate of weight gain.	Feed continuously as sole ration. Do not feed to laying chickens. Withdraw 5 days prior to slaughter.	046573 063238
	Bacitracin (as bacitracin zinc) 27 to 50	For broiler and fryer chickens: As an aid in the prevention of coccidiosis caused by *E. mivati*, *E. brunetti*, *E. tenella*, *E. acervulina*, *E. maxima*, and *E. necatrix*. For improved feed efficiency.	Feed continuously as sole ration. Do not feed to laying chickens. Withdraw 5 days prior to slaughter.	046573 063238
	Chlortetracycline 100 to 200	For broiler and fryer chickens: As an aid in the prevention of coccidiosis caused by *E. mivati*, *E. brunetti*, *E. tenella*, *E. acervulina*, *E. maxima*, and *E. necatrix*. For control of infectious synovitis caused by *Mycoplasma synoviae* susceptible to chlortetracycline.	Feed continuously as sole ration up to 14 days. Do not feed to chickens producing eggs for human consumption. Withdraw 5 days prior to slaughter.	
	Chlortetracycline 200 to 400	For broiler and fryer chickens: As an aid in the prevention of coccidiosis caused by *E. mivati*, *E. brunetti*, *E. tenella*, *E. acervulina*, *E. maxima*, and *E. necatrix*. For control of chronic respiratory disease (CRD) and air sac infection caused by *M. gallisepticum* and *E. coli* susceptible to chlortetracycline.	Feed continuously as sole ration up to 14 days. Do not feed to chickens producing eggs for human consumption. Withdraw 5 days prior to slaughter.	
	Chlortetracycline 500	For broiler and fryer chickens: As an aid in the prevention of coccidiosis caused by *E. mivati*, *E. brunetti*, *E. tenella*, *E. acervulina*, *E. maxima*, and *E. necatrix*. As an aid in the reduction of mortality due to *E. coli* susceptible to chlortetracycline.	Feed continuously as sole ration up to 5 days. Do not feed to chickens producing eggs for human consumption. Withdraw 5 days prior to slaughter.	063238

Robenidine hydrochloride in grams/ton	Combination in grams/ton	Indications for use	Limitations	Sponsor
	Lincomycin 2	For broiler and fryer chickens: As an aid in the prevention of coccidiosis caused by *E. mivati*, *E. brunetti*, *E. tenella*, *E. acervulina*, *E. maxima*, and *E. necatrix*. For increase in rate of weight gain and improved feed efficiency.	Feed continuously as the sole ration. Do not feed to laying hens. Withdraw 5 days before slaughter.	000009
	Oxytetracycline 400	For broiler chickens: As an aid in the prevention of coccidiosis caused by *E. mivati*, *E. brunetti*, *E. tenella*, *E. acervulina*, *E. maxima*, and *E. necatrix*. For control of CRD and air sac infection caused by *Mycoplasma gallisepticum* and *E. coli* susceptible to oxytetracycline.	Feed continuously for 7 to 14 days. Do not feed to chickens producing eggs for human consumption. Withdraw 5 days before slaughter.	000069
	Roxarsone 22.5 to 45.4 (0.005 percent)	For broiler and fryer chickens: As an aid in the prevention of coccidiosis caused by *E. mivati*, *E. brunetti*, *E. tenella*, *E. acervulina*, *E. maxima*, and *E. necatrix*. For increased rate of weight gain.	Feed continuously as the sole ration. Use as sole source of organic arsenic. Do not feed to layers. Withdraw 5 days prior to slaughter.	046573

Dated: July 25, 2000.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 00–21412 Filed 8–21–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD01–00–204]

RIN 2115–AA97

Safety Zone: Fireworks Display, Hudson River, Pier 84, NY

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for a fireworks display located on the Hudson River. This action is necessary to provide for the safety of life on navigable waters during the event. This action is intended to restrict vessel traffic in a portion of the Hudson River.

DATES: This rule is effective from 8:30 p.m. on August 27, 2000 to 10 p.m. on August 28, 2000.

ADDRESSES: Material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket (CGD01–00–204) and are available for inspection or copying at Coast Guard Activities New York, 212 Coast Guard Drive, room 204, Staten Island, New York 10305, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant M. Day, Waterways Oversight Branch, Coast Guard Activities New York (718) 354–4012.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(8), the Coast Guard finds that good cause exists for not publishing an NPRM. Good cause exists for not publishing an NPRM due to the date the Application for Approval of Marine Event was received; there was insufficient time to draft and publish an NPRM. Further, it is a local event with minimal impact on the waterway; vessels may still transit through the western 385 yards of the 900-yard wide Hudson River during the event. The zone is only in effect for 1½ hours and vessels can be given permission to transit the zone except for about 15 minutes during this time. Additionally, vessels would not be precluded from mooring at or getting underway from commercial or recreational piers in the vicinity of the zone. Any delay encountered in this regulation's effective date would be unnecessary and contrary to public interest since immediate action is needed to close the waterway and protect the maritime public from the hazards associated with this fireworks display.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. This is due to the following reasons: it is a local event with minimal impact on the waterway, vessels may still transit through the western 385 yards of the 900-yard wide Hudson River during the event, the zone is only in effect for 1½ hours and vessels can be given permission to transit the zone except for about 15 minutes during this time. Additionally, vessels would not be precluded from mooring at or getting underway from commercial or recreational piers in the vicinity of the zone.

Background and Purpose

The Coast Guard has received an application to hold a fireworks program on the waters of the Hudson River. This rule establishes a safety zone in all waters of the Hudson River within a 240-yard radius of the fireworks barge in approximate position 40°45′56.2″N 074°00′21.6″W (NAD 1983), about 300 yards west of Pier 84, Manhattan. The safety zone is in effect from 8:30 p.m. (e.s.t.) until 10 p.m. (e.s.t.) on Sunday, August 27, 2000. If the event is cancelled due to inclement weather, then this zone is effective from 8:30 p.m. (e.s.t.) until 10 p.m. (e.s.t.) on Monday, August 28, 2000. The safety zone prevents vessels from transiting a portion of the Hudson River and is needed to protect boaters from the hazards associated with fireworks launched from a barge in the area. Marine traffic will still be able to transit through the western 385 yards of the 900-yard wide Hudson River during this

event. Additionally, vessels would not be precluded from mooring at or getting underway from commercial or recreational piers in the vicinity of the zone. Public notifications will be made prior to the event via the Local Notice to Mariners.

Regulatory Evaluation

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

The Coast Guard expects the economic impact of this final rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. This finding is based on the minimal time that vessels will be restricted from the zone, that vessels may still transit through the western 385 yards of the 900-yard wide Hudson River during the event, vessels would not be precluded from mooring at or getting underway from commercial or recreational piers in the vicinity of the zone, and advance notifications which will be made.

The size of this safety zone was determined using National Fire Protection Association and New York City Fire Department standards for 8″ mortars fired from a barge combined with the Coast Guard's knowledge of tide and current conditions in the area.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit or anchor in a portion of the Hudson River during the times this zone is activated.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons. It is a local event with minimal impact on the waterway, vessels may still transit through the western 385 yards of the 900-yard wide Hudson River during the event, the zone is only in effect for 1½ hours and vessels can be given permission to transit the zone except for about 15 minutes during this time. Additionally, vessels would not be precluded from mooring at or getting underway from commercial or recreational piers in the vicinity of the zone. Before the effective period, we will publish this event in the Local Notice to Mariners, which is widely available to users of the river.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process. Small entities were notified of this marine event by its publication in the First Coast Guard District Local Notice to Mariners #32 dated August 8, 2000.

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 rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

We have analyzed this rule under Executive Order 13132 and have determined that this rule does not have implications for federalism under that Order.

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government's having first provided the funds to pay those unfunded mandate costs. This rule will not impose an unfunded mandate.

Taking of Private Property

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

Civil Justice Reform

This 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 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

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

List of Subjects in 33 CFR Part 165

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

Regulation

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

2. Add temporary § 165.T01–204 to read as follows:

§ 165.T01–204 Safety Zone: Fireworks Display, Hudson River, Pier 84, NY.

(a) *Location.* The following area is a safety zone: All waters of the Hudson

River within a 240-yard radius of the fireworks barge in approximate position 40°45′56.2″N 074°00′21.6″W (NAD 1983), about 300 yards west of Pier 84, Manhattan.

(b) *Effective period.* This section is effective from 8:30 p.m. (e.s.t.) until 10 p.m. (e.s.t.) on August 27, 2000. If the event is cancelled due to inclement weather, then this section is effective from 8:30 p.m. (e.s.t.) until 10 p.m. (e.s.t.) on August 28, 2000.

(c) *Regulations.* (1) The general regulations contained in 33 CFR 165.23 apply.

(2) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on-scene-patrol personnel. These personnel comprise commissioned, warrant, and petty officers of the Coast Guard. Upon being hailed by a U. S. Coast Guard vessel by siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed.

Dated: August 11, 2000.

R.E. Bennis,

Captain, U. S. Coast Guard, Captain of the Port, New York

[FR Doc. 00–21260 Filed 8–21–00; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Part 385

[Docket No. FMCSA–99–5467 (Formerly Docket No. FHWA–99–5467)]

RIN 2126–AA42 (Formerly RIN 2125–AE56)

Safety Fitness Procedures

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Final rule.

SUMMARY: The FMCSA is implementing section 4009 of the Transportation Equity Act for the 21st Century (TEA–21) by amending the safety fitness procedures of the Federal Motor Carrier Safety Regulations. This action prohibits all motor carriers found to be unfit from operating commercial motor vehicles (CMVs) in interstate commerce. The FMCSA will treat an unsatisfactory safety rating as a determination of unfitness.

EFFECTIVE DATE: This rule is effective on November 20, 2000.

FOR FURTHER INFORMATION CONTACT: Ms. Deborah M. Freund, Vehicle and Roadside Operations Division, Office of Policy and Program Development, FMCSA, or Mr. William C. Hill, Regulatory Development Division, Office of Policy and Program Development, FMCSA, (202) 366–4009; or Mr. Charles E. Medalen, Office of the Chief Counsel, (202) 366–1354, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590–0001. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

Internet users may access all comments received by the U.S. DOT Dockets, Room PL–401, by using the universal resource locator (URL): *http://dms.dot.gov.* It is available 24 hours each day, 365 days each year. Please follow the instructions online for more information and help.

An electronic copy of this document may be downloaded using a modem and suitable communications software from the Government Printing Office's Electronic Bulletin Board Service at (202) 512–1661. Internet users may reach the Office of the Federal Register's home page at *http://www.nara.gov/fedreg* and the Government Printing Office's database at *http://www.access.gpo.gov/nara.*

Creation of New Agency

On December 9, 1999, the President signed the Motor Carrier Safety Improvement Act of 1999 (MCSIA) (Public Law 106–159, 113 Stat. 1748). The new statute established the Federal Motor Carrier Safety Administration in the Department of Transportation. On January 4, 2000, the Secretary rescinded the authority previously delegated to the Office of Motor Carrier Safety (OMCS) (65 FR 220). This authority is now delegated to the FMCSA.

The motor carrier functions of the OMCS' Resource Centers and Division (*i.e.,* State) Offices have been transferred to FMCSA Service Centers and FMCSA Division Offices, respectively. Rulemaking, enforcement, and other activities of the Office of Motor Carrier Safety while part of the FHWA, and while operating independently of the FHWA, will be continued by the FMCSA. The redelegation will cause no changes in the motor carrier functions and operations previously handled by the FHWA or OMCS. For the time being, all phone numbers and addresses are unchanged.

Background

Section 4009 of TEA–21 (Public Law 105–178, 112 Stat. 107, at 405, June 9, 1998) amends 49 U.S.C. 31144 which requires the Secretary of Transportation to maintain, by regulation, a procedure for determining the safety fitness of an owner or operator of commercial motor vehicles (CMVs). Section 31144 was originally enacted by section 215 of the Motor Carrier Safety Act (MCSA) of 1984 (Public Law 98–554, 98 Stat. 2832). The FMCSA regulations at 49 CFR parts 385 and 386 already include most of the requirements of section 4009.

Section 4009 transferred the prohibitions in 49 U.S.C. 5113 to section 31144. Section 5113 was enacted by section 15(b) of the MCSA of 1990 (Public Law 101–500, 104 Stat. 1213, 1218, November 3, 1990) and prohibited motor carriers rated ''unsatisfactory'' from using CMVs to transport, in interstate commerce, starting on the 46th day after the rating was issued, more than 15 passengers (including the driver) or hazardous materials (HM) in quantities requiring placarding. It also prohibited Federal agencies from using ''unsatisfactory'' rated motor carriers to transport more than 15 passengers and placardable quantities of HM. The regulation implementing section 5113 has been in effect since 1991 (49 CFR 385.13).

Section 4009 added a prohibition applicable to all owners and operators of CMVs not previously subject to 49 U.S.C 5113—that is, those not transporting HM in quantities requiring placarding or passengers—from using those vehicles in interstate commerce starting on the 61st day after being found ''unfit.'' It also prohibits Federal agencies from using those owners and operators to provide interstate transportation of non-HM freight.

Because 49 U.S.C. 31144(b), as amended by section 4009, provides that ''[t]he Secretary *shall maintain, by regulation*, a procedure for determining the safety fitness of an owner or operator'' [emphasis added], the FMCSA concludes that Congress authorized the continued use of the safety fitness rating regulation in effect on June 9, 1998, the date of enactment of TEA–21, until a rule to implement section 4009 is adopted and made effective.

The similarity between the current 49 U.S.C. 31144 and the previous 49 U.S.C. 31144 also convinces the FMCSA that Congress intended section 4009 to authorize the application of the principles embodied in section 15(b) of the MCSA of 1990 to the entire range of motor carriers that operate CMVs in interstate commerce. The only difference mandated by section 4009 is that carriers of general freight would have 60 days after the agency makes a determination of ''unfitness,'' while

passenger and HM carriers have 45 days, in which to improve the safety of their operations or cease operating in interstate commerce. Because the MCSA of 1990 explicitly referred to the three-part rating scheme used by the FHWA (*satisfactory, conditional, unsatisfactory*) and directed the agency to prohibit *unsatisfactory* rated motor carriers from transporting passengers and HM after the 45 day period, the FMCSA concludes that the functionally equivalent, though not identical, requirements of section 4009 authorize, but do not require, the FMCSA to continue using its current safety fitness rating standards and methodology. The FMCSA will use an *unsatisfactory* rating assigned under the Safety Fitness Rating Methodology (SFRM) in part 385 as a determination of ''unfitness.'' This policy is congruent with that of section 15(b) of the MCSA of 1990. There is nothing in the legislative history concerning section 4009 of TEA–21 that suggests the FMCSA should implement a different approach.

Docket Comments to the NPRM

On August 16, 1999 (64 FR 44460), the FHWA proposed amending §§ 385.1, 385.11, 385.13, 385.15, and 385.17 of the FMCSRs to prohibit all motor carriers found by the Secretary to be unfit from operating CMVs in interstate commerce.

Comments were received from the following:

Five motor carrier industry associations: American Bus Association (ABA); American Moving and Storage Association (AMSA); American Trucking Associations (ATA); National Association of Small Trucking Companies (NASTC); National Private Truck Council (NPTC);

Four motor carriers: Boyle Transportation (Boyle); Crete Carrier Corporation and its affiliates Sunflower Carriers, Shaffer Trucking, Inc., and HTL Truck Lines (Crete); Greyhound Lines (Greyhound); Werner Enterprises, Inc. (Werner);

Two labor organizations: Amalgamated Transit Union (ATU) and International Brotherhood of Teamsters (IBT);

One organization representing shippers: National Industrial Transportation League (NITL);

Two safety advocacy organizations: the Insurance Institute for Highway Safety (IIHS) and Parents Against Tired Truckers (PATT);

Two State departments of transportation: Oregon Department of Transportation and Iowa Department of Transportation.

General Comments

The ATA supported the FMCSA's new authority to require all unsafe motor carriers to cease their operations in interstate commerce, saying ''[t]he highway is our workplace and we continue to pursue ways to make our workplace safer.'' Nevertheless, the ATA believes the path the FMCSA has chosen reflects a choice for expediency. The ATA took issue with the agency's interpretation of congressional intent and with what it views as the agency's inconsistent approach towards the adoption of performance-based safety indicators and enforcement outcomes. These comments are discussed under the topic headings below.

Werner agreed with and supported the ATA's position on the NPRM. However, it disagreed that an unsatisfactory safety rating should be considered a determination of safety fitness, and argued that there is little relationship between recordkeeping violations and the motor carrier's accident rate or overall safety. Werner also expressed concern with the methods currently used to perform compliance reviews and assign safety ratings.

The NASTC generally supported the goal of statutes, regulations, and enforcement actions to ensure CMV safety. It questioned the FMCSA's proposal to link an unsatisfactory safety rating with a determination of unfitness, as well as the suitability of the time periods proposed between the FMCSA's notification to a motor carrier of its proposed unsatisfactory safety rating and the agency's final determination.

The NPTC generally supported the FMCSA's proposal as providing a means to require motor carriers with documented poor safety performance to cease operations in interstate commerce. However, the NPTC expressed concern over three issues: the FMCSA's failure to propose a revised performance-based SFRM; the appropriateness of equating unfitness with an unsatisfactory safety rating without revising the SFRM; and the enforcement of shutdown provisions. These comments are discussed under the topic headings below.

The National Industrial Transportation League (NITL) ''supports the proposed regulations as an appropriate exercise of the agency's regulatory authority in the critically important area of truck safety. Indeed the League commends the FHWA for its thoughtful approach in implementing the requirements of TEA–21.'' The NITL believed that the agency correctly interpreted the nexus between a motor carrier's unsatisfactory safety rating and the determination of ''unfitness.'' Although the NITL agreed with the FMCSA's assertion that TEA–21 does not require the agency to implement a new safety fitness standard, it believes that the agency should continue to evaluate and refine the current system. The NITL offered several recommendations related to public access to safety ratings, revised rating categories, and re-rating of motor carriers currently holding unsatisfactory safety ratings. These comments are discussed under the topic headings below.

Parents Against Tired Truckers supported the FMCSA's proposal and urged the DOT and the FMCSA to provide sufficient funding and personnel to successfully implement the new regulation. The Insurance Institute for Highway Safety also supported the proposal and hopes the regulation will deter violations of Federal motor carrier safety regulations.

Other commenters, including the two States, labor organizations, and some of the industry associations, discussed specific provisions of the NPRM and issues related to motor carrier safety compliance review and enforcement processes. We address their comments under the appropriate subject headings.

Relationship Between ''Unfit'' Safety Determination and ''Unsatisfactory'' Safety Rating

The ATA contended that Congress' use of the term ''is not fit'' in section 4009 of TEA–21 was deliberate, and that the FMCSA ''misconstrued the legislative history of [49 U.S.C.] section 31144 when it said 'First, [Congress] transferred the substance of 49 U.S.C. 5113 to section 31144.' '' The ATA believes that Congress ''rejected much of the substance of Section 5113 and replaced it with Section 31144.'' Werner also does not support the notion of an unsatisfactory rating as a determination of unfitness. Crete holds that the wording of section 4009 indicates that Congress intended the ''safety fitness *compliance* determination'' and a ''determination *of fitness to operate*'' (emphasis in original) to be two distinct processes.

The AMSA asserted that the FMCSA has misinterpreted section 15(b) of the MCSA of 1990 and section 4009 of TEA–21 in drawing an equivalence between a declaration of unfitness and a safety rating of unsatisfactory. The AMSA stated that, ''[s]ince Congress did not explicitly direct the Secretary of Transportation to maintain the same safety fitness procedures for household goods carriers as for carriers of

hazardous materials,'' that the FMCSA should not do so. The AMSA also cited the MCSA of 1990 to support its belief that, ''Except for intentional bad acts (*e.g.,* falsification of records of duty status or drivers' medical certificates), Congress did not intend for record keeping violations to require enforcement actions as severe as ceasing operations.'' The AMSA also provided statistics prepared by its Safety Management Council on 1998 fourth-quarter accidents experienced by 17 companies, as well as industry accident statistics covering the period 1989–1998 to support its point of view. For those years, between 15 and 20 companies reported total miles traveled, numbers of accidents in several categories (total accidents, DOT recordable, preventable DOT recordable, total preventable, and fatal) and the corresponding accident rates per million vehicle miles. Their DOT recordable accident rates ranged from 0.921(in 1989) to 0.644 (in 1998), fatalities ranged from 0.082 (in 1989) to 0.031 (in 1998).

FMCSA Response

The FMCSA continues to differ with the ATA's reading of the legislative history of 49 U.S.C. 5113 and 31144. The agency's NPRM (64 FR 44460, at 44461) addressed this issue and responded to the ATA's comment to the ANPRM on the same subject (at 44464).

The agency developed the NPRM to respond to congressional direction contained in TEA–21 and predecessor legislation. Responding to the AMSA's second comment, Congress did explicitly direct the Secretary to prohibit the operation in interstate commerce by motor carriers determined to be unfit. In doing so, Congress extended the earlier prohibition applicable to motor carriers of HM to motor carriers of non-HM freight. A fair reading of section 4009 of TEA–21 supports the action adopted in this final rule. Given the enactment of 49 U.S.C. 31144 in the Motor Carrier Safety Act of 1984 and the FHWA's implementation of that section in 49 CFR Part 385, and the enactment of 49 U.S.C. 5113 in the Hazardous Materials Uniform Safety Act of 1990 and the FHWA's implementation of that section in 49 CFR 385.13, the only substantive change made in section 4009 is the extension of the prohibition against operations after unsatisfactory ratings are received to all motor carriers of property. The 1984 Act required the Secretary to ''prescribe regulations'' to determine the safety fitness of owners and operators of commercial motor vehicles. The FHWA prescribed such regulations in Part 385, employing a rating system, consisting of satisfactory, conditional and unsatisfactory ratings.

In 1990, the Congress recognized this process by prohibiting transportation by motor carriers transporting hazardous materials or passengers after receiving an ''unsatisfactory'' rating. In section 4009 of TEA–21, Congress directed the Secretary to ''maintain by regulation a procedure for determining the safety fitness of an owner or operator,'' again a recognition by Congress that a procedure was already in place. Congress did not require a new procedure or the use of a new nomenclature. The former section 5113, which used the term ''unsatisfactory'' from the regulations as the determinant for when a carrier is no longer fit to operate, is in substance incorporated into the new 49 U.S.C. 31144, which speaks only in terms of fitness to operate. But the new section 31144 applies the section 5113 prohibitions to all motor carriers under a common procedure for determining safety fitness that it requires the Secretary to ''maintain.''

The agency does not read the ''maintain'' provision to mean that we must continue to use the same nomenclature, nor even the same factors in making the determination, but it certainly does not prohibit it. As the agency has stated publicly and throughout these notices, the fitness determination factors are under review, and we intend to address that entire issue in a subsequent rulemaking.

The table below compares the AMSA crash rates (per 100 million vehicle miles traveled) to FMCSA rates for fatal and recordable crashes.

	FMCSA fatality rate, comb. trucks	AMSA fatility rate	FMCSA recordable crash rate	AMSA recordable crash rate
1989	4.6	8.2	na	92.1
1990	4.4	4.1	na	77.2
1991	3.7	6.1	na	77.2
1992	3.4	1.8	na	79.1
1993	3.6	3.1	80.1	72.6
1994	3.5	2.5	78.6	77.7
1995	3.2	3.2	64.5	77.0
1996	3.3	4.4	76.6	83.0
1997	3.3	3.1	76.7	87.0
1998	3.2	3.1	70.2	64.4

Both fatal and recordable accident rates provided by the AMSA for the moving industry fluctuated significantly from year to year. Fatal crash rates have been generally comparable to the FMCSA rates. AMSA's figures on recordable crash rates were lower than the FMCSA national rates in 1993, 1994, and 1998, but higher in 1995, 1996, and 1997. Because the AMSA crash data are drawn from a far smaller population than the FMCSA data, they are subject to significantly higher fluctuations. Taking the record as a whole, however, the FMCSA believes that the safety performance illustrated by these statistics does not support the AMSA's contention that household goods carriers are uniquely safe and should therefore be given regulatory relief.

Performance Basis of Rating

The ATA argued that the approach of the NPRM is not consistent with the FMCSA's progress in shifting toward performance-based indicators and outcomes. It pointed out that the FMCSA has devoted considerable resources to developing two performance-based safety tools: Safestat, which prioritizes motor carriers for safety review based primarily upon performance indicators, and the Motor Carrier Safety Improvement Process (MCSIP) to trigger State-based CMV registration sanctions against unsafe motor carriers.

The ATA claimed that the current safety rating process is ''seriously flawed'' because it ''provides a measure of compliance, not safety, by its very design.'' The ATA contended that the

FMCSA ''has been reluctant to consider the rating as a measure of safety.'' The organization expressed disappointment with the FMCSA's failure to implement a ''more performance-based'' rating process, but it then took the agency to task for alleged inconsistencies in its treatment of motor carriers' performance and regulatory compliance. As an example, the ATA criticized the FMCSA's weighting of hours-of-service violations in the SFRM: ''[FMCSA] does not make the connection through data or research that fatigue is the cause of driver error.'' Crete also criticized the agency's ''exceptional emphasis given in the current regulations to compliance with the FMCSA's outmoded hours of service regulations.''

The ATA contended that the FMCSA's research, specifically the ''New Entrant Safety Research: Final Report,'' April 1998, makes the case that there is ''no linear relationship between compliance and safety.'' The ATA focused on the report's finding that a motor carrier's regulatory compliance improves with its experience, but that the relationship between experience and crashes was not directly related.

The ATA exhorted the FMCSA: ''If the agency is permanently married to the shut down procedures it has proposed, we urge an immediate correction to the rating system.'' The ATA recommended that the FMCSA give additional weight to the ''accident'' factor, reduce the weight for hours-of-service violations, and consider only accidents deemed the ''fault'' of the CMV driver when calculating a motor carrier's accident rate.

Werner contended that there is a ''lack of uniformity between various regions and the method of sampling used during a compliance review.'' Werner also argued that the potential outcome of a proposed unsatisfactory rating is serious in the extreme, given the ''large number of motor carriers subject to review and the random aspect of enforcement.''

The ABA stated that it has continued concerns with the FMCSA's current safety rating process, and urged the agency to move forward with procedures that are performance-based as opposed to recordkeeping-oriented.

Crete recommended that the FMCSA use the national ''average'' recordable accident rate as an initial baseline performance standard for a motor carrier's operational safety fitness. A motor carrier whose rate was more than double the national average might be considered to have demonstrated unsatisfactory compliance with the compliance review (CR) accident factor and could be deemed unfit to continue to operate in interstate commerce.

The NPTC echoed this viewpoint. It would support a rating system that is based upon a motor carrier's ''crash history, driver behavior, vehicle condition, and safety management systems.'' The NPTC called for the FMCSA to develop a procedure that is ''unambiguous, not subject to interpretation, and have standards to assure [the process to require an unfit motor carrier to cease its interstate operations is] applied equitably.'' The organization was very concerned that the FMCSA had proposed to continue to use its current SFRM. The NPTC believed ''this action minimizes the agency's commitment to review and develop a rating system based more on safety performance, and less on paperwork compliance.''

The NPTC recommended that the FMCSA issue an interim final rule ''with a time certain deadline'' to implement the revisions proposed. The NPTC reasoned that this would allow the agency to quickly implement the provisions of section 4009, but would still provide an opportunity for the FMCSA to review its outcomes to ensure that the regulation was being applied properly.

FMCSA Response

The FMCSA already places considerable reliance on the performance criteria in the SFRM, *e.g.*, vehicle and driver violations and accident rates. The FMCSA also uses performance data to set priorities for CRs of motor carriers: A motor carrier that has accident and vehicle out-of-service experience below a statistical threshold, and that has not generated substantive complaints concerning its operational safety, is not likely to face a CR. The safety rating assigned after the CR reflects a measure of both a motor carrier's safety performance and its compliance with safety regulations. Those regulations exist because of their nexus to safety of operations. An NPRM soon to be published will address the issue of what the ATA—and the FMCSA—view as a misinterpretation of safety ratings.

The FMCSA has for several years been considering the feasibility of a more performance-based method of evaluating the safety of motor carriers. In a 1997 final rule amending 49 CFR part 385 (62 FR 60035, November 6, 1997), the agency announced that an ANPRM would be published to solicit advice and data on such a rating system. The ANPRM was published on July 20, 1998 (63 FR 38788). The agency has since decided to separate the short-term rulemaking implementing section 4009 of TEA–21 from the longer-range effort to create performance-based rules. The SafeStat algorithm, which incorporates performance measures—accidents and roadside out-of-service rates—has become a more integral part of the FMCSA program for selecting motor carriers for CRs. The agency is also strengthening its focus on motor carriers that have demonstrated continuing unwillingness or inability to address safety performance problems. Under the PRISM [1] program, these motor carriers may ultimately face the suspension of their CMV registration privileges.

Nevertheless, databases sufficiently reliable and populated to support a truly comprehensive performance-based rating system are still under development. Since the congressional mandate embodied in section 4009 cannot be delayed indefinitely pending their full deployment, the FMCSA has concluded that the best alternative is to adopt the proposal set forth in the NPRM. An interim final rule incorporating changes to the SFRM that were not published for notice and comment, as required by the Administrative Procedure Act, would add a new element of legal uncertainty—the very thing that the NPTC wishes to avoid. The regulatory requirements that several commenters sought to trivialize as ''paperwork compliance'' in fact deal with critical matters, such as monitoring drivers' hours of service and checking to verify that their CDLs have not been suspended.

Concerning the ATA's comment that the ''[FMCSA] does not make the connection through data or research that fatigue is the cause of driver error,'' we refer the ATA to the extensive research literature the agency reviewed on the subject of fatigue and loss of alertness. [See DOT Docket FMCSA–97–2350]. Although the data are not available to statistically determine the incidence of fatigue, it is noteworthy that driver fatigue was identified by a broad spectrum of over 200 motor carrier and highway safety experts participating in the Department's 1995 Truck and Bus Safety Summit as the top issue needing to be addressed to improve motor carrier safety. The FMCSA believes that the statistics of police-reported large-truck fatal crashes do not adequately reflect the *contributing* role that fatigue may play in crashes. Fatigue increases the likelihood that a driver will not pay

[1] Performance and Registration Information Systems Management, a program which links State commercial motor vehicle registration to the safety fitness of motor carriers.

sufficient attention to driving or commit other mental errors. In-depth studies of crashes have found that inattention and other mental lapses contribute to as much as 50 percent of all crashes. While fatigue may not be involved in all these crashes, it clearly contributes to some of them.

Addressing the ATA's comment on the report, ''New Entrant Safety Research: Final Report,'' the FMCSA agrees that the ATA's explanation of the relationship between regulatory compliance and crash rates may be one possibility. However, the study sought to *separately* confirm the existence of a safety performance (*i.e.*, crash rate) learning curve and the existence of a safety regulation compliance learning curve. It did not involve determining the relationship between compliance and safety, as the ATA's comment suggests.

As for the ATA's recommendation to count only those accidents where the CMV driver was determined to be at fault, the FMCSA believes it reflects a continued misinterpretation of the distinction between ''contributing factor'' and legally culpable ''fault.'' Some motor carriers properly list in their accident register the details of accidents that their drivers were powerless to avoid (such as a legally stopped CMV that is struck in the rear by another vehicle). For other types of accidents where the driver of another vehicle was cited on a police accident report, the issue of ''preventability'' on the part of the CMV driver is often far more complex. The FHWA addressed this issue in the final rule concerning the safety fitness procedure (62 FR 60035, at 60037).

The FMCSA disagrees with Crete's recommendation that a motor carrier's accident experience be the sole factor considered in determining safety fitness. In the words of Professor James Reason of the University of Manchester, who spoke out at the National Transportation Safety Board's (NTSB) April 24 and 25, 1997, symposium, ''Corporate Culture and Transportation Safety:''

> In the absence of bad outcomes, the best way—perhaps the only way—to sustain a state of intelligent and respectful wariness is to gather the right kinds of data. This means creating a safety information system that collects, analyses, and disseminates information from incidents and near misses, as well as from regular proactive checks on the system's vital signs. All of these activities can be said to make up an *informed culture*—one in which those who manage and operate the system have current knowledge about the human, technical, organizational, and environmental factors that determine the safety of the system as a whole. In most important respects, an informed culture *is* a safety culture.

The FMCSA, like the FHWA and the ICC for the last 60 years, rejects the assertion that there exists no relationship between a motor carrier's safety of operations and the completeness and accuracy of records that document compliance with the FMCSRs and, if applicable, the hazardous materials regulations (HMRs).

The FMCSA disputes the ATA's view that motor carriers continue to suffer consequences of what it views as an unjust method of assigning safety fitness determinations. The FMCSA's statistics presented in the August 16, 1999, NPRM indicate that in the years 1994 through 1998, between 80 and 95 percent of motor carriers of non-HM property starting a calendar year with an unsatisfactory safety rating were able to improve that rating before the end of that year—and they were not constrained from continuing their interstate operations.

In reference to Werner's and Crete's comments concerning review of motor carriers' records, the FMCSA's method of selecting records during the course of a compliance review has withstood a judicial challenge, *American Trucking Associations* v. *Department of Transportation,* 166 F.3d 374 (D.C. Cir. 1999). The fact is that there is a very large population of motor carriers in interstate commerce—nearly 500,000—and the agency is responsible for their safety and compliance with the FMCSRs, and, if applicable, the HMRs. Werner did not provide details concerning what it terms a lack of uniformity in the FMCSA's compliance reviews. As for Crete's comments concerning the hours-of-service regulations, the FMCSA recently published a proposed revision to those regulations. However, this does not excuse motor carriers from complying with, and the FMCSA from enforcing, the current regulations.

Records and Ratings

The ATA contended that the FMCSA's procedures proposed in the NPRM are ''illogical and contrary to Congress' intent * * * [because] the safety rating provides a measure of compliance, not safety.'' In support of its argument, the ATA described two hypothetical examples. In the first, a motor carrier had a low recordable accident rate of 0.35 crashes per million vehicle miles traveled and has been cited during an FMCSA compliance review for four critical violations: failing to preserve supporting documents for records of duty status, failing to maintain required proof of financial responsibility, failing to maintain inquiries into a driver's driving record, and failure to require drivers to prepare driver vehicle inspection reports. The motor carrier was rated ''unsatisfactory.'' In the second, a motor carrier has experienced 1.8 accidents per million [vehicle] miles, ''more than twice the national average.'' The ATA maintained that this motor carrier could receive a satisfactory safety rating ''if its operation were otherwise in complete compliance.'' The ATA said that a ''recent, high profile magazine article'' cited an example of a California motor carrier involved in a fatal crash had received a satisfactory safety rating from the FMCSA five months before, despite having a vehicle out-of-service rate ''nearly twice the national average.'' Werner echoed the ATA's view on this issue. Crete's objection was similar. It argued that the proposal ''confuses an assessment of the ability of a motor carrier to achieve compliance with a series of regulatory requirements with how safely the carrier's vehicles are actually being operated on the nation's highways'' and that the proposal ''would continue to elevate form over substance.''

The AMSA contended that the NPRM ''accomplishes nothing substantively to minimize accidents and fatalities.'' It characterized the proposal as one that would shut down motor carriers for poor recordkeeping practices but would potentially allow those with poor safety performance to continue to operate. The AMSA suggested a weighted assessment method that would base a safety fitness rating on roadside inspections, DOT accident ratio, driver qualifications record compliance, random drug and alcohol tests, a vehicle inspection and maintenance program, and hours-of-service compliance. The association would recommend that a motor carrier that did not have a ''passing grade'' of 60 percent or higher in any of these categories be declared unfit and unsatisfactory. However, the AMSA went on to state that the seasonal nature of the household goods moving industry would cause them to benefit less than other motor carrier industry segments when it comes to correcting safety deficiencies within a 60-day period. The association also contended the focus of these motor carriers' during the moving season ''is almost exclusively on safe transportation of shipments, not necessarily safety compliance record keeping.''

The NPTC asserted that, by drawing an equivalence between a determination of unfitness and an unsatisfactory safety rating, the FMCSA is attaching the consequences set forth in TEA–21 to

what it considers a flawed method of determining a safety fitness rating. The NPTC noted that it has supported the FMCSA's plans to amend the SFRM. It believed the current methodology ''places too much reliance on paperwork compliance and that greater reliance should be placed on performance measurement to determine safety fitness.''

The NASTC was concerned that the proposed rule would generate particularly severe outcomes for small motor carriers that do not have the safety-department resources common to larger motor carriers. Even though they do not encourage or condone unsafe operations, they may experience regulatory violations that could place them in danger of receiving an unsatisfactory safety rating, and may not be able to cure the underlying conditions in 60 days.

FMCSA Response

The FMCSA is concerned that Crete and the ATA appear to believe there is a complete disconnection between a motor carrier's compliance with the FMCSRs and the safety of its operations. As demonstrated by the NTSB's April 1997 symposium, adverse events, such as crashes and HM incidents, do not occur without warning. Rather, they are the final outcome of a chain of events made up of weak and inadequate safety links. For this reason, the FMCSA reads with grave concern Crete's and the ATA's comments expressing their belief that recordkeeping violations do not reflect gaps and deficiencies in safety of operations. The ATA's first hypothetical example did not go into details concerning the patterns or extent of the missing records. More important, the ATA did not explain how a motor carrier can demonstrate that it has complied with safety regulations concerning drivers' hours-of-service, financial responsibility, driver qualifications, or proper CMV operation and maintenance in the absence of these records. The ATA's second hypothetical was simply incorrect. As indicated in the final rule adopting Appendix B to Part 385, ''[a]n urban carrier (a carrier operating entirely within the 100 air mile radius) with a recordable accident rate over 1.7 (approximately twice the 1994–96 average of 0.839) will receive an *unsatisfactory* safety rating. All other carriers with a recordable accident rate greater than 1.5 (approximately double the 1994–96 average of 0.747) will receive an *unsatisfactory* safety rating'' (62 FR 60037, November 6, 1997). Therefore, a carrier with an accident rate of 1.8 per million vehicle miles would receive an unsatisfactory rating for Factor 6 (Accident Factor = Recordable Rate) of the Safety Fitness Rating Methodology. Even if this hypothetical motor carrier were otherwise in compliance with the FMCSRs, its factor rating for accidents would make the overall safety rating conditional (see ''Motor Carrier Safety Rating Table'' in Section III.A of Appendix B to 49 CFR 385).

The FMCSA notes that, according to Crete, the '''recordable accident' rate (as defined in 49 CFR 390.5) of Crete and its three affiliates is significantly less than one-half of the national average and reflects their commitment to highway safety.'' This is an admirable outcome reflecting good safety management practices, of which good recordkeeping practices and use of the information contained in the records kept are probably key features.

All of the items in the assessment method suggested by the NPTC and the AMSA depend upon the motor carrier maintaining records in order to establish compliance with the applicable safety regulations. The AMSA's suggestion that recordkeeping is completely disconnected from safety compliance is disingenuous. The agency reminds commenters that the NPRM included a provision to extend the initial 60-day period for up to an additional 60 days if the agency believes the motor carrier is making a concerted effort to improve the safety of its operations. Finally, the peak moving season requires household goods movers to use drivers and vehicles that are not part of their regular fleets. They might well give these temporary resources more scrutiny in order to ensure that the safety and quality of their operations are maintained.

Addressing the NASTC's concern, the agency has worked, and will continue to work, closely with motor carriers with proposed unsatisfactory ratings to help them improve the safety of their operations. Section 4009 states that the Secretary of Transportation may allow unfit motor carriers making good-faith efforts to improve their safety of operations to operate a grace period of up to 120 days (by law, this extended period is not available to motor carriers that transport passengers or HM freight in quantities requiring placarding.) The FMCSA's statistics on motor carriers' follow-up safety ratings indicate that the vast majority do improve their ratings and can continue or recommence their operations. Tables 2 and 3 of the NPRM provided calendar year summaries of the number of motor carriers of property initially rated unsatisfactory, and motor carriers holding an unsatisfactory rating at the beginning and the end of the year. The figures were broken down by the number of drivers used by the motor carrier. Small (under 20 drivers) motor carriers' figures are comparable to the national averages of those motor carriers improving their ratings (Table 3), and some subsets of them actually have slightly better outcomes than motor carriers in the 50–99 driver category.

Review of Proposed Safety Ratings

The NASTC requested the FMCSA to begin the 60-day period on the date the agency officially notifies the motor carrier of the proposed rating, rather than the day the CR is completed. The FMCSA proposed to do exactly that, and to provide official information no later than 30 days after the completion of the review in a letter issued from the agency's headquarters. These procedures are being adopted in § 385.11 of the final rule.

The NASTC indicated that some of its members have been subjected to out-of-date controlled substance and alcohol testing regulations during the course of their reviews. The FMCSA is very concerned about this and requests the NASTC or the motor carriers involved to contact the FMCSA with specifics of this situation so we can correct it.

The ATA supported the FMCSA's proposal to review a motor carrier's proposed unsatisfactory safety rating within a specific time frame, and the proposal to offer a motor carrier of non-HM freight up to an additional 60 days to demonstrate improvements in the safety of its operations. The ATA maintained that this longer time gives motor carriers an extra incentive and allows them to make positive changes to their operations and to improve their compliance with safety regulations. The ATA also asked the FMCSA to consider re-reviewing all motor carriers with proposed conditional safety ratings.

FMCSA Response

The FMCSA is pleased that the ATA recognizes the agency's desire to assist motor carriers in improving the safety of their operations, and to avoid issuing a final unsatisfactory safety rating if the motor carrier is able to successfully demonstrate its safety fitness. However, we must clarify two issues that might have arisen from a misreading of the NPRM. First, the motor carrier must *request* the FMCSA to perform an administrative review or a review based upon its corrective actions. Second, the FMCSA must perform those reviews within 30 days of a request from a passenger or HM motor carrier, and within 45 days of a request from any other motor carrier. With respect to reviewing proposed conditional safety

ratings, the FMCSA must deploy its resources where the safety needs are greatest, and where the potential threats to a motor carrier's continued operations are the most severe. Because the new rule applies prospectively, motor carriers of non-HM freight receiving a proposed unsatisfactory safety rating on or after the effective date of this rule are subject to new and serious operational consequences if their proposed ratings become final. The FMCSA believes it must, therefore, give priority to these motor carriers' requests for administrative reviews.

Exemption for Small Passenger Vehicles

Greyhound Lines, Inc. (Greyhound) supported the FMCSA's overall proposal, but strongly objected to the proposed exemption for for-hire passenger CMVs designed to transport fewer than 16 passengers, including the driver. Greyhound asserted that § 385.1(b) of the FMCSA's NPRM provides a ''permanent exemption'' to operators of these smaller vehicles, notwithstanding the FMCSA's interim final rule on this subject (Docket FHWA–97–2858, 64 FR 48510, September 3, 1999). ''Greyhound urges [the FMCSA] to remove the proposed exemption for commercial van operators and to start actively reviewing the operations of commercial van operators in order to remove from the road those that are unfit to operate.''

Greyhound provided to this docket a copy of the cover letter from its comment to Docket FHWA–97–2858, dealing with the definition of CMVs. Greyhound had compiled a list of nationwide media reports of commercial van accidents and estimated that over 250 deaths per year occurred among the 74,000 commercial vans in operation. The latter number was based on information from the International Taxicab and Livery Association and included minivans with a passenger capacity of less than 9. Greyhound calculated a fatality rate of 1 per 296 commercial vans operated (74,000/250). Greyhound then compared NHTSA fatality data and a DOT Bureau of Transportation Statistics estimate of the number of intercity buses (4 occupant deaths for 25,700 buses) to compute a rate of 1 fatality per 6425 intercity buses operated. It provided a caveat to the comparison, stating that ''the estimated van population is inflated by minivan numbers and because data is not available on the number of non-bus occupants killed in bus accidents.''

The Amalgamated Transit Union (ATU) also supports the FMCSA's proposal and states that it agrees with Greyhound on this subject. The ATU also provided what it termed a ''selected summary of van accidents, injuries, and fatalities.''

The comments of the American Bus Association (ABA) on this subject were similar to those of Greyhound. The Association stated that the FMCSA's lack of action to amend the FMCSRs to include smaller for-hire passenger vehicles after the passage of the ICC Termination Act of 1995 (Public Law 104–88, 109 Stat. 803) led the ABA to request Congress to again direct the FMCSA to regulate operators of these vehicles in section 4008 of TEA–21. The ABA also took the FMCSA to task for proposing to exempt these operators in § 385.1(b) of the August 16, 1999, NPRM.

FMCSA Response

Concerning the assertion by Greyhound and the ABA, that § 385.1(b) ignored the provisions of the FMCSA's other rulemakings on the applicability of the FMCSRs to for-hire operators of small passenger vehicles, the apparent inconsistency arises from the publication dates. The FHWA's NPRM on safety fitness procedures could not cite the provisions of those other rulemakings because they were not published in the **Federal Register** until 18 days later. On September 3, 1999 (64 FR 48510) the FHWA published an interim final rule exempting for six months the operation of these small passenger-carrying vehicles from all of the FMCSRs. This was done to allow time for the completion of a rulemaking proposal published the same day (64 FR 48518) that would require motor carriers operating these vehicles to file a motor carrier identification report, mark their CMVs with a USDOT identification number and certain other information (*i.e.*, name or trade name and address of the principal place of business), and maintain an accident register. Because the September 3 NPRM is still in progress, this final rule continues to exempt non-business private motor carriers of passengers and motor carriers conducting for-hire operations of passenger CMVs with a capacity of fewer than 16 persons, including the driver.

The FMCSA believes that there are two basic reasons that it cannot make a realistic comparison of fatality rates of small van and intercity bus operations. First, the number of minivans included in the ''commercial van'' total is not known. Greyhound provided this caveat to its own submitted statistical summary. Second, there appear to be no readily-available data to compare accident involvement on a true exposure basis (vehicle miles traveled, or VMT). The ATU's summary of accidents certainly points to the personal tragedies of the people involved and their families, but it does not provide a statistically representative assessment of the operations of these vehicles. After considering various rulemaking options, the FMCSA proposed three requirements in its September 3, 1999, NPRM (64 FR 48518). These motor carriers would be required to complete a motor carrier identification report, to mark their vehicles with a USDOT number and certain other identifying information, and to maintain an accident register. The agency believes that these proposed changes would enable it to monitor the safety performance of these passenger carriers. The agency will be responding in a separate rulemaking to the congressional direction contained in section 212 of the Motor Carrier Safety Improvement Act of 1999, concerning rulemaking on the application of the FMCSRs to small passenger van operations.

Public Availability of Proposed Ratings

The International Brotherhood of Teamsters (IBT) supported the substance of the FMCSA's proposal. However, it disagreed with the FMCSA's proposal not to release proposed unsatisfactory safety ratings. The IBT took issue with the FMCSA's statement that the proposed unsatisfactory and conditional safety ratings are not releasable under the Freedom of Information Act (FOIA) because they do not constitute the agency's final decision. The IBT asserted that ''FOIA is not the statute governing public availability of safety fitness ratings. Rather, 49 U.S.C. § 31144(a)(3) expressly provides that the 'Secretary shall * * * make such final safety fitness determinations readily available to the public; * * *'" The IBT questioned how the FMCSA could reconcile the determination of unfitness that is ''at once final enough to trigger the beginning of the grace period but not sufficiently final to trigger public disclosure.'' The IBT also questioned why the FMCSA would wish to withhold the proposed ratings of a small number of motor carriers. It quoted the NPRM as indicating ''only a relatively small percentage (2 percent) of all general freight carriers receive an ''unsatisfactory'' rating.'' Finally, the IBT suggested that ''the possibility of public disclosure of their condition will encourage improvement before, rather than after, the Secretary determines their level of fitness.''

The NITL also believed the FMCSA should immediately make available a motor carrier's proposed unsatisfactory safety rating and should take steps to more widely publicize the SAFER Internet address and the toll-free 800 number for public inquiries about safety ratings. The NITL maintained that '' * * * the *actual occurrences* [commenter's emphasis] of such directly safety-related violations justifies the public's access to the proposed ''unsatisfactory'' rating immediately,'' and that the shipping public should be provided the most current information so they can make their own decisions on whether or not to continue a relationship with such a motor carrier. The NITL echoed the IBT's view that this approach would have a strong deterrent effect. In contrast, the NITL believed the FMCSA should not make a proposed ''conditional'' safety rating publicly available because the less severe nature of the safety deficiencies that caused that proposed rating to be issued.

The ABA supported the FMCSA's proposal to continue its practice of not making public proposed unsatisfactory safety ratings. The ABA agreed that posting a proposed rating before a motor carrier has the opportunity to assess its operations, provide the FMCSA additional information, and request a reconsideration of the proposed rating ''could in fact deal a death blow to a company without full benefit of due process.''

The NITL argued that if a motor carrier had not taken effective corrective action during the 45 to 60 day period after it received a proposed unsatisfactory safety rating, it must be required to cease its operations at the end of that period. No extensions should be permitted.

The AMSA was concerned that motor carriers of household goods would suffer irreparable harm if proposed unsatisfactory safety ratings were made publicly available. The AMSA stated that the unique and close relationship that movers have with end-user consumers is largely based upon the public's confidence that the mover will transport their household goods in a safe and sound manner. ''Thus, even public disclosure of a 'proposed' unsatisfactory rating of a household goods carrier would have a most chilling effect on [its] personal and professional reputation. Such an effect could not be repaired easily, notwithstanding either possible error by [a FMCSA] safety specialist or in the instances where there are safety compliance violations, immediate remedial corrective action by the household goods carrier.''

The ATA interpreted the FMCSA's question about publication of a proposed safety rating as a request for comment on whether the FMCSA should require a motor carrier to cease interstate operations at the time the proposed rating is issued, or when the final rating is issued. The ATA requested the FMCSA set this date at 45 or 60 days ''after the final rating is issued.'' The ATA reasoned that motor carriers need this additional period to dispute the FMCSA's assessment of the situation or situations that led it to make its determination of unfitness, especially if accident preventability was at issue. The ATA went on to say:

> We suspect that the agency believes carriers should begin preparing for a shut down order immediately upon notice of a proposed rating of ''unsatisfactory.'' However, it is unrealistic to expect a for-hire carrier to notify its shippers of an impending ''unsatisfactory'' safety rating if that rating may not ultimately be assigned. A carrier who were to do that would be subjecting itself to harsh consequences both to its business and its image that may not be deserved.

FMCSA Response

The FMCSA proposed to retain the concept of the ''proposed'' safety rating, which it adopted in 1997. The time frames for motor carriers to cease operations after receiving an unsatisfactory rating or a determination of unfitness were set forth in both the Motor Carrier Safety Act of 1990 and in TEA–21. As the agency explained in the NPRM (64 FR 44460, at 44462), the goal of the proposal was basic fairness toward motor carriers. The agency is still of that same mind.

The FMCSA wants to clarify for the IBT that the proposed safety rating does not constitute a ''final safety fitness determination.'' The 60-day (or 45-day) grace period that begins with the FMCSA's issuance of a letter to the motor carrier is expressly designed to provide motor carriers the opportunity to take (or at least to begin to take) the corrective actions needed to improve the safety of their operations, or to question the FMCSA's assessment of their operations.

Concerning the estimated number of affected motor carriers, the IBT appears to have misunderstood the agency's statement from the regulatory analysis section of the preamble to the NPRM. Although the agency did state that, as of December 31, 1998, 2 percent of *all* motor carriers of non-HM property listed in the Motor Carrier Management Information System (MCMIS) had an unsatisfactory safety rating, the beginning of the sentence stated that the 8,999 motor carriers with unsatisfactory ratings represented 8.8 percent of the *rated* motor carriers (64 FR 44460, at 44465) in that category.

Although publicly available adverse information may indeed serve as a deterrent, the FMCSA agrees with the statements of the ABA, the NITL, and the AMSA. The agency does not believe that the benefits of this deterrent effect outweigh the requirements for the agency to provide these motor carriers the opportunity (1) to challenge the FMCSA's findings and allow the agency to address and correct errors it may have made in assigning the proposed ratings and (2) to improve the safety of their operations. The NITL incorrectly characterized the conditional safety rating, however, because it cited only the definitions in 49 CFR 385.3. The safety fitness rating methodology itself, in appendix B to part 385, describes the degree of regulatory noncompliance and negative performance (vehicle out-of-service and accidents) considered in the assignment of a conditional or an unsatisfactory rating. A motor carrier assigned a conditional safety rating is very likely to have demonstrated regulatory noncompliance, but not to such an extent as to warrant an unsatisfactory safety rating.

Although the NITL opposed the notion of an extension to the 45-to 60-day period during which a motor carrier may operate with a proposed unsatisfactory safety rating, the FMCSA is authorized by statute to provide additional time to motor carriers (that do not transport passengers or HM) making good faith efforts to improve their safety fitness (proposed § 385.13(a)(2)). The agency appreciates the NITL's plan to publish the SAFER Internet address and the FMCSA's toll-free phone number in its newsletter.

The ATA seems to have misunderstood the process and the time frames the agency uses in assessing a motor carrier's safety of operations and issuing a proposed and final safety rating. In the August NPRM (64 FR 44460, at 44462), the agency set forth this process under the heading ''Proposed Ratings; Effective Date of Final Rating.''

To reiterate, if the FMCSA is performing an initial CR in response to a safety complaint, a SAFESTAT listing, or a motor carrier's request, the FMCSA will advise a motor carrier of its proposed safety rating at the conclusion of the CR that generates the rating. (If the CR is a follow-up, the FMCSA will advise a motor carrier of its proposed safety rating at the conclusion of that CR only if the rating is other than

unsatisfactory.) The FMCSA will officially notify the motor carrier of its proposed safety rating by letter from FMCSA headquarters. The information provided a motor carrier is relatively detailed as to the agency's assessment of specific non-compliance with safety regulations. The motor carrier is, thus, made aware of the circumstances leading to a proposed rating before the FMCSA officially issues the proposed rating via a letter from its headquarters office in Washington, DC. The 45- or 60-day period begins on the date the FMCSA issues the official notice. If a motor carrier wishes to contest facts, such as accident circumstances and contributing factors, it can and should do so as early as possible, even before the proposed rating is issued. In any event, a motor carrier that requests an administrative review should make its request quickly because even an expedited proceeding takes time. During such a review, the adjudicator (the Chief Safety Officer of the Federal Motor Carrier Safety Administration) may grant relief while the proceeding is pending. A motor carrier may request a rating change based upon its corrective actions at any time. The FMCSA must respond to motor carriers' requests for administrative and corrective-action reviews within time frames specified in this rulemaking.

Contrary to the ATA's comment, the FMCSA does not view a proposed unsatisfactory safety rating as directing a motor carrier to prepare to cease its operations. The agency's mission is to promote safe, efficient, and effective transportation of people and goods. However, if a motor carrier has demonstrated that it is unwilling or unable to accomplish its transportation mission safely, it must not be allowed to place the safety of its drivers or of other highway users in jeopardy.

Retroactive Application of New Regulation

The IBT stated that it opposes the FMCSA's proposal to apply the revised regulation prospectively, *i.e.*, to impose the prohibition only upon motor carriers receiving an unsatisfactory safety rating on or after the effective date of the final rule. Citing *Landgraf* v. *USI Film Products* (114 S. Ct. 1483, 1499), the IBT argued that:

> A statute does not operate ''retroactively'' merely because it is applied in a case arising from conduct antedating the statute's enactment, or upsets expectations based in prior law. Rather the court must ask whether the new provision attached new legal consequences to events completed before its enactment * * * Statutes generally considered to have unlawful retroactive effect are those which take away or impair vested rights acquired under existing laws, create new obligation, impose new duties, or attach new disabilities with respect to transactions or considerations already past.

The IBT went on to argue there is no rationale for the FMCSA to permit motor carriers ''known to be unsafe'' to operate indefinitely, and that this would be clearly against congressional intent. The IBT asked the FMCSA to consider inserting a provision in the final rule that would require non-HM freight carriers currently holding unsatisfactory ratings to request the FMCSA to reevaluate them within 60 days of the effective date of the rule. If the motor carrier did not request such a review, it would be prohibited from operating in interstate commerce on the 61st day after the final rule is effective. However, if the motor carrier did make the request, the FMCSA would be required to conduct the review within 60 days.

The NITL did not oppose the FMCSA's proposal to apply the rule prospectively, but it wanted the agency to commit enough resources to re-rate all motor carriers with a current unsatisfactory rating ''within a short and defined period.'' The NITL contended that this effort would serve two purposes: it would remove from the highways motor carriers that continue to operate in an unsafe manner, and it would ensure that previously-unsatisfactory motor carriers would not continue to be ''wrongly ''tarred'' with the consequences of their past rating.''

FMCSA Response

The IBT's assertion that the FMCSA would contravene congressional intent if it failed to apply the shut-down requirements of section 4009 to non-HM freight carriers rated unsatisfactory before that statute was enacted, is patently incorrect. The discussion of retroactive and prospective application of laws in *Landgraf* v. *USI Film Products*, 511 U.S. 244 (1994), is carefully nuanced. Although the Supreme Court acknowledged that retroactive application of laws is sometimes required, especially in ''procedural'' and ''prospective-relief'' cases,'' it also noted that ''the presumption against retroactive legislation is deeply rooted in our jurisprudence, and embodies a legal doctrine centuries older than our Republic. Elementary considerations of fairness dictate that individuals should have an opportunity to know what the law is and to conform their conduct accordingly * * *'' *Id.*, at 265, 276. The court's description of the proper analytical method upon judicial review leaves no doubt that unsatisfactory safety ratings cannot be applied retroactively. The court said:

> When a case implicates a federal statute enacted after the events in suit, the court's first task is to determine whether Congress has expressly prescribed the statute's proper reach. If Congress has done so, of course, there is no need to resort to judicial default rules. When, however, the statute contains no such express command, the court must determine whether the new statute would have retroactive effect, *i.e.*, whether it would * * * increase a party's liability for past conduct * * * If the statute would operate retroactively, our traditional presumption teaches that it does not govern absent clear congressional intent favoring such a result. *Id.*, at 280.

Using this method, we find that section 4009 includes no ''express command'' to shut down non-HM freight carriers based on unsatisfactory ratings issued before the provision was enacted. The presumption against retroactive application of laws therefore applies.

The FMCSA agrees with the IBT and the NITL that a motor carrier with an unsatisfactory safety rating has demonstrated an unacceptably low level of operational safety. However, the FMCSA has not made a practice of re-rating motor carriers unless new information on their safety performance became available. Some of these motor carriers have held these ratings for substantial periods of time, but have not come to the FMCSA's attention because their accident involvement and/or out-of-service rates have been below national averages. The agency's resources must be allocated over a very large, expanding and diverse group of motor carriers operating in interstate commerce. With nearly 9,000 motor carriers of non-HM freight holding unsatisfactory ratings as of December 31, 1998, the task of re-rating this group over a short period of time would be substantial. As the agency stated in the NPRM (64 FR 44460, at 44463):

> the [FMCSA] will give priority to reviews of motor carriers with proposed or final *unsatisfactory* safety ratings because of the prohibition against operating in interstate commerce with such safety ratings * * * if a motor carrier of non-HM freight that held an *unsatisfactory* safety rating issued prior to the effective date of a final rule were to receive a follow-up proposed *unsatisfactory* rating after the effective date of a final rule, the [FMCSA] would provide those motor carriers the same priority handling as motor carriers receiving a proposed *unsatisfactory* safety rating for the first time.

The issue of performing assessments of the safety and regulatory compliance of the large number of motor carriers operating in interstate commerce is a daunting one. This rulemaking

addresses vigorously the operation of those motor carriers whose safety fitness is determined to be unsatisfactory, and who must either improve their operations or face being prohibited from operating in interstate commerce. Other rulemakings will follow, dealing with the rating methodology itself, certification of safety auditors (required by section 211 of the MCSIA of 1999), and other matters.

Addressing the NITL's second comment, the FMCSA has, and will continue to have, a process in place under § 385.17 for motor carriers to request a change in their safety rating based upon corrective action.

Rating Categories

The NITL suggested that the FMCSA develop an ''excellent'' safety rating category. The NITL stated that ''An ''excellent'' safety rating would provide a quality benchmark to both shippers and carriers, and provide information to shippers on the carriers who take their responsibility for safe operation most seriously * * * [it] would assist shippers in making a choice among competing carriers, thus encouraging excellence in safe operation, and will ensure that the carriers with the best safety record reap the benefits in the market.''

Boyle Transportation (Boyle) believes that motor carriers that transport placardable quantities of high-risk hazardous materials, such as explosives and radioactive materials, should be held to a higher safety standard than motor carriers that transport other types of freight. Boyle provided a list of 23 motor carriers that it stated were approved by the Department of Defense (DOD) to transport Division 1.1, 1.2, and 1.3 explosives; it included three other motor carriers with large nationwide fleets for comparative purposes. The list included the motor carriers' name; USDOT or MC number; out-of-service rates for driver, vehicle, and hazardous materials roadside inspections; and fatal, injury, and ''tow'' accidents. Boyle pointed out that some of these motor carriers hold satisfactory safety ratings from the FMCSA, even though they have substantial proportions of violations resulting in the driver or vehicle being placed out-of-service. ''If a motor carrier that transports high risk hazardous materials and receives 'out of service' violations on 20–67 percent of their roadside inspections can maintain the same safety rating as carriers with fewer than 10 percent, there is no incentive for that carrier to more safely operate its commercial motor vehicles. The 'satisfactory' safety rating confers the same right to do business with the DOD as other shippers.'' Boyle concluded its comments by noting that ICC operating authority to transport explosives was effective only for five years and that the motor carrier had to obtain ''satisfactory results of a DOT compliance review'' in order to renew it. Boyle recommended that the DOT consider suspending the operating authority of motor carriers transporting explosives if the motor carrier did not lower its vehicle out-of-service rate below 15 percent.

FMCSA Response

The FMCSA's system of assigning safety ratings does not differentiate among specific classes of commodities, other than whether or not they include placardable quantities of hazardous materials. Although the vehicle out-of-service rates for some of the motor carriers listed in Boyle's submission do exceed the national average, the chart did not include information on fleet size: a small fleet might accumulate a high vehicle out-of-service rate over a short period of time with a small number of violations. The rate could dip equally quickly if a few problem areas were corrected.

The FMCSA believes that it must devote its limited resources to addressing critical concerns in motor carrier and highway safety. A rating category such as the NITL envisions could be awarded by an independent organization that develops its criteria in accordance with best industry safety practices to meet the needs of its clients and partners. We encourage NITL, and other motor carrier industry organizations, to move forward with such an effort.

Federal Government Agency Use of Unsatisfactory Rated Motor Carriers

The AMSA believes that the FMCSA's proposal would have severe adverse impacts upon household goods motor carriers that provide contract transportation services to the U.S. government through the Department of Defense (DOD), the General Services Administration (GSA), and other agencies. According to the AMSA, approximately 1,200 household goods carriers, their agents, and their owner operators transport DOD domestic personal property shipments, and that approximately 120 household goods carriers and their agents participate in the GSA's Household Goods Traffic Management Program. The AMSA contends that ''several household goods carriers would be devastated, if not completely put out of business'' based upon the proposal.

FMCSA Response

Some household goods movers that are heavily dependent upon U.S. government contracts would suffer adverse effects from a final safety rating of unsatisfactory. That, of course, must be understood as Congress' purpose in adding this provision. Moreover, the AMSA had noted in another part of its docket comment that there is a unique relationship between a household goods mover and its clients. Therefore, it would seem to be particularly important that household goods movers avoid such serious deficiencies in the safety of their operations that the FMCSA would declare them to be unfit. The safety of the operations of a household goods mover—or any other motor carrier—should not be held to a lower standard for some clients than for others. Indeed, this is not the case. The Program for Qualifying DOD Freight Motor Carriers, Exempt Surface Freight Forwarders, and Shipper Agents, at 32 CFR part 619, addresses safety ratings for motor carriers of non-hazardous and non-sensitive types of shipments as follows:

§ 619.2(a) Carrier will not have an ''unsatisfactory'' rating with the Federal Highway Administration, Department of Transportation and if it is an Intrastate Motor Carrier, with the appropriate State agency.
§ 619.2(b) Carriers with ''conditional'' or ''insufficient information'' ratings may be used to transport DOD general commodities provided that such carriers certify in writing that they are now in full compliance with Department of Transportation safety requirements.

In any case, the AMSA's concern that a large number of household goods movers would be affected by the regulation seems overstated. As of September 1, 1999, the MCMIS showed 15,781 active interstate motor carriers transporting household goods. These motor carriers operate a total of 142,794 power units (trucks and truck tractors). As of that date, 209 motor carriers (1.3 percent) held unsatisfactory safety ratings; these motor carriers operated 1,083 (0.76 percent) of the power units.

Enforcement of New Regulations

The NPTC was concerned that the NPRM did not describe how the FMCSA planned to enforce its proposal—that motor carriers determined to be unfit actually cease their interstate operations. The NPTC acknowledged that the FMCSA has stated that it is planning to expand the PRISM program, but questioned how many States are currently capable of enforcing the proposed regulation. The organization also urged the FMCSA to develop and publicize its plans to monitor the operations of motor carriers that it has

directed to cease interstate operations, including prohibiting those motor carriers from operating their CMVs, and to announce penalties it would assess against motor carrier officials and employees found to be violating these orders.

The Motor Carrier Transportation Division of the Oregon Department of Transportation (Oregon), a participant in the FMCSA's Performance and Registration Information Systems Management (PRISM) program, supported the proposal, but encouraged the FMCSA to improve its compliance assessment and enforcement tools. Specifically, Oregon recommended that the FMCSA implement the SafeStat algorithm ''to determine the safety fitness of all motor carriers in the United States.'' Oregon also asked the FMCSA to consider alternatives that would provide effective enforcement tools to States, such as prohibiting unfit motor carriers from registering their vehicles.

The Iowa Department of Transportation, another participant in the PRISM program, stated its support for a performance-based system to determine the safety fitness of motor carriers. Both Iowa and Oregon referred to their earlier comments to the agency's July 20, 1998, ANPRM.

FMCSA Response

The FMCSA will continue to issue an out-of-service order to each motor carrier that receives a final unsatisfactory safety rating. The FMCSA has procedures for its own personnel, and that of its MCSAP partners, to ensure that motor carriers prohibited from operating CMVs in interstate commerce do not do so.

Concerning the safety fitness of ''all motor carriers,'' the FMCSA is constrained by law to provide safety oversight of motor carriers operating in interstate commerce. States may develop their own methods for assessing the safety fitness of their intrastate motor carriers. They may base their methods upon 49 CFR part 385, but they are not required to do so as a condition for receiving Motor Carrier Safety Assistance Program (MCSAP) grants.

Proposed Revision to the Rating Criteria

In the preamble of the 1997 final rule amending 49 CFR part 385 (62 FR 60035), the agency announced that it intended to review the entire rating system. On July 20, 1998, the agency published an advance notice of proposed rulemaking (ANPRM) which, among other things, began the process of creating a more performance-based means of determining the safety fitness of motor carriers (63 FR 38788). The FMCSA anticipates publishing an NPRM in the near future that proposes a more performance-based safety fitness methodology. For the present, however, the FMCSA will continue using the current SFRM included in appendix B to part 385.

Related Rating Issues

The FMCSA does not currently issue safety ratings to two categories of motor carriers of passengers: (1) Non-business private motor carriers of passengers, such as, churches or social groups, and (2) owners and operators of vehicles designed to transport fewer than 16 passengers, including the driver, for compensation. As to the first category, the FMCSA does not believe that Congress intended the agency to include this group, because the occasional nature of the transportation these motor carriers provide does not readily lend itself to safety fitness evaluation. These motor carriers are not required to maintain most of the records otherwise mandated by the FMCSRs. However, they are still subject to many of the substantive regulations and to safety enforcement at roadside. No comments to the NPRM docket addressed this issue. The FMCSA will continue its practice of not issuing a safety fitness determination to this type of motor carrier.

The second category of passenger motor carrier is comprised mainly of limousine and van owners and operators. These entities are currently required to obtain operating authority from the FMCSA, but have not been subject to most provisions of the FMCSRs because their vehicles did not qualify as ''commercial motor vehicles'' under 49 CFR 390.5. Section 4008 of TEA–21 changed the statutory definition of ''commercial motor vehicle'' to include those vehicles designed or used to transport ''more than 8 passengers (including the driver) for compensation'' (49 U.S.C. 31132(1)(B)). However, it also authorized the agency to exempt some or all of these vehicles from some or all of the FMCSRs.

On September 3, 1999, the agency published (1) an interim final rule that amends its regulatory definition of a CMV to include vehicles designed or used to transport between 9 and 15 passengers (including the driver) for compensation, but temporarily exempts the operators of such vehicles from the FMCSRs; and (2) an NPRM that proposes to learn more about the operational safety of small passenger-carrying CMVs by requiring operators of these vehicles to file a motor carrier identification report, mark their CMVs with a USDOT identification number, and maintain an accident register. The temporary exemption from the FMCSRs of small passenger-carrying vehicles also temporarily precludes the application of the safety fitness procedures to for-hire motor carriers operating these vehicles.

Several commenters to this docket disagreed with this provision of the FMCSA's proposal. The fact remains that, until the FMCSA completes its rulemaking concerning the applicability of the various parts of the FMCSRs to these passenger motor carriers, there is little upon which the agency could base a safety rating. The FMCSA will first clarify which operations must be included in the newly regulated class, and then determine which regulations should apply. The agency will also be responding in a separate rulemaking to the congressional direction contained in section 212 of the MCSIA, concerning rulemaking on the application of the FMCSRs to small passenger van operations.

Is The Rule Applicable to Railroads and Steamship Lines?

On February 17, 1999, in response to a petition from the ATA, the FHWA published an ANPRM dealing with the inspection, repair and maintenance of intermodal chassis and trailers (64 FR 7849). The petition asked for rulemaking that would require parties providing intermodal chassis and trailers to motor carriers (mainly railroads and steamship lines) to share with truckers the responsibility for maintaining that equipment at a level that complies with the FMCSRs. The FHWA discussed its jurisdiction over railroads and steamship lines as follows:

> The FHWA [now the FMCSA] has jurisdiction over ''commercial motor vehicles'' (CMVs), ''employees'' and ''employers,'' as defined in 49 U.S.C. 31132(1), (2) and (3), respectively. The vast majority of intermodal trailers and chassis-and-container combinations meet the definition of a CMV—a towed vehicle used on the highways in interstate commerce to transport * * * property [which] has a gross vehicle weight rating or gross vehicle weight of at least 10,001 pounds * * *'' An employer is ''a person engaged in a business affecting interstate commerce that owns or leases a commercial motor vehicle in connection with that business, or assigns an employee to operate it.'' An employee is ''an operator of a commercial motor vehicle (including an independent contractor when operating a commercial motor vehicle), a mechanic, a freight handler, or an individual not an employer, who (A) directly affects commercial motor vehicle safety in the course of employment * * *''

Railroads, steamship lines, pier operators, or other parties that own or lease intermodal CMVs are thus ''employers'' subject to the jurisdiction of the FHWA. Any employee of such a business who is responsible for intermodal CMVs ''directly affects commercial motor vehicle safety'' through the inspection and maintenance program he or she manages and is thus an ''employee'' subject to the jurisdiction of the FHWA [FMCSA].

64 FR 7850, February 17, 1999.

In the course of public listening sessions held by the Department to explore the issues raised by the intermodal equipment ANPRM, the question arose whether the FMCSA could find railroads and steamship lines, as owners or operators of commercial motor vehicles, to be ''unsatisfactory,'' thus forcing them to stop tendering or accepting intermodal trailers and container-chassis combinations, nearly all of which are in interstate commerce.

The FMCSRs treat the terms ''employer'' and ''employee'' in 49 U.S.C. 31132 as essentially equivalent to ''motor carrier'' and ''driver,'' respectively. While the statutory definitions can be applied more broadly to railroads and steamship lines that own or operate intermodal equipment, as outlined in the February 17 ANPRM, neither the FHWA nor the FMCSA has done so. The FMCSA does not issue safety ratings to railroads or steamship lines simply because they own or operate (i.e., interchange with truckers) intermodal containers, chassis or trailers. This rule does not expand the reach of the previous safety rating rule to railroads, steamship lines or other intermodal entities merely because some of the equipment they operate meets the definition of a ''commercial motor vehicle.'' Although ratings may be issued to motor carrier divisions or branches of, or subsidiaries owned by, such companies, railroads and steamship lines as such will not be rated by the FMCSA under this rule, and in the absence of a rating, will not be subject to the requirement to cease operations in interstate commerce.

Discussion of Final Rule

The regulatory language published in the NPRM is being adopted today, with minor revisions:

(1) The authority citation for part 385 has been revised to incorporate the legislative citations of the Motor Carrier Safety Improvement Act of 1999.

(2) All references to the FHWA have been replaced with references to the FMCSA and the appropriate officials of that agency.

(3) The effective date of the final rule is now 90 (instead of 30) day after the date of publication.

(4) The last phrase of paragraph (b) of § 385.1 has been revised to read ''capacity of fewer than 16 persons, including the driver'' from the previous ''capacity of 8–15 persons, including the driver''—this revised language is consistent with the interim final rule of September 3, 1999 (64 FR 48510).

(5) The text of the first sentence of paragraph (a) of § 385.11 has been revised to add the word ''safety'' before the first use of the word '' rating'' and to revise the phrase ''safety fitness review'' to read ''compliance review.'' This revised language is consistent with the useage in the remainder of the rule.

(6) The text of § 385.13, describing the time period when motor carriers are required to cease their operations, is now consistent with the text of § 385.11: the prohibition begins on the 46th day (for passenger and HM carriers) and on the 61st day (for all other motor carriers) after the date of the FMCSA's notice of proposed ''unsatisfactory'' safety rating. In § 385.13 of the NPRM, the time period was described as commencing after the motor carrier had received the agency's notice. There is likely to be more time between the completion of a CR and the issuance of the notice, than the time between issuance of the notice in Washington, DC, and its delivery to the motor carrier. This change makes it clear that all motor carriers will have at least 45 or 60 days (as appropriate, depending upon whether the motor carrier transports passengers, HM, or non-HM freight) between the time they are advised of a proposed rating and the time the rating becomes final (assuming the motor carrier does not contest it and does not take action to improve its safety performance and request a stay of the proposed rating). A corresponding revision has been made to the text of the last sentence of § 385.17(g).

(7) In § 385.13(a), the word ''Generally'' has been added to the beginning of the sentence. This revision is necessary to clearly differentiate those motor carriers of non-HM freight that had received their ratings prior to the effective date of this rule. Those motor carriers may still operate in interstate commerce because this rule is not retroactive. An error in the text of § 385.13(a)(2) has been corrected: the section now reads ''rated on or after * * * '' An error in the text of § 385.13(c) has been corrected: The date that the rating would become effective would be on or after the effective date of the rule, plus 61 days, resulting in a date 151 days after the date of publication in the **Federal Register**.

(8) A paragraph, Penalties, has been inserted at § 385.13(d) to address the FMCSA's issuance of an operations out-of-service order to motor carriers rated unsatisfactory; it corresponds to § 385.13(c) of the current regulation. The NPRM erroneously omitted this paragraph.

(9) A typographical error was corrected at § 385.17(c): It now reads ''safety standard and factors.''

(10) The listing of FMCSA Service Centers was published on June 2, 2000 as part of the final rule concerning CMV marking (65 FR 35287, at 35297) and therefore will not be repeated here.

The final rule is a straightforward implementation of the amendments to 49 U.S.C. 31144 made by section 4009 of TEA–21. The regulatory changes, like the statutory amendments, simply expand a prohibition on interstate operations, which had previously applied only to HM and passenger carriers, to all other motor carriers.

As mentioned above, the FMCSA is undertaking a separate rulemaking action (see RIN 2125–AE37) to make the safety fitness determination process more performance-based.

Effective Date of Final Rule

The FMCSA has determined it is appropriate for the effective date of this final rule to be November 20, 2000, or 90 days from today. First, the new consequences attached to an unsatisfactory safety rating are particularly severe for motor carriers of non-HM freight. Unless these motor carriers are able to demonstrate to the FMCSA that they have addressed deficiencies in the safety of their operations, they will be prohibited from operating in interstate commerce beginning on the 61st day after the FMCSA notifies them of a proposed unsatisfactory rating. The FMCSA wants to allow motor carriers a period of time to assess their situations, and begin to correct safety problems that they may have. Second, the agency requires the additional time to make necessary changes to its information systems and correspondence procedures so the communications between the agency and motor carriers are handled in a timely and efficient manner.

Prospective Application

The prohibition on the operation of CMVs by unfit motor carriers will not be applied retroactively. Passenger and HM carriers rated unsatisfactory have either improved their ratings since 1991 or ceased operating in interstate commerce. However, there were significant numbers of general freight carriers that held unsatisfactory ratings

at the time TEA–21 was enacted; their operations were not illegal. In the absence of statutory direction to the contrary, the prohibition on unfit/unsatisfactory general freight carriers in section 4009 must be understood as applying only to those rated unsatisfactory by the FMCSA after the effective date of this final rule. However, if a motor carrier that was rated unsatisfactory prior to the effective date of the final rule receives *another* unsatisfactory rating *after the effective date of this rule* as a result of another CR, the new provisions will apply—the motor carrier will be required to cease its operations in interstate commerce beginning on the 61st day after the date of the FMCSA's notice.

Effect of Rating

Since 1991, motor carriers receiving an unsatisfactory safety rating have been prohibited from using CMVs to transport more than 15 passengers, including the driver, or placardable quantities of HM, in interstate commerce. Furthermore, those motor carriers cannot be used by Federal agencies for those purposes. These prohibitions and the procedures for applying them are contained in 49 CFR 385.13, which implemented section 15(b) of the Motor Carrier Safety Act of 1990. The TEA–21 provision expands the same prohibition, under virtually identical conditions, to all other motor carriers, irrespective of their cargo, which are found by the FMCSA to be unfit. These owners and operators may not operate CMVs in interstate commerce beginning on the 61st day after such fitness determination.

Proposed Ratings; Effective Date of Final Rating

One of the changes to 49 CFR part 385 made in the November 6, 1997, final rule was the adoption of a ''proposed'' safety rating. Upon completion of a CR, each HM and passenger motor carriers is now given a written description of the deficiencies found, along with a verbal (and sometimes written) notification of its proposed safety rating. Written confirmation of the proposed rating is issued by the Washington, DC office as soon as possible thereafter, but in any case within 30 days after completion of the CR. If the proposed rating is unsatisfactory, the 45-day period in which to make improvements begins on the day after the verbal (and/or written) notice is given by the FMCSA safety investigator at the end of the CR [see 49 CFR 386.32(a)]. If no improvements are forthcoming, the carrier must halt transportation of passengers or HM on the 46th day.

This final rule retains ''proposed ratings,'' but it changes the event that starts the 45-day, or the new 60-day, period in which unsatisfactory-rated carriers must make improvements. Although FMCSA safety investigators will continue to give verbal (and/or written) notice of the motor carrier's proposed safety rating at the end of each CR, that will not start the statutory grace period. The 45- or 60-day period in which to make improvements will begin on the date the formal written notice of the proposed safety rating is issued by the Washington, DC office. This notice will be issued as soon as practicable, but not later than 30 days after the end of the CR. In other words, the grace period starts as soon as the agency issues the written notice and delivers it to the Postal Service. While the transit time between Washington and the recipient means that motor carriers will have less than 45 or 60 days after delivery of the notice to improve their operations, they will already have received actual notice of the proposed rating at the end of the CR. Because a number of days will be required after completion of the CR to electronically upload the safety investigator's report to Washington, prior to issuing the formal notification of the proposed safety rating, motor carriers will routinely have somewhat more than the statutory 45- or 60-day grace period in which to improve their operations.

If an unsatisfactory-rated motor carrier has not made the necessary improvements by the end of the grace period, it must cease operations on the 46th or 61st day; at the same time, the carrier's final rating will be posted on the agency's Safety and Fitness Electronic Records System (SAFER) website [*http://www.safersys.org*] and made available through telephone inquiries at (800) 832–5660.

While section 4009 requires motor carries to cease interstate operations 45 or 60 days (depending upon the type of operation) *after* receiving an unsatisfactory rating or determination of unfitness, the FMCSA believes the ''proposed'' safety rating followed by a 45- or 60-day grace period achieves the same purpose as, and is entirely consistent with, section 4009. As explained earlier in the preamble, the agency has concluded that basic fairness to motor carriers requires this procedure.

Time Periods for FMCSA To Perform Follow-Up Compliance Reviews

Section 4009 also requires specific time periods for the FMCSA to perform a CR requested by an unfit (*i.e.,* unsatisfactory) rated motor carrier. Section 31144(d) specifies the time limits for the FMCSA to review motor carriers' compliance with regulatory provisions that contributed to the fitness determination. For unsatisfactory carriers of passengers and HM, the follow-up compliance review must be completed within 30 days of the carrier's request; for all other carriers rated unsatisfactory, the follow-up review must be completed within 45 days after the carrier's request.

In the preamble to the August 16, 1991, interim final rule that implemented the provisions of the MCSA of 1990 (56 FR 40801, at 40802), the FHWA said it would ''make its determination expeditiously because the 'unsatisfactory' safety rating may well affect a motor carrier's ability to continue in business. In the event the FHWA is unable to make its determination within the 45-day period, the agency may conditionally suspend any 'unsatisfactory' safety rating and rescind any related administrative order for a period of up to 10 additional calendar days.'' The current regulation, at 49 CFR 385.17(d), continues to allow for this additional time: ''If the motor carrier has submitted evidence that corrective actions have been taken pursuant to this section and a final determination cannot be made within the 45-day period, the period before the proposed safety rating becomes effective may be extended for up to 10 days at the discretion of the Regional Director.'' The final rule retains this provision (as § 385.17(f)) because there may be circumstances under which competing demands for FMCSA staff time would make it impossible to complete a review within the time limit specified by the statute. The agency does not expect that to happen often, but it does not wish to penalize motor carriers for delays not of their own making. The extension will be allowed at the discretion of the FMCSA Service Center for the appropriate geographic area. The list of Service Centers appears in § 390.27.

Time Periods for FMCSA To Perform Administrative Reviews

Under this rule, the FMCSA will continue to perform administrative reviews under § 385.15 and corrective-action reviews under § 385.17 for motor carriers with a proposed conditional or unsatisfactory safety rating, but will give priority to those with proposed unsatisfactory ratings. The current § 385.15(d) states that the FHWA (now FMCSA) will notify a petitioning motor carrier of the agency's decision on administrative review within 30 days after the agency receives a petition. The current § 385.17 does not specify a time

limit for the agency to perform a review based upon a motor carrier's request to change a safety rating because of its corrective actions, but it does allow the agency to extend for up to 10 days the period before a proposed safety rating becomes effective (§ 385.17(d)). The agency is revising its regulations and procedures, now codified at §§ 385.15(c) and 385.17(e), to give priority to reviews of motor carriers with a proposed or final unsatisfactory safety rating because of the prohibition against operating in interstate commerce with such a safety rating.

Because the regulation is not retroactive, this priority handling will not extend to non-passenger and non-HM motor carriers with unsatisfactory safety ratings that became final before the effective date of the final rule. Although the FMCSA will continue to review proposed and final conditional safety ratings, the agency needs to place a higher priority on the proposed and final unsatisfactory safety ratings because of the severe operational consequences for the affected motor carriers. However, as explained above, if a motor carrier of non-HM freight that held an unsatisfactory safety rating issued prior to the effective date of a final rule receives a follow-up proposed unsatisfactory rating after the effective date of a final rule, the FMCSA will provide those motor carriers the same priority handling as motor carriers receiving a proposed unsatisfactory safety rating for the first time.

While preparing the final rule, the FMCSA discovered a discrepancy between §§ 385.15 and .17, as published in the NPRM, in the time period allowed for requesting an administrative review. In the former section, the time period for requesting an administrative review was 90 days, while the latter reference was to 45 days. No comments were received on the issue. The FMCSA has adopted the 90 day period for both sections in the final rule. Additional editorial changes were made as well to clarify the operation of the administrative review process.

Potential Extension of Initial 60-Day Grace Period for Motor Carriers That Do Not Transport Passengers or HM

Subsection (c) of 49 U.S.C. 31144 also provides discretionary power to the agency to allow unsatisfactory-rated motor carriers that do not transport passengers or HM to operate for an additional 60 days, if the agency determines the motor carrier is making a good faith effort to improve its safety fitness. As noted above, the FMCSA will not make a final determination of unfitness in its initial notification—the final determination will occur at the end of the 60-day period or any extensions of that period, up to a maximum of 120 days.

Federal Government Agency Use of Unsatisfactory Rated Motor Carriers

Since 1991, any department, agency, or instrumentality of the United States Government has been prohibited from using a motor carrier with an unsatisfactory safety rating to transport passengers or HM. Section 4009 of TEA–21 extends this prohibition to cover all motor carriers found to be unfit. As written, the prohibition applies to the Federal agency and not to the motor carrier.

The FMCSA will continue to advise a motor carrier of its proposed safety rating as soon as possible after the FMCSA's compliance review, but not later than 30 days afterwards. At the end of the 45- or 60-day period (or longer, if extended), the proposed rating will become the motor carrier's final safety rating if the FMCSA has no basis to change it. On the effective date of a final unsatisfactory safety rating, Federal government agencies will be precluded from using, or continuing to use, these motor carriers' transportation services.

One commenter, the AMSA, disagreed with this element of the proposal. The AMSA contends that ''several household goods carriers would be devastated, if not completely put out of business,'' if they were prohibited from doing business with the Federal government. No other commenters addressed this issue. Since the requirement is statutory, the agency adopts the provision as proposed in the NPRM.

FMCSA Organizational Structure

Decisions regarding safety fitness are made by the Chief Safety Officer of the FMCSA. The NPRM had referred to the Program Manager, Office of Motor Carrier Safety, FHWA. The title used in the final rule reflects the agency's reorganization. No commenters addressed this element of the NPRM.

We have revised the appropriate sections of part 385 to reflect changes in organizational structure and titles.

Rulemaking Analyses and Notices

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

We have determined that this document contains a significant regulatory action under Executive Order 12866 and under the DOT's policies and procedures because this action has substantial public interest. This action was reviewed by the Office of Management and Budget.

This rule requires any motor carrier in interstate commerce that the FMCSA rates unsatisfactory to cease providing CMV transportation after a grace period of 45 days (for HM and passenger operations) or 60 days (for all other motor carriers). A motor carrier will be allowed to commence those operations again only if the FMCSA determines its safety rating is no longer unsatisfactory. Although these requirements have been in place since 1991 for passenger and HM motor carriers, this is the first time they are being applied to other motor carriers.

Motor carriers of passengers and of placardable quantities of HM are not subject to new sanctions for noncompliance as a result of this regulatory action. Under the new regulations, the FMCSA must respond to any requests for a follow-up review of an unsatisfactory safety rating within 30 days—the prior regulation had required this to be accomplished within 45 days. This revision is required by 49 U.S.C. 31144(d)(2) and (3).

As of December 31, 1998, the agency's MCMIS listed 477,486 motor carriers as active. The FMCSA has provided safety ratings to approximately 25 percent of these motor carriers. The number of motor carriers with unsatisfactory safety ratings was a small fraction of all the rated motor carriers in MCMIS, and a minute fraction of the motor carriers of passengers and of HM. The summary in the NPRM, and the detailed statistics in Supplemental Item of the docket, provided a recent history of follow-up CRs the agency had performed. No commenters addressed these statistics. In fiscal year 1998, the large majority of re-rated motor carriers of property that had received an initial unsatisfactory safety rating received a conditional or satisfactory safety rating after follow-up reviews performed during the year.

To the extent there are any costs associated with this rule, they are a result of noncompliance with an existing rule; it is assumed that those costs are less than the cost of complying with the existing rule or the entities involved would take steps to achieve compliance with the lower cost alternative. With respect to the costs of complying with the existing rule, it should be noted that, generally, when DOT agencies analyze the costs of a new rule, they assume 100 percent compliance. Since 1979, DOT Policies and Procedures have required the analysis of costs and benefits of all rules issued by the Department. This rule merely rates carriers based on their compliance with existing safety

standards and requires more unfit carriers to cease operations. Any costs and benefits associated with complying with underlying safety rules adopted since that date would have been considered when those rules were adopted.

The FMCSA anticipates that this rulemaking will have minimal economic impact on the interstate motor carrier industry. Based upon the statistics on follow-up CRs conducted during calendar years 1994 through 1998, the FMCSA expects that between 50 and 100 motor carriers might not improve an initial proposed unsatisfactory safety rating during the grace period allowed. These motor carriers would be required to cease their operations in interstate commerce until they could demonstrate to the FMCSA that they had improved the safety and regulatory compliance of their operations.

Based upon its analysis of statistical information concerning motor carriers' improvement in their safety ratings, the FMCSA believes that the vast majority of motor carriers interested in continuing their operations would be able to do so. Any adverse economic impact to the relatively few motor carriers who are unwilling or unable to demonstrate an improvement in the safety of their operations within the 45 to 120 day period specified in TEA–21 is entirely consistent with the intent of the statute. Obviously, requiring an unfit motor carrier to cease its interstate operations would have an economic impact on that motor carrier and its employees. However, motor carriers have the responsibility of conducting their operations in a safe manner, and in compliance with the FMCSRs. Therefore, the cessation of a motor carrier's interstate operations, as a result of its receiving an unsatisfactory safety rating, should not be attributed as a cost of this rulemaking.

The FMCSA believes the traveling public will derive a safety benefit from the removal from the Nation's highways of CMVs operated by those few motor carriers found to be unfit to operate them safely. In addition, shippers of non-HM freight will derive direct and indirect economic gains through the improved safety and corresponding efficiency of their commercial motor freight transportation.

This rule will only affect the operations of the small number of motor carriers determined to be unfit to operate CMVs based on the frequency and severity of their regulatory violations, poor outcomes of roadside inspections, and accident experience. The number of motor carriers of non-HM freight that do not improve their safety rating from unsatisfactory is expected to continue to be small—fewer than 100 per year. This is much smaller than the number of motor carriers that ceases operations as a result of normal economic fluctuations. There are no new costs associated with this rulemaking and the overall adverse economic effects will be minimal.

This rulemaking will provide the FMCSA the authority to require that unsatisfactory-rated motor carriers cease their operations in interstate commerce. Removing these motor carriers from the public highways will provide a very important, although unquantifiable, safety benefit. These motor carriers pose a significant safety risk to the traveling public because of their demonstrated refusal, or inability, to comply with the FMCSRs. This rule provides the FMCSA with an essential tool to take prompt and effective action against these motor carriers.

This rulemaking will not result in inconsistency or interference with another agency's actions or plans. It will, however, implement several specific congressional directives, including one prohibiting Federal agencies from using any motor carrier with an unsatisfactory safety rating to provide ''any transportation service.'' Therefore, all Federal agencies that contract for motor carrier passenger or freight transportation in CMVs must review the safety ratings of these contractors.

The rights and obligations of recipients of Federal grants will not be materially affected by this regulatory action.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (5 U.S.C. 601–612) the FMCSA has evaluated the effects of this rulemaking on small entities. Economically impacted by this rulemaking will be motor carriers of non-HM freight that receive an unsatisfactory safety rating on or after the effective date of this rule, and fail to take appropriate actions to improve their rating. As of March 1999, some 79 percent of the 483,385 active motor carriers in MCMIS were in the ''very small'' or ''small'' category (less than 21 power units). The FMCSA's statistical information contained in MCMIS indicates that relatively few small motor carriers of passengers or HM have received unsatisfactory safety ratings since 1994, the earliest date for which information is readily available, and fewer still did not improve their safety ratings based upon the FMCSA's follow-up CRs.

Tables 2 and 3 in the NPRM provided statistics on follow-up CRs of motor carriers of property (non-HM) for calendar years 1994 through 1998. As before, the large majority of these motor carriers that began a calendar year with an unsatisfactory safety rating had improved it by the end of the calendar year. As long as a motor carrier holds, or is able to improve to, a conditional or satisfactory rating, § 385.13 of this rule will not affect its ability to operate in interstate commerce. This rule does not impose new costs on motor carriers, however, it increases penalties for those that fail to take appropriate actions to improve the safety of their operations and their resulting safety rating. The FMCSA notes that no commenters to the NPRM addressed the data in the Regulatory Flexibility Act section. That data presented statistics on motor carriers of property initially rated unsatisfactory (NPRM Table 2) and the number of motor carriers starting and ending a calendar year with an unsatisfactory safety rating (NPRM Table 3).

Accordingly, the FMCSA certifies that this regulatory action will not have a significant economic impact on a substantial number of small entities.

Unfunded Mandates Reform Act of 1995

This rule does not impose a Federal mandate resulting in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year. (2 U.S.C. 1531 *et seq.*).

Executive Order 12988 (Civil Justice Reform)

This action 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.

Executive Order 13045 (Protection of Children)

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

Executive Order 12630 (Taking of Private Property)

This rule implements a statutory mandate to prohibit interstate motor carrier operations found to be unsafe and therefore unfit. Motor carriers can avoid all of the implications of an unsatisfactory safety rating simply by

complying with the FMCSRs. Furthermore, motor carriers with a proposed unsatisfactory safety rating will have at least 45 or 60 days, depending on the type of operation, to correct deficiencies identified by the FMCSA before halting operations in interstate commerce. Finally, even if a motor carrier were to suspend its operations, it can resume operations by correcting its deficiencies, coming into compliance with the FMCSRs, and demonstrating these improvements to the FMCSA.

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

Executive Order 13132 (Federalism)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 13132 dated August 4, 1999, and it has been determined this action does not have a substantial direct effect or sufficient federalism implications on States that would limit the policymaking discretion of the States. Nothing in this document directly preempts any State law or regulation. It will not impose additional costs or burdens on the States. Although section 4009 of TEA–21 requires the FMCSA to revise part 385 of the FMCSRs, States are not required to adopt part 385 as a condition for receiving Motor Carrier Safety Assistance Program (MCSAP) grants. Also, this action will not have a significant effect on the States' ability to execute traditional State governmental functions.

Executive Order 12372 (Intergovernmental Review)

Catalog of Federal Domestic Assistance Program Number 20.217, Motor Carrier Safety. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this program.

Paperwork Reduction Act

This action does not involve an information collection that is subject to the requirements of the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3520.

National Environmental Policy Act

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

Regulatory Identification Number

A regulation identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

List of Subjects in 49 CFR Part 385

Highway safety, Motor carriers.

Issued on: August 11, 2000.

Clyde J. Hart, Jr.,

Acting Deputy Administrator.

In consideration of the foregoing, the FMCSA is amending title 49, Code of Federal Regulations, chapter III, part 385 as follows:

PART 385—SAFETY FITNESS PROCEDURES

1. Revise the authority citation for part 385 to read as follows:

Authority: 49 U.S.C. 113, 504, 521(b), 5113, 31136, 31144, and 31502; and 49 CFR 1.73.

2. Revise § 385.1 to read as follows:

§ 385.1 Purpose and scope.

(a) This part establishes the FMCSA's procedures to determine the safety fitness of motor carriers, to assign safety ratings, to direct motor carriers to take remedial action when required, and to prohibit motor carriers receiving a safety rating of ''unsatisfactory'' from operating a CMV.

(b) The provisions of this part apply to all motor carriers subject to the requirements of this subchapter, except non-business private motor carriers of passengers and motor carriers conducting for-hire operations of passenger CMVs with a capacity of fewer than 16 persons, including the driver.

3. Revise § 385.11 to read as follows:

§ 385.11 Notification of safety fitness determination.

(a) The FMCSA will provide a motor carrier written notice of any safety rating resulting from a compliance review as soon as practicable, but not later than 30 days after the review. The notice will take the form of a letter issued from the FMCSA's headquarters office and will include a list of FMCSR and HMR compliance deficiencies which the motor carrier must correct.

(b) If the safety rating is ''satisfactory'' or improves a previous ''unsatisfactory'' safety rating, it is final and becomes effective on the date of the notice.

(c) In all other cases, a notice of a proposed safety rating will be issued. It becomes the final safety rating after the following time periods:

(1) For motor carriers transporting hazardous materials in quantities requiring placarding or transporting passengers by CMV—45 days after the date of the notice.

(2) For all other motor carriers operating CMVs—60 days after the date of the notice.

(d) A proposed safety rating of ''unsatisfactory'' is a notice to the motor carrier that the FMCSA has made a preliminary determination that the motor carrier is ''unfit'' to continue operating in interstate commerce, and that the prohibitions in § 385.13 will be imposed after 45 or 60 days if necessary safety improvements are not made.

(e) A motor carrier may request the FMCSA to perform an administrative review of a proposed or final safety rating. The process and the time limits are described in § 385.15.

(f) A motor carrier may request a change to a proposed or final safety rating based upon its corrective actions. The process and the time limits are described in § 385.17.

4. Revise § 385.13 to read as follows:

§ 385.13 Unsatisfactory rated motor carriers; prohibition on transportation; ineligibility for Federal contracts.

(a) Generally, a motor carrier rated ''unsatisfactory'' is prohibited from operating a CMV. Information on motor carriers, including their most current safety rating, is available from the FMCSA on the Internet at *http://www.safersys.org,* or by telephone at (800) 832–5660.

(1) Motor carriers transporting hazardous materials in quantities requiring placarding, and motor carriers transporting passengers in a CMV, are prohibited from operating a CMV beginning on the 46th day after the date of the FMCSA's notice of proposed ''unsatisfactory'' rating.

(2) All other motor carriers rated from reviews completed on or after November 20, 2000 are prohibited from operating a CMV beginning on the 61st day after the date of the FMCSA's notice of proposed ''unsatisfactory'' rating. If the FMCSA determines the motor carrier is making a good-faith effort to improve its safety fitness, the FMCSA may allow the motor carrier to operate for up to 60 additional days.

(b) A Federal agency must not use a motor carrier that holds an ''unsatisfactory'' rating to transport passengers in a CMV or to transport

hazardous materials in quantities requiring placarding.

(c) A Federal agency must not use a motor carrier for other CMV transportation if that carrier holds an ''unsatisfactory'' rating which became effective on or after January 22, 2001.

(d) *Penalties.* If a proposed ''unsatisfactory'' safety rating becomes final, the FMCSA will issue an order placing its interstate operations out of service. Any motor carrier that operates CMVs in violation of this section will be subject to the penalty provisions listed in 49 U.S.C. 521(b).

5. Revise § 385.15 to read as follows:

§ 385.15 Administrative review.

(a) A motor carrier may request the FMCSA to conduct an administrative review if it believes the FMCSA has committed an error in assigning its proposed l safety rating in accordance with § 385.15(c) or its final safety rating in accordance with § 385.11(b).

(b) The motor carrier's request must explain the error it believes the FMCSA committed in issuing the safety rating. The motor carrier must include a list of all factual and procedural issues in dispute, and any information or documents that support its argument.

(c) The motor carrier must submit its request in writing to the Chief Safety Officer, Federal Motor Carrier Safety Administration, 400 Seventh Street, SW., Washington DC 20590.

(1) If a motor carrier has received a notice of a proposed ''unsatisfactory'' safety rating, it should submit its request within 15 days from the date of the notice. This time frame will allow the FMCSA to issue a written decision before the prohibitions outlined in § 385.13 (a)(1) and (2) take effect. Failure to petition within this 15-day period may prevent the FMCSA from issuing a final decision before such prohibitions take effect.

(2) A motor carrier must make a request for an administrative review within 90 days of the date of the proposed safety rating issued under § 385.11 (c) or a final safety rating issued under § 385.11 (b), or within 90 days after denial of a request for a change in rating under § 385.17(i).

(d) The FMCSA may ask the motor carrier to submit additional data and attend a conference to discuss the safety rating. If the motor carrier does not provide the information requested, or does not attend the conference, the FMCSA may dismiss its request for review.

(e) The FMCSA will notify the motor carrier in writing of its decision following the administrative review. The FMCSA will complete its review:

(1) Within 30 days after receiving a request from a hazardous materials or passenger motor carrier that has received a proposed or final ''unsatisfactory'' safety rating.

(2) Within 45 days after receiving a request from any other motor carrier that has received a proposed or final ''unsatisfactory'' safety rating.

(f) The decision constitutes final agency action.

(g) Any motor carrier may request a rating change under the provisions of § 385.17.

6. Revise § 385.17 to read as follows:

§ 385.17 Change to safety rating based upon corrective actions.

(a) A motor carrier that has taken action to correct the deficiencies that resulted in a proposed or final rating of ''conditional'' or ''unsatisfactory'' may request a rating change at any time.

(b) A motor carrier must make this request in writing to the FMCSA Service Center for the geographic area where the carrier maintains its principal place of business. The addresses and geographical boundaries of the Service Centers are listed in § 390.27 of this chapter.

(c) The motor carrier must base its request upon evidence that it has taken corrective actions and that its operations currently meet the safety standard and factors specified in §§ 385.5 and 385.7. The request must include a written description of corrective actions taken, and other documentation the carrier wishes the FMCSA to consider.

(d) The FMCSA will make a final determination on the request for change based upon the documentation the motor carrier submits, and any additional relevant information.

(e) The FMCSA will perform reviews of requests made by motor carriers with a proposed or final ''unsatisfactory'' safety rating in the following time periods after the motor carrier's request:

(1) Within 30 days for motor carriers transporting passengers in CMVs or placardable quantities of hazardous materials.

(2) Within 45 days for all other motor carriers.

(f) The filing of a request for change to a proposed or final safety rating under this section does not stay the 45-day period specified in § 385.13(a)(1) for motor carriers transporting passengers or hazardous materials. If the motor carrier has submitted evidence that corrective actions have been taken pursuant to this section and the FMCSA cannot make a final determination within the 45-day period, the period before the proposed safety rating becomes final may be extended for up to 10 days at the discretion of the FMCSA.

(g) The FMCSA may allow a motor carrier with a proposed rating of ''unsatisfactory'' (except those transporting passengers in CMVs or placardable quantities of hazardous materials) to continue to operate in interstate commerce for up to 60 days beyond the 60 days specified in the proposed rating, if the FMCSA determines that the motor carrier is making a good faith effort to improve its safety status. This additional period would begin on the 61st day after the date of the notice of the proposed ''unsatisfactory'' rating.

(h) If the FMCSA determines that the motor carrier has taken the corrective actions required and that its operations currently meet the safety standard and factors specified in §§ 385.5 and 385.7, the agency will notify the motor carrier in writing of its upgraded safety rating.

(i) If the FMCSA determines that the motor carrier has not taken all the corrective actions required, or that its operations still fail to meet the safety standard and factors specified in §§ 385.5 and 385.7, the agency will notify the motor carrier in writing.

(j) Any motor carrier whose request for change is denied in accordance with paragraph (i) of this section may request administrative review under the procedures of § 385.15. The motor carrier must make the request within 90 days of the denial of the request for a rating change. If the proposed rating has become final, it shall remain in effect during the period of any administrative review.

[FR Doc. 00–21055 Filed 8–21–00; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 991228352–0012–02; I.D. 081800B]

Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Areas 620 and 630 in the Gulf of Alaska

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

ACTION: Modification of a closure.

SUMMARY: NMFS is opening directed fishing for pollock by catcher vessels that are non-exempt under the

American Fisheries Act (AFA) in Statistical Areas 620 and 630 of the Gulf of Alaska (GOA). This action is necessary to allow non-exempt catcher vessels to participate in the pollock fishery in these areas consistent with regulations implementing the AFA.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), August 20, 2000.

FOR FURTHER INFORMATION CONTACT: Andrew Smoker, 907–586–7228.

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

The amounts of the 2000 GOA AFA catcher vessel sideboards in Statistical Areas 620 and 630 were established by the Emergency Interim Rule to Implement Major Provisions of the American Fisheries Act (65 FR 4520, January 28, 2000, and extended at 65 FR 39107, June 23, 2000) as 864 mt, and 1,787 mt respectively in accordance with § 679.63(b).

In Statistical Area 620, the Administrator, Alaska Region, NMFS (Regional Administrator), has established a directed fishing allowance of 814 mt, and set aside the remaining 50 mt as bycatch to support other anticipated groundfish fisheries for this component of the fishery. In Statistical Area 630, the Regional Administrator has established a directed fishing allowance of 1,687 mt, and set aside the remaining 100 mt as bycatch to support other anticipated groundfish fisheries for this component of the fishery. These areas of the GOA were closed to directed fishing for pollock by non-exempt AFA vessels on January 21, 2000 (65 FR 4520, January 28, 2000).

NMFS has determined that as of August 12, 2000, 814 mt remain in the directed fishing allowance for Statistical Area 620 and 1,687 mt remain in the directed fishing allowance for Statistical Area 630. Therefore, NMFS is terminating the previous closure and is opening directed fishing for pollock by catcher vessels that are non-exempt under the AFA in Statistical Area 620 and Statistical Area 630 of the GOA.

Classification

All other closures remain in full force and effect. This action responds to the best available information recently obtained from the fishery. It must be implemented immediately in order to allow participation of catcher vessels that are non-exempt under the AFA. Providing prior notice and opportunity for public comment for this action is impracticable and contrary to the public interest. 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 Executive Order 12866.

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

Dated: August 18, 2000.

Richard W. Surdi,

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

[FR Doc. 00–21508 Filed 8–18–00; 2:12 pm]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register

Vol. 65, No. 163

Tuesday, August 22, 2000

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

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 319

[Docket No. 97–065–2]

RIN 0579–AA93

Importation of Fuji Variety Apples From the Republic of Korea

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of reopening and extension of comment period.

SUMMARY: We are reopening and extending the comment period for our proposed rule that would amend the fruit and vegetable import regulations to allow Fuji variety apples grown in certified orchards within approved production areas in the Republic of Korea to be imported into the United States without treatment, under certain conditions designed to mitigate pest risk. This action will allow interested persons additional time to prepare and submit comments.

DATES: We invite you to comment on Docket No. 97–065–1. We will consider all comments that we receive by October 23, 2000.

ADDRESSES: Please send your comment and three copies to: Docket No. 97–065–1, Regulatory Analysis and Development, PPD, APHIS, Suite 3C03, 4700 River Road, Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. 97–065–1.

You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue, SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

APHIS documents published in the **Federal Register**, and related information, including the names of organizations and individuals who have commented on APHIS dockets, are available on the Internet at http://www.aphis.usda.gov/ppd/rad/webrepor.html.

FOR FURTHER INFORMATION CONTACT: Dennis J. Hannapel, Co-Director of Asia and Pacific, Phytosanitary Issues Management, PPQ, APHIS, 4700 River Road Unit 140, Riverdale, MD 20737–1236; (301) 734–4308.

SUPPLEMENTARY INFORMATION:

Background

On April 26, 2000, we published in the **Federal Register** (65 FR 24423–24429, Docket No. 97–065–1) a proposal to amend the regulations governing the importation of fruits and vegetables, contained in 7 CFR part 319. We proposed to allow Fuji variety apples grown in certified orchards within approved production areas in the Republic of Korea to be imported into the United States, without treatment, under conditions designed to prevent the introduction into the United States of the peach fruit moths (*Carposina sasakii* and *C. niponensis*), the yellow peach moth (*Conogethes punctiferalis*), the fruit tree spider mite (*Tetranychus viennensis*), and the kanzawa mite (*T. kanzawai*). The conditions to which the proposed importation of Fuji variety apples would be subject, including pest risk-reducing cultural practices, packinghouse procedures, and inspection and shipping procedures, would reduce the risk of pest introduction to an insignificant level.

Comments on the proposed rule were required to be received on or before June 26, 2000. Several commenters have requested that we extend the comment period on Docket No. 97–065–1 to allow additional time for members of the public to review the proposed rule and to submit comments. In response to these requests, we are reopening and extending the comment period on Docket No. 97–065–1 until October 23, 2000. This action will allow interested persons additional time to prepare and submit comments. Comments already received concerning the proposed importation of Fuji variety apples from the Republic of Korea will remain under consideration and need not be resubmitted.

Done in Washington, DC, this 16th day of August 2000.

Bobby R. Acord,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 00–21321 Filed 8–21–00; 8:45 am]

BILLING CODE 3410–34–U

NUCLEAR REGULATORY COMMISSION

10 CFR Part 2

RIN 3150–AG44

Licensing Proceedings for the Receipt of High-Level Radioactive Waste at a Geologic Repository: Licensing Support Network, Design Standards for Participating Websites

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is proposing to amend its Rules of Practice applicable to the use of the Licensing Support Network (LSN) for the licensing proceeding on the disposal of high-level waste (HLW) at a geologic repository. The proposed amendments would establish the basic data structure and transfer standards (''design standards'') that LSN participant websites must use to make documentary material available. The proposed amendments would also clarify the authority of the LSN Administrator to establish guidance for LSN participants on how best to meet the design standards and to review participant designs for compliance with the standards. Finally, the proposed amendments would clarify the timing of participant compliance certifications.

DATES: Submit comments October 6, 2000. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

ADDRESSES: Comments may be sent to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Attention: Rulemakings and Adjudications Staff.

Deliver comments to: 11555 Rockville Pike, Rockville, Maryland, between 7:30 am and 4:15 pm on Federal workdays.

You may also provide comments via the NRC's interactive rulemaking

website at http://ruleforum.llnl.gov. This site provides the capability to upload comments as files (any format), if your web browser supports that function. For information about the interactive rulemaking website, contact Ms. Carol Gallagher, (301) 415–5905 (e-mail: CAG@nrc.gov).

Certain documents related to this rulemaking, including comments received, may be examined at the NRC Public Document Room, 2120 L Street, N.W., Washington, DC 20003–1527.

Documents created or received at the NRC after November 1, 1999, are also available electronically at the NRC's Public Electronic Reading Room on the Internet at *http://www.nrc.gov/NRC/ADAMS/index.html.* From this site, the public can gain entry into the NRC's Agencywide Document Access and Management System (ADAMS), which provides text and image files of NRC's public documents. For more information, contact the NRC Public Document Room (PDR) Reference staff at 1–800–397–4209, 202–634–3273 or by email to pdr@nrc.gov.

FOR FURTHER INFORMATION CONTACT: Francis X. Cameron, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 415–1642, e-mail FXC@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Background

The Commission's regulations in 10 CFR part 2, subpart J, provide for the use of an electronic information management system, the Licensing Support Network (LSN), in the HLW repository licensing proceeding. Originally promulgated on April 14, 1989, (54 FR 14944), the information management system currently required by Subpart J is to have the following functions:

(1) To provide full text search and retrieval access to the relevant documents of all parties and potential parties to the HLW repository licensing proceeding beginning in the time period before the Department of Energy (DOE) license application for the repository is submitted;

(2) To provide for electronic submission of filings by the parties, as well as the orders and decisions of the Atomic Safety and Licensing Board Panel, during the proceeding; and

(3) To provide access to an electronic version of the HLW repository licensing proceeding docket.

The creation of the LSN (originally called the ''Licensing Support System'', but hereinafter the ''LSN'') was stimulated by the requirements of Section 114(d)(2) of the Nuclear Waste Policy Act of 1982 (NWPA). This provision requires the Commission to issue a final decision approving or disapproving issuance of the construction authorization for a geologic repository for HLW within three years of the ''submission'' of the DOE license application. The Commission anticipated that the HLW proceeding would involve substantial amounts of documents created by well-informed parties on numerous and complex issues. The Commission believed that the LSN could facilitate the timely NRC technical review, and the timely petitioner ''discovery-type'' review, of DOE's license application by providing for electronic access to relevant documents before the license application is submitted, and to supplant the need for the traditional discovery process used in NRC proceedings of the physical production of these documents after the license application is submitted. In addition, the Commission believed that early provision of these documents in an easily searchable form would allow for a thorough and comprehensive technical review of the license application by all parties and potential parties to the HLW licensing proceeding, resulting in better focused contentions in the proceeding. The LSN would also facilitate agency responses to Freedom of Information Act (FOIA) requests by providing the public with electronic access to relevant documents.

The current requirements contained in the LSN rule require DOE and NRC to make their documentary material available in electronic form beginning thirty days after DOE's submission of its site recommendation to the President of the United States. All other participants must make their documents available in electronic form no later than thirty days after the date that the repository site selection decision becomes final after review by Congress. Originally, the LSN was conceived of as a large centralized information management system administered by what was then called the Licensing Support System Administrator. In order to take advantage of the advances in technology that occurred since the promulgation of the original rule, the Commission revised the rule to use the Internet to link geographically dispersed sites rather than relying on a complex and expensive centralized system (62 FR 60789; December 23, 1998). Although the Supplementary Information that accompanied these most recent amendments noted that the availability of the Internet to link geographically dispersed sites appears to have the potential to satisfy the requirements and objectives of Subpart J, no specific design for the LSN was set forth in that final rule nor were any specific performance requirements established except to specify that the overall design must be ''effective and efficient''. At that time it was concluded that further evaluation by the LSN Administrator, and consultation with the Commission's LSN Advisory Review Panel (LSNARP) of potential system users, was necessary before the nature and scope of these design requirements would become clear. Under § 2.1011(c)(1) of the current rule, the LSN Administrator is also responsible for bringing these types of LSN implementation issues to the Commission for Commission consideration.

The Commission now believes that certain minimum design standards for data structure and data transfer (''design standards'') for individual participant websites are necessary to ensure that the LSN meets its objectives and functions. Without such standards, there is a potential that the parties and potential parties to the HLW licensing proceeding may be unable to identify needed documents efficiently and effectively because the system is slow, cumbersome, or simply unavailable, given the large number of documents and the many users trying to access the system. In addition, the lack of required standards may lead to skepticism about document and data integrity. The system should ensure that it provides the tools needed for participants' document discovery and for the technical staff to perform a thorough technical review of the license application. Any deficiencies in the information management system for the HLW licensing proceeding could easily result in time-consuming disputes that place the three-year repository application review schedule at risk. The Commission believes the cost of system failure is too high not to try to ensure effective operation of the system through establishing some minimal design standards.

In addition to the proposed design standards, the Commission is also proposing to supplement the existing responsibilities of the LSN Administrator by making it clear that the Administrator has the authority to review participant website designs to verify compliance with the basic design standards, including the authority to allow variances from those standards. In addition, it will make clear that the LSN Administrator has the authority to issue guidance to the LSN participants on how they might best meet the design standards. The LSN Administrator will

develop this guidance in consultation with the LSNARP. The Commission anticipates that the LSN Administrator's guidance will be, in most cases, routinely followed by the LSN participants. However, there will be flexibility for a participant to deviate from the guidance to take into account individual needs and differences as long as the fundamental design requirements are met.

II. LSN Design Standards

The successful implementation of a system to connect diverse collections of documents stored by the participants on a wide range of hardware and software platforms will depend on the use of data structure and transfer standards and protocols. Adherence to these standards will ensure usability and exchangeability to the users, and verifiability of data integrity to the LSN Administrator. These standards must—

(1) Be broad enough to encompass a wide range of automation products;

(2) Be focused enough to accomplish successful document access;

(3) Impose the least amount of burden on the participants; and

(4) Be dynamic enough to address new technologies that may be used by as yet unidentified participants.

These design standards are generally accepted data structure and transfer protocols currently in use in the Internet environment, and as such, reflect a ''lowest common denominator'' for participant websites while allowing the participants the flexibility to select the specific technologies (hardware and software) for their websites. The Commission also intends to implement a design for the ''LSN site'', discussed later, that will ensure that the totality of the individual websites operate in an ''effective and efficient'' manner. This ''LSN site'' design complements the capabilities of, and relies on compatibility with, the design standards for individual participant websites. The Commission is proposing the following design standards:

1. The participants must make textual (or, where non-text, image) versions of their documents available on a web-accessible server. Web indexing software (also known as a robot, a spider, a crawler) must be able to canvass data files and server log files on the participant server.

This proposed clarification establishes a baseline of data and documents placed on participant systems, and, a means to revisit those servers routinely to identify any changes to documents. This proposed revision is consistent with the Administrator's responsibility under 10 CFR 2. 1011(c)(4) to resolve problems regarding the integrity of LSN documentary material.

This proposed revision does not affect the ability of parties or potential parties to correct or revise documents already made available on their web sites. Changes to documents previously entered are permitted if:

(1) A corrected or updated document is noted as superseding a previously provided document;

(2) The previous version is not removed; and,

(3) Other parties or potential parties are notified of the change.

2. The participants must make bibliographic header data available in an accessible, SQL (Structured Query Language)-compliant (ANSI IX3.135–1992/ISO 9075–1992) database management system (DBMS). Alternatively, the structured data may be made available in a standard database readable (e.g., comma delimited) file.

The proposed criteria provide acceptable electronic formats for parties to provide bibliographical information on a document or the full text of a document on their individual web pages in a form that can be searched by the LSN web site. This proposed clarification identifies two ways by which parties or potential parties can make a bibliographic header available for use by the LSN. SQL-compliant identifies a broad range of widely used database products with proven data exchange capability. SQL is a standard interactive and programming language for accessing and updating a database. The option for providing readable files establishes a low system cost threshold for participants in that it does not require investment in a DBMS, yet still provides for data formatting so that import routines can be easily developed. A ''comma delimited'' file is a way to identify where a particular relational database file begins and ends.

3. Textual material must be formatted to comply with the US.ISO_8859–1 character set and be in one of the following acceptable formats: plain text, native word processing (Word, WordPerfect), PDF (Portable Document Format) Normal, or HTML.

This proposed clarification simplifies data exchange by standardizing on the standard Latin alphabet. It also identifies a broad range of widely used text file formats (which the LSN participants can designate) for text documents that are viewable with current browser/viewer software and can be recognized by state-of-technology indexing software.

4. Image files must be formatted as TIFF (Tag Image File Format) CCITT G4 for bi-tonal images or PNG (Portable Network Graphics) per *[http://www.w3.org/TR/REC-png-multi.html]* format for grey-scale or color images, or PDF (Portable Document Format—Image) for compound documents. TIFF images will be stored at 300 dpi (dots per inch), grey scale images at 150 dpi with eight bits of tonal depth, and color images at 150 dpi with 24 bits of color depth. Participants should store images on their servers as single image-per-page to facilitate retrieval of no more than a single page. Alternatively, images may be stored in a page-per-document format if software is incorporated in the web server that allows single-page representation and delivery. A ''Tag Image File Format'' or ''TIFF'' is a common format for exchanging raster (bitmapped) images between application programs.

This proposed clarification establishes three standard formats, usable by the LSN, that parties or potential parties can use to make non-textual documentary materials viewable with current browser/viewer software. These standards all use predictable algorithms for compression and uncompression of files to help ensure compatibility and usability. Additionally, all these standard formats have attributes that can be used to verify that an image file has not been revised since initially being placed on a participant's server.

5. The parties or potential parties must programmatically link the bibliographic header record with the text or image file it represents to provide for file delivery and display from participant machines using the LSN system.

This proposed clarification establishes basic information management controls to clearly and systematically link the bibliographic record entry with the document it describes. The bibliographic header must contain fielded data identifying its associated text or image file name and directory location.

6. To facilitate data exchange, participants must follow hardware and software standards, including, but not limited to:

Network access must be HTTP/1.1 *[http://www.faqs.org/rfcs/rfc2068.html]* over TCP (Transmission Control Protocol, *[http://www.faqs.org/rfcs/rfc793.html]*) over IP (Internet Protocol *[http://www.faqs.org/rfcs/rfc791.html]*).

Associating server names with IP addresses must follow the DNS (Domain Name System), *[http://www.faqs.org/*

rfcs/rfc1034.html] and *[http://www.faqs.org/rfcs/rfc1035.html].*

Web page construction must be HTML version 4.0 *[http://www.w3.org/TR/REC-html40/].*

Electronic mail (e-mail) exchange between 3-mail servers must be SMTP (Simple Mail Transport Protocol, *[http://www.faqs.org/rfcs/rfc821.html].*

Format of an electronic mail message must be per *[http://www.faqs.org/rfcs/rfc822.html]* optionally extended by MIME (Multimedia Internet Mail Extensions) per *[http://www.faqs.org/rfcs/rfc2045.html]* to accommodate multimedia e-mail.

This proposed clarification identifies standard data exchange protocols commonly used in the Internet environment to help ensure data exchange and usability.

III. The LSN Site Design

As noted, the Commission also intends to implement a design for the ''LSN site'' that will ensure that the totality of the individual websites operate in an ''efficient and effective'' manner. The proposed design standards for individual participant websites are fully consistent and supportive of the design for the ''LSN site''. In order to evaluate the alternative designs for the ''LSN site'', the Technical Working Group of the LSN Advisory Review Panel identified and characterized five design alternatives for review by the full Advisory Panel. These alternatives were then reviewed by the full LSN Advisory Review Panel. The LSN Administrator then evaluated the recommendations of the Advisory Review Panel in preparing a Capital Planning and Investment Control (CPIC) Business Case Analysis for review by the NRC Information Technology Business Council. Two of the alternatives identified by the Technical Working Group, Alternatives 2 and 4, were not included in this analysis because no members of the LSN Advisory Review Panel supported these alternatives. The Business Case and the recommendations of the Information Technology Business Council were then reviewed by the NRC Executive Council.

In the Business Case Analysis, the LSN Administrator recommended the selection of the alternative originally identified as ''Alternative 3'' (Design Option 2 in the Regulatory Analysis) in the report of the LSN Advisory Review Panel Technical Working Group. The Administrator's recommendation was supported by the Information Technology Business Council and the Executive Council. A summary comparison of the alternative designs is included in the Regulatory Analysis for this proposed rule. The entire Business Case Analysis (with budgetary data redacted) is available from the LSN Administrator. Contact Dan Graser, U.S. Nuclear Regulatory Commission, Washington D.C. 20555, telephone (301) 415–7401, email DJG2@*NRC.Gov.*

The recommended design is an LSN home page/web site based on portal software technology. Web portals include hardware and software capable of: indexing all bibliographic data and text documents on a web server; establishing a baseline; and then routinely revisiting those servers to compare new findings against the previous baseline. The single LSN web page standardizes search and retrieval across all collections by providing a common user search interface, rather than requiring users to learn the search and retrieval commands from each different site.

Each participant web site acts as a file server to deliver the text documents responsive to a query found through a search at the LSN web site. The LSN identifies the contents of each server and stores this information in its own database, which is then used to respond to searches. Users are presented lists of candidate documents that are responsive to their search. When the user wants to view a document, the LSN directs the participant server to deliver the file back to the user.

In addition to the search and retrieval, the LSN keeps track of how data was stored in the participant servers. Software assigns a unique identifying number to each file found on a server. The LSN software uses its baseline information about documents to identify when the participants have updated data on their servers. It also gathers information about the performance of the participants' servers including availability, number of text or image files delivered, and their response times.

Finally, the LSN will be used to post announcements about the overall LSN program and items of interest (hours of availability, scheduled outages, etc.) for the participant sites.

The Commission believes that the recommended design represents the least cost to both NRC and the individual parties to the HLW licensing proceeding, while at the same time providing high value to the users. Because it is based on a proven technical solution that has been successfully implemented, the recommended design will provide a document discovery system that will facilitate the NRC's ability to comply with the schedule for decision on the repository construction authorization, will provide an electronic environment that facilitates a thorough technical review of relevant documentary material, will ensure equitable access to the information for the parties to the HLW licensing proceeding, will ensure that document integrity has been maintained for the duration of the licensing proceeding, will most consistently provide the information tools needed to organize and access large participant collections, will feature adequately scaled and adaptable hardware and software, and will include comprehensive security, backup, and recovery capabilities.

IV. The Role of the LSN Administrator

The role of the LSN Administrator under the current rule is to coordinate access to, and the functioning of, the LSN, as well as to coordinate the resolution of problems regarding the availability and integrity of documentary material and data. As a necessary supplement to the specification of the design standards set forth in this proposed rule, the Commission believes that the LSN Administrator should have additional responsibilities. The proposed rule would give the LSN Administrator the responsibility to review all participant website designs to ensure that they meet the design standards and to allow variances from the design standards to accommodate changes in technology or problems identified during initial operability testing of the individual websites or the ''LSN site''. The Administrator would also have the authority to develop and issue guidance for LSN participants on how best to incorporate the LSN standards in their system. Any disputes related to the Administrator's evaluation of participant compliance with the design standards would be referred to the Pre-License Application Presiding Officer under the authority of § 2.1010 of the current rule.

Sections 2.1011(c)(3) and (c)(4) of the current rule give the Administrator the responsibility to ''coordinate the resolution of problems'' in regard to ''LSN availability'' and the ''integrity of documentary material'', respectively. In order to be more explicit regarding the Administrator's responsibilities, the Commission is proposing to amend these sections to authorize the Administrator to identify problems, notify the participant(s) of the nature of these problems, and recommend a course of action to the participant(s) to resolve the problem concerning LSN availability, § 2.1011(c)(3), or the integrity of documentary material, § 2.1011(c)(4). The LSN Administrator would also report all such problems and recommended resolutions to the Pre-

License Application Presiding Officer provided for in § 2.1010 of the rule. All disputes over the LSN Administrator's recommendations as to documentary material or data availability and integrity will be referred to the Pre-License Application Presiding Officer.

V. The Timing of Participant Compliance Determinations

Section 2.1009 of the current rule requires each potential party, interested governmental participant, or party to certify to the Pre-License Application Presiding Officer that the documentary material specified in § 2.1003 has been identified and made electronically available. In addition, DOE must update this certification at the time of submission of the license application to ensure that all documentary material generated by DOE between the initial certification and the submission of the license application have been made available in the LSN. Section 2.1012(a) authorizes the Director of the NRC's Office of Nuclear Material Safety and Safeguards not to docket the DOE license application if the application is not accompanied by an updated DOE certification of compliance with the LSN rule. However, the current rule does not specify when the initial certification must be made. The Commission is proposing a revision to § 2.1009 to clarify that the initial participant certification of compliance (''initial certification'') must be made at the time that each participant's documentary material must be made available under § 2.1003 of the rule (DOE and NRC beginning thirty days after DOE's submission of its site recommendation to the President; other participants no later than thirty days after the date that the repository site selection decision becomes final after review by Congress).

Although the Commission fully expects DOE to make the initial certification at the time that DOE is required to comply with the requirement to make its documentary material available, the Commission is proposing to adopt a new § 2.1009(c) which would address the unlikely possibility that DOE may not be able to make a timely initial certification. The basic requirements of the LSN rule have been in place for over ten years and the Commission would anticipate full and timely DOE compliance with these requirements. However, the Commission also recognizes that circumstances may raise the possibility that DOE would be unable to provide the initial certification at the time set for compliance. Under proposed § 2.1009(c), if DOE cannot make the initial certification at the time first required, DOE then would have the obligation to make the initial certification as soon as possible. In addition, DOE would be required to provide the Pre-License Application Presiding Officer with a submission that, with as much specificity as is reasonably possible, details the circumstances regarding its noncompliance, including (1) the type and volume of the documentary material it has not made available so as to preclude it from making a certification; (2) an explanation as to why this documentary material has not been made electronically available; and (3) an estimate of a date certain by which this documentary material will be made available. Further, in addition to the section 2.1009(b) requirement of a twelve-month certification update, this DOE submission must be updated at ninety-day intervals until such time as DOE is able to certify that all the documentary material in question is available.

DOE would remain under an obligation under § 2.1003 to provide access to all the documentary material that is available at the time specified in § 2.1003 and that is not identified in its submission explaining its noncertification, rather than delaying all document availability until the time that it can certify compliance. Any disputes regarding the DOE noncertification submission and any updates, including the validity of the information provided in the submission and any updates, would fall within the existing authority of the Pre-License Application Presiding Officer under § 2.1010.

The Commission notes that curtailing the amount of time that the LSN is available before the submission of the license application would reduce the potential benefit that the LSN was to provide in terms of facilitating an effective and efficient NRC review of the DOE license application and providing complete document disclosure at the outset of the proceeding. If DOE is unable to make a timely initial certification, this benefit would be substantially diminished. Thus, the Commission anticipates that this would be an initiating event for the Commission to report to the Secretary of Energy and the Congress, pursuant to Section 114(e)(2) of the Nuclear Waste Policy Act, that it could not meet the three-year review required under section 114(d) of the Act.

VI. Section-by-Section Changes

The Commission is proposing two major revisions to § 2.1011, Management of Electronic Information. The first would add a new paragraph (b)(2) to specify the basic design standards for individual LSN participant websites. The second major revision would clarify the authority of the LSN Administrator in regard to these design standards.

In § 2.1011:

Paragraph (b)(2) would include the following design standards for LSN participant websites:

Paragraph (b)(2)(i) would require that the participants make textual (or, where non-text, image) versions of their documents available on a web accessible server which is able to be canvassed by web indexing software (*i.e.*, a ''robot'', ''spider'', ''crawler'') and the participant system would be required to make both data files and log files accessible to this software.

Paragraph (b)(2)(ii) would require that the participants make structured data available in the context of (or, under the control of) an accessible SQL-compliant database management system (DBMS). Alternatively, the structured data may be made available in a standard database readable (*e.g.*, comma delimited) file.

Paragraph (b)(2)(iii) would require that textual material be formatted to comply with the US.ISO__8859-1 character set and be in one of the following acceptable formats: native word processing (Word, WordPerfect), PDF Normal, or HTML.

Paragraph (b)(2)(iv) would require that image files be formatted as TIFF CCITT G4 for bi-tonal images or PNG (Portable Network Graphics) per [http://www.w3.org/TR/REC-png-multi.html]) format for grey-scale or color images, or PDF (Portable Document Format—Image) for compound documents. TIFF images will be stored at 300 dpi (dots per inch), grey scale images at 150 dpi with eight bits of tonal depth, and color images at 150 dpi with 24 bits of color depth. Images found on participant machines will be stored as single image-per-page to facilitate retrieval of no more than a single page, or alternatively, images may be stored in a page-per-document format if software is incorporated in the web server that allows single-page representation and delivery.

Paragraph (b)(2)(v) would require that the parties programmatically link the bibliographic header record with the text or image file it represents. The header record must contain fielded data identifying its associated object (text or image) file name and directory location.

To facilitate data exchange, paragraph (b)(2)(vi) would require that participants adhere to hardware and software standards, including the following:

(A) Network access must be HTTP/1.1 [http://www.faqs.org/rfcs/rfc2068.html] over TCP (Transmission Control Protocol, [http://www.faqs.org/rfcs/rfc793.html]) over IP (Internet Protocol, [http://www.faqs.org/rfcs/rfc791.html]).

(B) Associating server names with IP addresses must follow the DNS (Domain Name System), [http://www.faqs.org/rfcs/rfc1034.html] and [http://www.faqs.org/rfcs/rfc1035.html].

(C) Web page construction must be HTML version 4.0 [http://www.w3.org/TR/REC-html40/].

(D) Electronic mail (e-mail) exchange between e-mail servers must be SMTP (Simple Mail Transport Protocol, [http://www.faqs.org/rfcs/rfc821.html]).

(E) Format of an electronic mail message must be per [http://www.faqs.org/rfcs/rfc822.html] optionally extended by MIME (Multimedia Internet Mail Extensions) per [http://www.faqs.org/rfcs/rfc2045.html]) to accommodate multimedia e-mail.

Section 2.1011(c) would be amended as follows to clarify the responsibilities and authority of the LSN Administrator:

Paragraph (c)(6) would require that the LSN Administrator evaluate LSN participant compliance with the basic design standards in § 2.1011(b)(2), and provide for individual variances from the design standards to accommodate changes in technology, problems identified during initial operability testing of the individual websites or the ''LSN site'', or the infeasibility of an individual LSN participant's strict adherence to guidelines because of unique technical problems that would not affect the effectiveness or efficiency of the LSN.

Paragraph (c)(7) would require that the LSN Administrator issue guidance for LSN participants on how best to comply with the design standards in § 2.1011(b)(2).

In § 2.1011, paragraphs (c)(3) and (c)(4) would also be amended in order to be more explicit regarding the Administrator's responsibilities in regard to LSN availability and the integrity of documentary material. The Commission is proposing to amend these sections to authorize the Administrator to identify problems, notify the participant(s) of the nature of these problems, and recommend a course of action to the participant(s) to resolve the problem in regard to LSN availability, § 2.1011(c)(3), or the integrity of documentary material, § 2.1011(c)(4). In accordance with § 2.1010 of the rule, a dispute over the Administrator's evaluation of individual LSN participant website compliance with the basic design standards in proposed § 2.1011(b)(2) or the Administrator's recommendations as to documentary material or data availability and integrity would be referred to the Pre-License Application Presiding Officer. In the case of such referral, the Commission anticipates that the Pre-License Application Presiding Officer may wish to call upon the LSN Administrator to investigate and report on particular problems and to recommend proposed solutions.

Section 2.1009 would be amended to clarify that the initial participant certification of compliance (''initial certification'') must be made at the time that each participant's documentary material must be made available under § 2.1003 of the rule.

Plain Language

The Presidential memorandum dated June 1, 1998, entitled, ''Plain Language in Government Writing,'' directed that the government's writing be in plain language. This memorandum was published June 10, 1998 (63 FR 31883). In complying with this directive, editorial changes have been made in these proposed revisions to improve the organization and readability of the existing language of the paragraphs being revised. These types of changes are not discussed further in this document. The NRC requests comments on the proposed rule specifically with respect to the clarity and reflectiveness of the language used. Comments should be sent to the address listed under the **ADDRESSES** caption of the preamble.

Voluntary Consensus Standards

The National Technology Transfer and Advancement Act of 1995, Pub. L. 104–113, requires that Federal agencies use technical standards that are developed or adopted by voluntary consensus standards bodies unless using such a standard is inconsistent with applicable law or otherwise impractical. This proposed rule would establish basic design standards that Licensing Support Network participant websites must use to participate in the HLW licensing process. The standards in the proposed rule are based on World Wide Web Consortium (W3) standards, and/or the International Standards Organization (ISO) standards and are not government-unique standards.

Environmental Impact: Categorical Exclusion

The NRC has determined that this proposed regulation is the type of action described in categorical exclusion 10 CFR 51.22(c)(1). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared.

Paperwork Reduction Act Statement

The proposed rule does not contain information collection requirements and therefore is not subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Public Protection Notification

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

Regulatory Analysis

The following regulatory analysis identifies several alternatives (''regulatory options'') to the Commission's proposal to establish required design standards for the design of individual participant websites. It also provides information on the LSN Administrator's evaluation of alternatives for the ''LSN site'' (''design options'').

Regulatory Options. Option 1 would retain the status quo of the existing rule consisting of requirements for participants to provide their documentary material in electronic form. Provision of this material would be on individual participant websites. No requirements would be established to assure that the information on the participant websites was readily available to other participants in a timely manner. Option 2 would provide for the development of suggested design standards by the LSN Administrator in consultation with the LSN Advisory Review Panel. Individual participants would be free to adopt or reject these suggested standards. Option 3 is reflected in the proposed rule. This Option establishes basic design standards for individual websites but also provides for flexibility in the implementation of the standards.

In regard to Option 1, the Commission believes that the role of the LSN for providing a document discovery system to minimize delay in the HLW licensing proceeding, as well as for facilitating the effective review and use of relevant licensing information by all parties, is too important to not provide contextual guidance to the parties and potential parties in the design of individual websites. Individual participant judgments on the cost-benefit of providing data without a contextual framework of what is necessary to provide for effective data availability may compromise effective design.

Without such guidance, the funds that have been spent on the design and development of the LSN would be compromised by poor implementation, particularly by parties who have large document collections. Option 2 would attempt to provide suggested standards through the LSN Administrator and the LSN Advisory Review Panel. Unfortunately, there is no assurance of consensus on the standards, or that any consensus standards would be followed even if they were developed. As with Option 1, the Commission believes that the role of the LSN in the HLW licensing proceeding is too important to not establish minimal standards to ensure effective operation. Therefore, the Commission has adopted Option 3 which is reflected in the proposed rule.

LSN Site Design Options. In order to evaluate the alternative designs for the ''LSN site'', the Technical Working Group of the LSNARP identified and characterized five design alternatives for review by the full Advisory Panel. These alternatives were then reviewed by the full LSNARP. Two of the alternatives that were identified by the Technical Working Group, Alternatives 2 and 4, were not included in this analysis because no members of the LSN Advisory Review Panel supported these alternatives. Therefore, the Commission ultimately considered three options for the design of the LSN site: Design Option 1 (TWG Alternative 1); Design Option 2 (TWG Alternative 3); and Design Option 3 (TWG Alternative 5).

Design Option 1 is characterized by an LSN homepage/website that points end-users to the web accessible documentary collections of each of the participants. The LSN homepage/website adds no value to the inherent information management capabilities found at any of the participant sites. The ''LSN site'' simply serves as a pointer to other home pages. This option provides no search and retrieval or file delivery processes to any user. The participant web site provides the sole search and retrieval tools to access its text documents. Participants may use any software to provide text search and retrieval, and those packages may represent a wide range of capabilities from minimal to fully featured.

The recommended design, Design Option 2, is characterized by an LSN homepage/website developed using portal software technology. Web portals represent a fully featured hardware and software environment capable of ''crawling'' participant sites, characterizing (to the byte level) all structured and unstructured data located at that site, establishing a snapshot at defined points-in-time as baselines, and then routinely ''recrawling'' those sites and comparing new findings against the previous baseline. Portal software adds significant value to the inherent information management capabilities found at any of the participant sites. Each participant web site acts as a file server to deliver to Internet users the text documents responsive to a query found through a search at the LSN website.

Under a portal architecture, the LSN would organize and identify the contents of participant collections in its own underlying database environment for structured data and would index unstructured data located at a ''crawled'' location. The portal software utilizes these underlying databases to respond to search queries with lists of candidate documents that are responsive to a user's request. When the user seeks to retrieve the file, the portal software directs the request back to the original source (participant) collection server that directly delivers the file back to the user. Portal software provides a single user search interface rather than requiring users to learn the search and retrieval commands from each different site. Portal software contains underlying data dictionaries that ''interpret'' how data was stored in the participant servers and presents it to the user as ''normalized.'' Portal software also assigns a unique identifying number to each file regardless of file location.

Design Option 3 is identical to Design Option 2 except that (1) when the user seeks to retrieve the file, the portal software delivers the document to a user from the copy maintained on a very large storage unit that would be maintained by the LSN Administrator; and (2) the storage cache is provided with high-capacity bandwidth under the control of the Administrator. Participant servers' versions of the document serve as backup copies should the LSN site become inoperative.

The Commission believes that Design Option 1 is of low benefit in terms of delivering efficient or effective access to users and shifts the cost burden to individual participants. This Option creates a significant risk that system implementation and operation issues may result in disputes whose resolution could have a negative impact on the agency's ability to meet its three-year schedule for making a decision on repository construction authorization. The Commission would also note that the LSNARP TWG did not believe that Design Option 1 provided the functionality to be effective.

Although Design Option 3 adds value over and above the design in Design Option 2, it also has the highest cost of all alternatives. Design Option 3, while it offers more assurance of performance and document delivery, has initial costs to NRC almost double those of Design Option 2, which fulfills the same number of functional requirements as Design Option 3. Design Option 3 also presents a potential conflict for the LSN Administrator, who would be in a position of being accountable for the availability, accuracy, integrity, and custodial chain of participant materials.

The Commission believes that the recommended design represents the least cost to both NRC and the individual parties to the HLW licensing proceeding, while at the same time providing high value to the users. It is based on a proven technical solution that has been successfully implemented; it will provide a document discovery system that will facilitate the NRC's ability to comply with the schedule for decision on the repository construction authorization; it provides an electronic environment that facilitates a thorough technical review of relevant documentary material; it ensures equitable access to the information for the parties to the HLW licensing proceeding and that document integrity has been maintained for the duration of the licensing proceeding. Design Option 2 most consistently provides the information tools needed to organize and access large participant collections. It features adequately scaled and adaptable hardware and software and includes comprehensive security, backup, and recovery capabilities.

Regulatory Flexibility Certification

As required by the Regulatory Flexibility Act (5 U.S.C. 605(b)), the Commission has evaluated the impact of the proposed rule on small entities. The NRC has established standards for determining who qualifies as small entities (10 CFR 2.810). The Commission certifies that this proposed rule, if adopted, would not have a significant economic effect on a substantial number of small entities. The proposed amendments would modify the NRC's rules of practice and procedure in regard to the HLW licensing proceeding. Participants will be required to make their documentary material available electronically on a website that complies with the basic design standards established in the proposed rule. Some of the participants affected by the proposed rule, for example, DOE, NRC, the State of Nevada, would not fall within the definition of ''small entity'' under the NRC's size standards. Other parties and potential parties may qualify as ''small

entities'' under these size standards. However, the required standards reflect standard business practice for making material electronically available. In addition, the proposed requirements provide flexibility to participants in how these standards are implemented.

Backfit Analysis

The NRC has determined that a backfit analysis is not required for this proposed rule because these amendments would not include any provisions that require backfits as defined in 10 CFR Chapter I.

List of Subjects in 10 CFR Part 2

Administrative practice and procedure, Antitrust, Byproduct material, Classified information, Environmental protection, Nuclear materials, Nuclear power plants and reactors, Penalties, Sex discrimination, Source material, Special nuclear material, Waste treatment and disposal.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 553; the Nuclear Regulatory Commission is proposing the following amendments to 10 CFR part 2.

PART 2—RULES OF PRACTICE FOR DOMESTIC LICENSING PROCEEDINGS AND ISSUANCE OF ORDERS

1. The authority citation for Part 2 continues to read as follows:

Authority: Secs.161, 181, 68 Stat. 948, 953, as amended (42 U.S.C. 2201, 2231); sec. 191, as amended, Pub. L. 87–615, 76 Stat. 409 (42 U.S.C. 2241); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); 5 U.S.C. 552.

Section 2.101 also issued under secs. 53, 62, 63, 81, 103, 104, 105, 68 Stat. 930, 932, 933, 935, 936, 937, 938, as amended (42 U.S.C. 2073, 2092, 2093, 2111, 2133, 2134, 2135); sec. 114(f), Pub. L. 97–425, 96 Stat. 2213, as amended (42 U.S.C. 10134(f)); sec. 102, Pub. L. 91–190, 83 Stat. 853, as amended (42 U.S.C. 4332); sec. 301, 88 Stat. 1248 (42 U.S.C. 5871). Sections 2.102, 2.103, 2.104, 2.105, 2.721 also issued under secs. 102, 103, 104, 105, 183, 189, 68 Stat. 936, 937, 938, 954, 955, as amended (42 U.S.C. 2132, 2133, 2134, 2135, 2233, 2239). Section 2.105 also issued under Pub. L. 97–415, 96 Stat. 2073 (42 U.S.C. 2239). Sections 2.200–2.206 also issued under secs. 161 b, i, o, 182, 186, 234, 68 Stat. 948–951, 955, 83 Stat. 444, as amended (42 U.S.C. 2201 (b), (i), (o), 2236, 2282); sec. 206, 88 Stat 1246 (42 U.S.C. 5846). Sections 2.205(j) also issued under Pub. L. 101–410, 104 Stat. 890, as amended by section 31001(s), Pub. L. 104–134, 110 Stat. 1321–373 (28 U.S.C. 2461 note). Sections 2.600–2.606 also issued under sec. 102, Pub. L. 91–190, 83 Stat. 853, as amended (42 U.S.C. 4332). Sections 2.700a, 2.719 also issued under 5 U.S.C. 554. Sections 2.754, 2.760, 2.770, 2.780 also issued under 5 U.S.C. 557. Section 2.764 also issued under secs. 135, 141, Pub. L. 97–425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161). Section 2.790 also issued under sec. 103, 68 Stat. 936, as amended (42 U.S.C. 2133) and 5 U.S.C. 552. Sections 2.800 and 2.808 also issued under 5 U.S.C. 553. Section 2.809 also issued under 5 U.S.C. 553 and sec. 29, Pub. L. 85–256, 71 Stat. 579, as amended (42 U.S.C. 2039). Subpart K also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239); sec. 134, Pub. L. 97–425, 96 Stat. 2230 (42 U.S.C. 10154). Subpart L also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239). Appendix A also issued under sec. 6, Pub. L. 91–560, 84 Stat. 1473 (42 U.S.C. 2135).

2. In § 2.1009, paragraph (b) is revised and paragraph (c) is added to read as follows:

§ 2.1009 Procedures.

* * * * *

(b) The responsible official designated under paragraph (a)(1) of this section shall certify to the Pre-License Application Presiding Officer that the procedures specified in paragraph (a)(2) of this section have been implemented, and that to the best of his or her knowledge, the documentary material specified in § 2.1003 has been identified and made electronically available. The initial certification must be made at the time the participant is required to comply with § 2.1003. The responsible official shall update this certification at twelve month intervals if necessary. The responsible official for the DOE shall also update this certification at the time of submission of the license application.

(c)(1) If DOE is unable to make an initial certification as specified in § 2.1003(a), DOE shall make an initial certification as soon as possible. In addition, at the time specified in § 2.1003(a) for making documentary material available, DOE shall provide the Pre-License Application Presiding Officer with a submission that describes with as much specificity as is reasonably possible the circumstances involved, including:

(i) The type and volume of the documentary material for which it is not able to make a certification,

(ii) An explanation as to why the documentary material has not been made electronically available, and

(iii) An estimate of a date certain by which that documentary material will be made available.

(2) Notwithstanding the provisions of paragraph (b) of this section, this submission shall be updated at ninety-day intervals until such time as DOE is able to certify that the documentary material in question is available.

3. In § 2.1011, paragraphs (b), (c)(3), and (c)(4) are revised and paragraphs (c)(6) and (c)(7) are added to read as follows:

§ 2.1011 Management of electronic information.

* * * * *

(b)(1) The NRC, DOE, parties, and potential parties participating in accordance with the provision of this subpart shall be responsible for obtaining the computer system necessary to comply with the requirements for electronic document production and service.

(2) The NRC, DOE, parties, and potential parties participating in accordance with the provision of this subpart shall comply with the following standards in the design of the computer systems necessary to comply with the requirements for electronic document production and service:

(i) The participants shall make textual (or, where non-text, image) versions of their documents available on a web accessible server which is able to be canvassed by web indexing software (i.e., a ''robot'', ''spider'', ''crawler'') and the participant system must make both data files and log files accessible to this software.

(ii) The participants shall make structured data available in the context of (or, under the control of) an accessible SQL-compliant (ANSI X3.135–1992/ISO 9075–1992) database management system (DBMS). Alternatively, the structured data may be made available in a standard database readable (e.g., comma delimited) file.

(iii) Textual material must be formatted to comply with the US.ISO__8859–1 character set and be in one of the following acceptable formats: plain text, native word processing (Word, WordPerfect), PDF Normal, or HTML.

(iv) Image files must be formatted as TIFF CCITT G4 for bi-tonal images or PNG (Portable Network Graphics) per [http://www.w3.org/TR/REC-png-multi.html]) format for grey-scale or color images, or PDF (Portable Document Format—Image) for compound documents. TIFF images will be stored at 300 dpi (dots per inch), grey scale images at 150 dpi with eight bits

of tonal depth, and color images at 150 dpi with 24 bits of color depth. Images found on participant machines will be stored as single image-per-page to facilitate retrieval of no more than a single page, or alternatively, images may be stored in a page-per-document format if software is incorporated in the web server that allows single-page representation and delivery.

(v) The participants shall programmatically link the bibliographic header record with the text or image file it represents. The header record must contain fielded data identifying its associated object (text or image) file name and directory location.

(vi) To facilitate data exchange, participants shall adhere to hardware and software standards, including, but not limited to:

(A) Network access must be HTTP/1.1 [http://www.faqs.org/rfcs/rfc2068.html] over TCP (Transmission Control Protocol, [http://www.faqs.org/rfcs/rfc793.html]) over IP (Internet Protocol, [http://www.faqs.org/rfcs/rfc791.html]).

(B) Associating server names with IP addresses must follow the DNS (Domain Name System), [http://www.faqs.org/rfcs/rfc1034.html] and [http://www.faqs.org/rfcs/rfc1035.html].

(C) Web page construction must be HTML version 4.0 [http://www.w3.org/TR/REC-html40/].

(D) Electronic mail (e-mail) exchange between e-mail servers must be SMTP (Simple Mail Transport Protocol, [http://www.faqs.org/rfcs/rfc821.html]).

(E) Format of an electronic mail message must be per [http://www.faqs.org/rfcs/rfc822.html] optionally extended by MIME (Multimedia Internet Mail Extensions) per [http://www.faqs.org/rfcs/rfc2045.html]) to accommodate multimedia e-mail.

(c) * * *

(3) Identify any problems experienced by participants regarding LSN availability, including the availability of individual participant's data, and provide a recommendation to resolve any such problems to the participant(s) and the Pre-license Application Presiding Officer relative to the resolution of any disputes regarding LSN availability;

(4) Identify any problems regarding the integrity of documentary material certified in accordance with § 2.1009(b) by the participants to be in the LSN, and provide a recommendation to resolve any such problems to the participant(s) and the Pre-license Application Presiding Officer relative to the resolution of any disputes regarding the integrity of documentary material;

* * * * *

(6) Evaluate LSN participant compliance with the basic design standards in paragraph (b)(2) of this section, and provide for individual variances from the design standards to accommodate changes in technology or problems identified during initial operability testing of the individual websites or the ''LSN site''.

(7) Issue guidance for LSN participants on how best to comply with the design standards in paragraph (b)(2) of the section.

* * * * *

Dated at Rockville, Maryland, this 15th day of August, 2000.

For the Nuclear Regulatory Commission.

Annette Vietti-Cook,

Secretary of the Commission.

[FR Doc. 00–21228 Filed 8–21–00; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 121 and 139

[Docket No. FAA–2000–7479; Notice No. 00–05]

RIN 2120–AG96

Certification of Airports; Extension of Comment Period

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM); extension of comment period.

SUMMARY: This action extends the comment period for an NPRM that was published on June 21, 2000. In that document, the FAA proposed to revise the current airport certification regulation and a section of an air carrier operation regulation. This extension is a result of requests from the Augusta (ME) State Airport, the Hancock County-Bar Harbor (ME) Airport, and the State of Maine Department of Transportation to extend the comment period to the proposal.

DATES: Comments must be received on or before November 3, 2000.

ADDRESSES: Comments on this document should be mailed or delivered, in duplicate, to: U.S. Department of Transportation Dockets, Docket No. FAA–2000–7479, 400 Seventh Street, SW., Room Plaza 401, Washington, DC 20590. Comments may be filed and examined in Room Plaza 401 between 10 a.m. and 5 p.m. weekdays, except Federal holidays. Comments also may be sent electronically to the Dockets Management System (DMS) at the following Internet address: http://dms.dot.gov at any time. Commenters who wish to file comments electronically, should follow the instructions on the DMS web site.

FOR FURTHER INFORMATION CONTACT: Linda Bruce, Airport Safety and Operations Division (AAS–300), Office of Airport Safety and Standards, Federal Aviation Administration, 800 Independence Ave., SW., Washington, DC 20591; telephone: (202) 267–8553 or E-mail: linda.bruce@faa.gov.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in this rulemaking by submitting such written data, views, or arguments, as they may desire. Comments relating to the environmental, energy, federalism, or economic impact that might result from adopting the proposals in this document are also invited. Substantive comments should be accompanied by cost estimates. Comments should identify the regulatory docket or notice number and should be submitted in duplicate to the Rules Docket address specified above.

All comments received, as well as a report summarizing each substantive public contact with FAA personnel on this rulemaking, will be filed in the docket. The docket is available for public inspection before and after the comment closing date.

The Administrator will consider all comments received on or before the closing date before taking action on this proposed rulemaking. Comments filed late will be considered as far as possible without incurring expense or delay. The proposals contained in this rulemaking may be changed in light of the comments received.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must include a pre-addressed, stamped postcard with those comments on which the following statement is made: ''Comments to Docket No. FAA–2000–7479.'' The postcard will be date stamped and mailed to the commenter.

Availability of NPRMs

An electronic copy is available on the Internet by taking the following steps:

(1) Go to the search function of the Department of Transportation's electronic Docket Management System (DMS) Web page (http://dms.dot.gov/search).

(2) On the search page type in the last four digits of the Docket number shown

at the beginning of this notice. Click on ''search.''

(3) On the next page, which contains the Docket summary information for the Docket selected, click on the proposed rule.

An electronic copy is also available on the Internet through FAA's web page at http://www.faa.gov/avr/arm/nprm/nprm.htm or the **Federal Register's** web page at http://www.access.gpo.gov/su_docs/aces/aces140.html.

Further, a copy may be obtained by submitting a written request to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267–9680. Make sure to identify the notice number or docket number of this proposed rule.

Background

On June 21, 2000, the Federal Aviation Administration (FAA) issued Notice No. 00–05, Certification of Airports (65 FR 38636, June 21, 2000). Comments to that document were to be received on or before September 19, 2000.

By letters dated July 13 and August 2, 2000, the Augusta (ME) State Airport, the Hancock County-Bar Harbor (ME) Airport, and the State of Maine Department of Transportation requested that the FAA extend the comment period for Notice No. 00–05 until December 20, 2000. Operators of these airports stated that the FAA has underestimated the economic impact of the proposal on their facilities, which would be newly certificated airports under the proposal. The State of Maine Department of Transportation is concerned about the economic implications of the proposal on certain airports. All petitioners requested an extension of the comment period by 90 days to provide sufficient time to obtain cost data and fully evaluate this proposal before submitting comments to the FAA.

While the FAA concurs with the petitioners' requests for an extension of the comment period on Notice No. 00–05, the FAA believes that a 90-day extension would be excessive. As Notice No. 00–05 is lengthy, the FAA provided a 90-day comment period. Although the FAA agrees that additional time for comments may be needed by operators of airports that would be newly certificated under the proposal, this need must be balanced against the need to proceed expeditiously with a rulemaking that Congress has indicated needs to be completed. The FAA believes an additional 45 days would be adequate for these petitioners to collect cost and operational data necessary to provide meaningful comment to Notice No. 00–05. This will also allow commenters who may have anticipated an extension in the comment period to submit their comments by a date certain. Absent unusual circumstances, the FAA does not anticipate any further extension of the comment period for this rulemaking.

Extension of Comment Period

In accordance with § 11.29(c) of Title 14, Code of Federal Regulations, the FAA has reviewed the petitions made by Augusta (ME) State Airport, the Hancock County-Bar Harbor (ME) Airport, and the State of Maine Department of Transportation for extension of the comment period to Notice No. 00–05. These petitioners have shown a substantive interest in the proposed rule and good cause for the extension. The FAA also has determined that extension of the comment period is consistent with the public interest, and that good cause exists for taking this action.

Accordingly, the comment period for Notice No. 98–5 is extended until November 3, 2000.

David L. Bennett,

Director, Office of Airport Safety and Standards.

[FR Doc. 00–21262 Filed 8–21–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

14 CFR Parts 217, 241 and 298

[Docket No. OST–00–7735]

RIN 2139–AA07

Amendment to the Definitions of Revenue and Nonrevenue Passengers

AGENCY: Office of the Secretary, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Office of the Secretary proposes to revise its definitions of *revenue passenger* and *nonrevenue passenger* in 14 CFR 241.03 to specify that a passenger traveling on a ticket or voucher received as compensation for denied boarding or as settlement of a consumer complaint is considered to be a revenue passenger. The revised definitions will be added to 14 CFR parts 217 and 298. The definitions will be in harmony with the definitions of revenue and non revenue passenger adopted by the International Civil Aviation Organization (ICAO). Harmonizing of DOT's and ICAO's definitions will prevent air carriers from being required to keep two sets of traffic enplanement statistics—one for reporting to ICAO and one for reporting to DOT. This action is taken at DOT's initiative.

DATES: Comments are due October 23, 2000.

ADDRESSES: Comments should be directed to the Docket Clerk, Docket OST–00–7735, Room PL 401, Office of the Secretary, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590–0001. The public can inspect the docket at the Department from 10 AM to 5 PM ET, Monday through Friday, except Federal Holidays, or via the internet on http://dms.dot.gov.

Comments should identify the regulatory docket number and be submitted in duplicate to the address listed above. Commenters wishing the Department to acknowledge receipt of their comments must submit with those comments a self-addressed stamped postcard on which the following statement is made: Comments on Docket OST–00–7735. The postcard will be dated/time stamped and returned to the commenter. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments.

FOR FURTHER INFORMATION CONTACT: Bernard Stankus or Clay Moritz, Office of Airline Information, K–25, Bureau of Transportation Statistics, Department of Transportation, 400 Seventh Street, SW., Washington, DC, 20590–0001, (202) 366–4387 or 366–4385, respectively.

SUPPLEMENTARY INFORMATION:

Definition in Title 14 CFR Section 241.03

Passenger, nonrevenue and *passenger, revenue* are defined in 14 CFR section 241.03 as follows:

Passenger, nonrevenue. Person receiving air transportation from the air carrier for which remuneration is not received by the air carrier. Air carrier employees or others receiving air transportation against whom token service charges are levied are considered nonrevenue passengers. Infants for whom a token fare is charged are not counted as passengers.

Passenger, revenue. Person receiving air transportation from the air carrier for which remuneration is received by the air carrier. Air carrier employees or others receiving air transportation against whom token service charges are levied are considered nonrevenue passengers. Infants for whom a token fare is charged are not counted as passengers.

Accounting and Reporting Directive #134

On January 18, 1990, DOT issued Accounting and Reporting Directive #134, to provide detailed guidance on the definition of revenue passengers. Specifically, the directive stated that passengers traveling on frequent flyer program awards, barter tickets, and reduced-fare tickets that cost more than nominal service charges are considered to be revenue passengers. Persons receiving transportation as compensation after filing a complaint or claim against the air carrier, including ticket compensation furnished in compliance with 14 CFR part 250 *Oversales* were considered to be nonrevenue passengers. The definition of revenue passenger expressly distinguished between token service charges, on one hand, and remuneration on the other. Token service charges were defined as charges reasonably related to the value of meals and beverages furnished enroute or charges designed to offset other incidentals or administrative charges, such as those for reservation/ticketing expenses, and were not deemed to constitute remuneration.

Definition of the International Civil Aviation Organization

At the ninth meeting of the ICAO Statistics Division, which was held in Montreal, Canada, on September 26–27, 1997, the following definition of revenue passenger was recommended to the ICAO Council for adoption.

A passenger for whose transportation an air carrier receives commercial remuneration. This includes for example, (1) passengers traveling under publicly available promotional offers (for example two-for-one) or loyalty programs (for example, redemption of frequent flyer points); (2) Passengers traveling as compensation for denied boarding; (3) Passengers traveling at corporate discounts; (4) Passengers traveling on preferential fares (Government, seamen, military, youth student, *etc.*).

This definition excludes, for example, (1) persons traveling free, except those mentioned above (2) persons traveling at a fare or discount available only to employees of air carriers or their agents or only for travel on the business of the carriers; and (3) infants who do not occupy a seat.

The recommended definition was approved by the ICAO Council at the sixth meeting of the 153 Session. The definition became effective on January 1, 2000.

Revenue Passengers

DOT proposes to revise its definition of *revenue passenger* to include the ICAO determination that persons receiving transportation as compensation upon filing a complaint or claim against the carrier are revenue passengers. This interpretation includes a passenger receiving free transportation as compensation in compliance with 14 CFR Part 250 *Oversales.* In such cases, the air carrier incurred a liability when it issued the ticket or voucher.

The following types of passengers would be listed as examples of revenue passengers: (1) Passengers traveling on publicly available tickets; (2) passengers traveling on frequent-flyer awards; (3) passengers traveling on barter tickets; (4) infants traveling on confirmed-space tickets; (5) passengers traveling as compensation for denied boardings or passengers traveling free in response to consumer complaints or claims; and (6) passengers traveling on preferential fares (Government, seamen, military, youth student, etc.). This list is not exhaustive and is provided for illustrative purposes only.

Nonrevenue Passengers

DOT proposes that the following types of passengers would be listed as examples of nonrevenue passengers when traveling free or pursuant to token charges: (1) Directors, officers, employees, and others authorized by the air carrier operating the aircraft; (2) directors, officers, employees, and others authorized by the air carrier or another carrier traveling pursuant to a pass interchange agreement; (3) travel agents being transported for the purpose of familiarizing themselves with the carrier's services; (4) witnesses and attorneys attending any legal investigation in which such carrier is involved; (5) persons injured in aircraft accidents, and physicians, nurses, and others attending such persons; (6) any persons transported with the object of providing relief in cases of general epidemic, natural disaster, or other catastrophe; (7) any law enforcement official, including any person who has the duty of guarding government officials who are traveling on official business; (8) guests of an air carrier on an inaugural flight or delivery flights of newly-acquired or renovated aircraft; (9) security guards who have been assigned the duty to guard such aircraft against unlawful seizure, sabotage, or other unlawful interference; (10) safety inspectors of the National Transportation Safety Board or the FAA in their official duties; (11) postal employees on duty in charge of the mails or traveling to or from such duty; (12) technical representatives of companies that have been engaged in the manufacture, development or testing of a particular type of aircraft or aircraft equipment, when the transportation is provided for the purpose of in-flight observation and subject to applicable FAA regulations; (13) persons engaged in promoting transportation; and (14) other authorized persons, when such transportation is undertaken for promotional purpose. This list is not exhaustive and is provided for illustrative purposes only.

Reporting Burden

DOT believes that this NPRM is not a revision to an information collection for the purposes of the Paperwork Reduction Act. It is not adding or removing any data items. Rather, it is changing definitions to simplify carrier reporting and preclude the need for affected air carriers to maintain two separate systems for identifying revenue and nonrevenue passengers for DOT and ICAO reporting. Under Article 67 of the 1944 Chicago Convention, the United States, as a party to the treaty, is obligated to supply certain individual U.S. air carrier data to ICAO, which is an arm of the United Nations. By harmonizing DOT's definitions of revenue and nonrevenue passenger with ICAO's definitions, DOT will be able to supply ICAO with U.S. air carrier data from DOT's own data base. U.S. carriers will not be required to submit special traffic reports in order to meet this U.S. treaty obligation. Some carriers may, however, have a one-time reprogramming task to treat as revenue passengers those passengers traveling on vouchers or tickets received in response to consumer complaints or as compensation for denied boardings. DOT welcomes comments from any carrier that believes it will experience a reporting burden from this proposal.

Rulemaking Analyses and Notices

Executive Order 12866 and DOT Regulatory Policies and Procedures

DOT does not consider this proposal to be a significant regulatory action under section 3(f) of Executive Order 12866. It was not subject to review by the Office of Management and Budget.

DOT does not consider the proposal to be significant under its regulatory policies and procedures (44 FR 11034; February 26, 1979). The purpose of the rule is to clarify the definitions of *revenue passenger* and *nonrevenue passenger.* This action will negate the need for air carriers to keep two sets of traffic records. One set of records for tracking revenue passengers for DOT reporting purposes, and a set of records for ICAO reporting. Therefore, the action will have a positive economic impact on reporting air carriers.

Federalism

DOT analyzed this proposal in accordance with the principles and criteria contained in Executive Order 13132 (''Federalism'') and determined that the rule does not have sufficient federalism implications to warrant consultation with State and local officials.

Regulatory Flexibility Act

We certify this proposed rule will not have a significant economic impact on a substantial number of small entities, as the total cost of the rulemaking is insignificant. There are about 100 small air carriers that may be impacted by this proposed rule. However, the most significant proposed change of the NPRM is the treatment of passengers traveling on a ticket or voucher received as compensation for denied boarding. The denied boarding regulations are not applicable to small air carriers. Therefore, the NPRM should not be a significant impact on small air carriers.

Unfunded Mandates

Under section 201 of the Unfunded Mandates Reform Act (UMRA) (2 U.S.C. 1531), DOT assessed the effects of this proposed rule on State, local and tribal governments, in the aggregate, and the private sector. DOT determined that this regulatory action requires no written statement under section 202 of the UMRA (2 U.S.C. 1532) because it will not result in the expenditure of $100,000,000 in any one year by State, local and tribal governments, in the aggregate, or the private sector.

National Environmental Protection Act

The DOT has analyzed the proposed amendments for the purpose of the National Environmental Protection Act. The proposed amendments will not have any impact on the quality of human environment.

Regulation Identifier Number

A regulation identifier number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number 2139–AA07 contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

List of Subjects

14 CFR Part 217

Foreign air carriers, Traffic reports.

14 CFR Part 241

Air carriers, Uniform system of accounts, Reporting requirements.

14 CFR Part 298

Air taxis, Reporting requirements.

Proposed Rule

Accordingly, the Bureau of Transportation Statistics proposes to amend 14 CFR parts 217, 241 and 298 as follows:

PART 217—[AMENDED]

1. The authority citation for part 217 continues to read as follows:

Authority: 49 U.S.C. 329 and chapters 401, 413, 417.

2. Definitions for *revenue passenger* and *nonrevenue passenger* are added in alphabetical order to § 217.1 to read as follows:

§ 217.1 Definitions.

* * * * *

Nonrevenue passenger means: a person traveling free or under token charges, except those expressly named in the definition of *revenue passenger;* a person traveling at a fare or discount available only to employees or authorized persons of air carriers or their agents or only for travel on the business of the carriers; and an infant who does not occupy a seat. The following passengers are examples of nonrevenue passengers when traveling free or pursuant to token charges:

(1) Directors, officers, employees, and others authorized by the air carrier operating the aircraft;

(2) Directors, officers, employees, and others authorized by the air carrier or another carrier traveling pursuant to a pass interchange agreement;

(3) Travel agents being transported for the purpose of familiarizing themselves with the carrier's services;

(4) Witnesses and attorneys attending any legal investigation in which such carrier is involved;

(5) Persons injured in aircraft accidents, and physicians, nurses, and others attending such persons;

(6) Any persons transported with the object of providing relief in cases of general epidemic, natural disaster, or other catastrophe;

(7) Any law enforcement official, including any person who has the duty of guarding government officials who are traveling on official business;

(8) Guests of an air carrier on an inaugural flight or delivery flights of newly-acquired or renovated aircraft;

(9) Security guards who have been assigned the duty to guard such aircraft against unlawful seizure, sabotage, or other unlawful interference;

(10) Safety inspectors of the National Transportation Safety Board or the FAA in their official duties;

(11) Postal employees on duty in charge of the mails or traveling to or from such duty;

(12) Technical representatives of companies that have been engaged in the manufacture, development or testing of a particular type of aircraft or aircraft equipment, when the transportation is provided for the purpose of in-flight observation and subject to applicable FAA regulations;

(13) Persons engaged in promoting transportation; and

(14) Other authorized persons, when such transportation is undertaken for promotional purpose.

Revenue passenger means: a passenger for whose transportation an air carrier receives commercial remuneration. This includes for example:

(1) Passengers traveling under publicly available tickets including promotional offers (for example two-for-one) or loyalty programs (for example, redemption of frequent flyer points);

(2) Passengers traveling on vouchers or tickets issued as compensation for denied boarding or in response to consumer complaints or claims;

(3) Passengers traveling at corporate discounts;

(4) Passengers traveling on preferential fares (Government, seamen, military, youth student, *etc.*);

(5) Passengers traveling on barter tickets; and

(6) Infants traveling on confirmed-space tickets.

* * * * *

PART 241—[AMENDED]

3. The authority citation for part 241 continues to read as follows:

Authority: 49 U.S.C. 329 and chapters 401, 411, 417.

4. The definitions in part 241 section 03 for *nonrevenue passenger* and *revenue passenger* are amended to read as follows:

03—Definitions for the Purposes of This System of Accounts and Reports

* * * * *

Nonrevenue passenger means: a person traveling free or under token charges, except those expressly named in the definition of *revenue passenger;* a person traveling at a fare or discount available only to employees or authorized persons of air carriers or their agents or only for travel on the business of the carriers; and an infant who does not occupy a seat. The following passengers are examples of nonrevenue passengers when traveling free or pursuant to token charges:

(1) Directors, officers, employees, and others authorized by the air carrier operating the aircraft;

(2) Directors, officers, employees, and others authorized by the air carrier or another carrier traveling pursuant to a pass interchange agreement;

(3) Travel agents being transported for the purpose of familiarizing themselves with the carrier's services;

(4) Witnesses and attorneys attending any legal investigation in which such carrier is involved;

(5) Persons injured in aircraft accidents, and physicians, nurses, and others attending such persons;

(6) Any persons transported with the object of providing relief in cases of general epidemic, natural disaster, or other catastrophe;

(7) Any law enforcement official, including any person who has the duty of guarding government officials who are traveling on official business;

(8) Guests of an air carrier on an inaugural flight or delivery flights of newly-acquired or renovated aircraft;

(9) Security guards who have been assigned the duty to guard such aircraft against unlawful seizure, sabotage, or other unlawful interference;

(10) Safety inspectors of the National Transportation Safety Board or the FAA in their official duties;

(11) Postal employees on duty in charge of the mails or traveling to or from such duty;

(12) Technical representatives of companies that have been engaged in the manufacture, development or testing of a particular type of aircraft or aircraft equipment, when the transportation is provided for the purpose of in-flight observation and subject to applicable FAA regulations;

(13) Persons engaged in promoting transportation; and

(14) Other authorized persons, when such transportation is undertaken for promotional purpose.

* * * * *

Revenue passenger means a passenger for whose transportation an air carrier receives commercial remuneration. This includes for example:

(1) Passengers traveling under publicly available tickets including promotional offers (for example two-for-one) or loyalty programs (for example, redemption of frequent flyer points);

(2) Passengers traveling on vouchers or tickets issued as compensation for denied boarding or in response to consumer complaints or claims;

(3) Passengers traveling at corporate discounts;

(4) Passengers traveling on preferential fares (Government, seamen, military, youth student, etc.);

(5) Passengers traveling on barter tickets; and

(6) Infants traveling on confirmed-space tickets.

PART 298—[AMENDED]

5. The authority citation for part 298 continues to read as follows:

Authority: 49 U.S.C. chapters 401, 411, 417.

6. The paragraph designations are removed and definitions for *Nonrevenue passenger* and *Revenue passenger* are added in alphabetical order to § 298.2 to read as follows:

§ 298.2 Definitions.

* * * * *

Nonrevenue passenger means a person traveling free or under token charges, except those expressly named in the definition of *revenue passenger;* a person traveling at a fare or discount available only to employees or authorized persons of air carriers or their agents or only for travel on the business of the carriers; and an infant who does not occupy a seat. The following passengers are examples of nonrevenue passengers when traveling free or pursuant to token charges:

(1) Directors, officers, employees, and others authorized by the air carrier operating the aircraft;

(2) Directors, officers, employees, and others authorized by the air carrier or another carrier traveling pursuant to a pass interchange agreement;

(3) Travel agents being transported for the purpose of familiarizing themselves with the carrier's services;

(4) Witnesses and attorneys attending any legal investigation in which such carrier is involved;

(5) Persons injured in aircraft accidents, and physicians, nurses, and others attending such persons;

(6) Any persons transported with the object of providing relief in cases of general epidemic, natural disaster, or other catastrophe;

(7) Any law enforcement official, including any person who has the duty of guarding government officials who are traveling on official business;

(8) Guests of an air carrier on an inaugural flight or delivery flights of newly-acquired or renovated aircraft;

(9) Security guards who have been assigned the duty to guard such aircraft against unlawful seizure, sabotage, or other unlawful interference;

(10) Safety inspectors of the National Transportation Safety Board or the FAA in their official duties;

(11) Postal employees on duty in charge of the mails or traveling to or from such duty;

(12) Technical representatives of companies that have been engaged in the manufacture, development or testing of a particular type of aircraft or aircraft equipment, when the transportation is provided for the purpose of in-flight observation and subject to applicable FAA regulations;

(13) Persons engaged in promoting transportation; and

(14) Other authorized persons, when such transportation is undertaken for promotional purpose.

* * * * *

Revenue passenger means a passenger for whose transportation an air carrier receives commercial remuneration. This includes for example:

(1) Passengers traveling under publicly available tickets including promotional offers (for example two-for-one) or loyalty programs (for example, redemption of frequent flyer points);

(2) Passengers traveling on vouchers or tickets issued as compensation for denied boarding or in response to consumer complaints or claims;

(3) Passengers traveling at corporate discounts;

(4) Passengers traveling on preferential fares (Government, seamen, military, youth student, *etc.*);

(5) Passengers traveling on barter tickets; and

(6) Infants traveling on confirmed-space tickets.

* * * * *

Issued in Washington, DC on August 16, 2000.

Susan McDermott,

Deputy Assistant Secretary for Aviation and International Affairs.

Donald W. Bright,

Acting Director, Office of Airline Information.

[FR Doc. 00–21313 Filed 8–21–00; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 890

[Docket No. 00N–1409]

Physical Medicine Devices; Revision of the Identification of the Ionotophoresis Device

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to amend the physical medicine devices regulations to remove the class III

(premarket approval) iontophoresis device identification. FDA is taking this action because the agency believes that there were no preamendments iontophoresis devices marketed for uses other than those described in the class II identification. This action is being taken under the Federal Food, Drug, and Cosmetic Act (the act) as amended by the Medical Device Amendments of 1976 (the 1976 amendments), the Safe Medical Devices Act of 1990 (the SMDA), and the FDA Modernization Act of 1997.

DATES: Submit written comments by November 20, 2000. See section IV of this document for the proposed effective date of a final rule based on this document.

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

FOR FURTHER INFORMATION CONTACT: Russell P. Pagano, Center for Devices and Radiological Health (HFZ–410), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–594–2196.

SUPPLEMENTARY INFORMATION:

I. Classification of Devices

The act (21 U.S.C. 301 *et seq.*), as amended by the 1976 amendments (Public Law 94–295), established a comprehensive system for the regulation of medical devices intended for human use. Section 513 of the act (21 U.S.C. 360c) established three categories (classes) of devices, depending on the regulatory control needed to provide reasonable assurance of their safety and effectiveness. The three categories of devices under the 1976 amendments were class I (general controls), class II (performance standards), and class III (premarket approval). The SMDA changed the class II designation to ''special controls.''

Under section 513 of the act, devices that were in commercial distribution before May 28, 1976 (the date of enactment of the amendments), generally referred to as preamendments devices, are classified after FDA has: (1) Received a recommendation from a device classification panel (an FDA advisory committee); (2) published the panel's recommendation for comment, along with a proposed regulation classifying the device; and (3) published a final regulation classifying the device. FDA has classified most preamendment devices under these procedures.

Devices that were not in commercial distribution before May 28, 1976, generally referred to as postamendments devices, are classified automatically by statute (section 513(f) of the act) into class III without FDA rulemaking. Those devices remain in class III and require premarket approval, unless and until the device is reclassified into class I or II or FDA issues an order finding the device to be substantially equivalent, under section 513(i) of the act, to a predicate device that does not require premarket approval. The agency determines whether new devices are substantially equivalent to previously marketed devices by means of premarket notification procedures in section 510(k) of the act (21 U.S.C. 360(k)) and 21 CFR part 807.

II. The Existing Rule

In the **Federal Register** of November 23, 1983 (48 FR 53032), FDA issued a final rule classifying the iontophoresis device into class II (performance standards before the SMDA of 1990 and now special controls) and class III (premarket approval), depending on its intended use. An iontophoresis device is a device that is intended to use a direct current to introduce ions of soluble salts or other drugs into the body and induce sweating for diagnostic use. The regulation defines a class II iontophoresis device as a device intended for use in the diagnosis of cystic fibrosis or for other uses, if the labeling of the drug intended for use with the device bears adequate directions for the device's use with that drug. The regulation also states that, ''When used in the diagnosis of cystic fibrosis, the sweat is collected and its composition and weight are determined.'' Although the foregoing sentence is accurate, FDA is removing it from the ''Identification'' section of the regulation because it is unnecessary for description of the iontophoresis device. A class III iontophoresis device is intended for uses other than those specified for the class II device.

In the **Federal Register** of May 6, 1994 (59 FR 23731), FDA published a notice that set forth the agency's strategy for implementing section 515(i) of the act (21 U.S.C. 360e(i)) to review the classification of certain class III devices, and either reclassify the devices into class I or class II or retain them in class III. In reviewing the iontophoresis classification as part of this process, FDA realized that it made an error in its identification of the class III iontophoresis device when the device was classified in 1983. Specifically, there were no preamendments devices that met the class III identification, because the definition had the unintended consequence of placing into class III all those iontophoresis devices intended for use with a drug whose labeling cannot bear adequate directions for the device's use with the drug (i.e., a drug that had not been approved for iontophoretic delivery). Nevertheless, from 1977 to 1998, FDA cleared 41 510(k) submissions from 21 firms for devices that met the class III identification because they were not labeled for the diagnosis of cystic fibrosis or for use with a drug approved for iontophoretic delivery. Most of the 41 letters of substantial equivalence stated that these devices could not be labeled for use with a drug that had not been approved for iontophoretic delivery. During this same time, one manufacturer obtained drug approval for iontocaine; and that manufacturer's substantial equivalence determination for its class III iontophoresis device now meets the definition of the class II iontophoresis device because its device's labeling now bears adequate directions for iontophoretic delivery of iontocaine.

III. Proposed Revision of the Classification

FDA is proposing to correct this error by revoking the class III identification. Any device that is not substantially equivalent to the class II device would be considered a postamendments device that is automatically classified in class III under section 513(f) of the act. Under section 501(f) of the act (21 U.S.C. 351(f)), a class III postamendments device may not be introduced into interstate commerce for commercial distribution, unless it has in effect an approved premarket approval application or a notice of completion of a product development protocol.

FDA is notifying all manufacturers who market iontophoresis devices that have been cleared as class III 510(k)'s by letter of this proposed action. FDA believes that manufacturers of these iontophoresis devices can revise the labeling of their devices to meet the class II identification and submit such revised labeling to the agency, referencing their 510(k) number. Upon satisfactory review of this revised labeling, FDA will issue a revised order that will establish that the device is equivalent to a legally marketed predicate within the class II identification. A new premarket notification will not be necessary.

On the effective date of a final rule based on this proposed rule, FDA will issue letters to those manufacturers of previously cleared class III iontophoresis devices who have not submitted revised labeling for their 510(k)'s to the agency and received a revised substantial equivalence order.

FDA's letters to those manufacturers will rescind their previously cleared substantial equivalence orders. At that time, the manufacturer may no longer place the device into commercial distribution.

IV. Effective Date

FDA proposes that any final rule that may issue based on this proposal become effective 180 days after the date of publication of the final rule in the **Federal Register**.

V. Environmental Impact

The agency has determined under 21 CFR 25.34(b) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

VI. Analysis of Impacts

FDA has examined the impacts of this proposed rule under Executive Order 12866 and the Regulatory Flexibility Act (5 U.S.C. 601–612) (as amended by subtitle D of the Small Business Regulatory Fairness Act of 1996 (Public Law 104–121)), and the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The agency believes that this proposed rule is consistent with the regulatory philosophy and principles identified in the Executive Order. In addition, the proposed rule is not a significant regulatory action as defined by the Executive Order and so is not subject to review under the Executive Order.

The Regulatory Flexibility Act requires agencies to analyze regulatory options that would minimize any significant impact of a rule on small entities. Reclassification of the device from class III into class II will relieve manufacturers of the cost of complying with the premarket approval requirements in section 515 of the act. The FDA analysis determined that 21 manufacturers have 41 510(k)'s that will be affected by this proposed rule. FDA believes that submissions for the class III iontophoresis device will involve only changes in device labeling in the existing 510(k)'s and that preparation of these changes will require minimal cost. FDA believes that most of these devices will remain on the market as class II devices. The agency believes that the cost of complying with the labeling requirements for each manufacturer will be approximately $1,000. The agency, therefore, certifies that this proposed rule, if issued, will not have a significant economic impact on a substantial number of small entities.

Section 202(a) of the Unfunded Mandates Reform Act of 1995 requires that agencies prepare a written statement of anticipated costs and benefits before proposing any rule that may result in an expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million in any one year (adjusted annually for inflation). The Unfunded Mandates Reform Act does not require FDA to prepare a statement of costs and benefits for this rule, because the rule is not expected to result in any 1-year expenditure that would exceed $100 million adjusted for inflation.

VII. Paperwork Reduction Act of 1995

FDA concludes that this proposed rule contains no collection of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

VIII. Federalism

FDA has analyzed this final rule in accordance with the principles set forth in Executive Order 13132. FDA has determined that the proposed rule does not contain policies 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. Accordingly, the agency has concluded that the rule does not contain policies that have federalism implications as defined in the order and, consequently, a federalism summary impact statement is not required.

IX. Request for Comments

Interested persons may submit to the Dockets Management Branch (address above) written comments regarding this proposed rule by November 20, 2000. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 890

Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, it is proposed that 21 CFR part 890 be amended to read as follows:

PART 890—PHYSICAL MEDICINE DEVICES

1. The authority citation for 21 CFR part 890 continues to read as follows:

Authority: 21 U.S.C. 351, 360, 360c, 360e, 360j, 371.

2. Section 890.5525 is amended by adding paragraphs (d) and (e) to read as follows:

§ 890.5525 Iontophoresis device.

* * * * *

(d) *Identification.* An iontophoresis device is a device that is intended to use a direct current to introduce ions of soluble salts or other drugs into the body and induce sweating for use in the diagnosis of cystic fibrosis or for other uses if the labeling of the drug intended for use with the device bears adequate directions for the device's use with that drug.

(e) *Classification.* Class II (special controls).

Dated: August 3, 2000.

Linda S. Kahan,

Deputy Director for Regulations Policy, Center for Devices and Radiological Health.

[FR Doc. 00–21251 Filed 8–21–00; 8:45 am]

BILLING CODE 4160–01–F

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 00–1797, MM Docket No. 00–138, RM–9896]

Digital Television Broadcast Service; Boca Raton, FL

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition jointly filed by Palmetto Broadcasters Associated for Communities, Inc., licensee of noncommercial educational station WPPB–TV, NTSC Channel 63, Boca Raton, Florida, and Channel 63 of Palm Beach, Inc., the proposed assignee of WPPB. Petitioners request the substitution of DTV Channel *40 for DTV Channel *44 at Boca Raton. DTV Channel *40 can be allotted to Boca

Raton, Florida, in compliance with the principal community coverage requirements of Section 73.625(a) at reference coordinates (25–59–34 N. and 80–10–27 W.). As requested, we propose to allot DTV Channel *40 to Boca Raton with a power of 1000 and a height above average terrain (HAAT) of 310 meters.

DATES: Comments must be filed on or before October 10, 2000, and reply comments on or before October 25, 2000.

ADDRESSES: Federal Communications Commission, 445 12th Street, S.W., Room TW–A325, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Kevin C. Boyle, Nandan M. Joshi, Latham & Watkins, 1001 Pennsylvania Avenue, NW., Suite 1300, Washington, DC 20004 (Counsel for Palmetto Broadcasters Associated for Communities, Inc.); and John R. Feore, Jr., Margaret L. Miller, Christine J. Newcomb, Dow, Lohnes & Albertson, PLLC, 1200 New Hampshire Avenue, Suite 800, Washington, DC 20036 (Counsel for Channel 63 of Palm Beach, Inc.).

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Mass Media Bureau, (202) 418–1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 00–138, adopted August 17, 2000, and released August 25, 2000. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW., Washington, DC 20036.

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

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

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

Federal Communications Commission.

Barbara A. Kreisman,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 00–21405 Filed 8–21–00; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 243

[FRA Docket No. HST–1; Notice No. 3]

RIN 2130–AB14

FOX High Speed Rail Safety Standards

AGENCY: Federal Railroad Administration (FRA), DOT.

ACTION: Termination of rulemaking.

SUMMARY: This document terminates rulemaking action in FRA Docket No. HST–1. In its Notice of Proposed Rulemaking (NPRM) published on December 12, 1997, FRA proposed to establish safety standards for the Florida Overland eXpress (FOX) high speed rail system. Termination of this rulemaking is based on Florida's decision not to develop the FOX high speed rail system.

FOR FURTHER INFORMATION CONTACT: Christine Beyer, Deputy Assistant Chief Counsel for Safety, Office of Chief Counsel, FRA, 1120 Vermont Avenue, N.W., Stop 10, Washington, D.C. 20590 (telephone: 202–493–6027).

SUPPLEMENTARY INFORMATION: The State of Florida was planning to develop a high speed rail system that would utilize high speed technology and equipment modeled on the French TGV, that would run from Miami to Tampa, via Orlando. On February 18, 1997, the developer of the high speed system, the Florida Overland eXpress (FOX), filed a petition for rulemaking with FRA that proposed safety standards for the proposed high speed rail system. After analyzing the Petition, FRA published a notice of proposed rulemaking (NPRM) (62 FR 65478, December 12, 1997) on the subject that incorporated many of the standards proposed by the FOX Petition and proposed new standards. The funding for this project was to be shared by the public and private sector. However, after publication of the NPRM, the State of Florida decided to withdraw its financial support for the high speed rail system. Consequently, the proposed system will not be constructed.

Termination of Rulemaking

Based on the foregoing information FRA has decided to terminate this rulemaking, as it would have been solely applicable to the FOX high speed rail project. We note that this rulemaking has been a worthwhile first step in addressing the safety concerns inherent in the implementation of certain high speed rail operations. We are confident that further steps in addressing these concerns will build upon the information and discussion generated by this proceeding. In light of the foregoing, FRA is hereby terminating this rulemaking.

Issued in Washington, DC on August 11, 2000.

Jolene M. Molitoris,

Administrator.

[FR Doc. 00–21261 Filed 8–21–00; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 697

[I.D. 081500A]

Atlantic Coastal Fisheries Cooperative Management Act Provision; Atlantic Coast Horseshoe Crab Fishery; Public Hearings

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

ACTION: Notice of public hearings; request for comments.

SUMMARY: NMFS is considering implementing a closed area to provide conservation for horseshoe crabs near the mouth of Delaware Bay. NMFS will hold three public hearings to receive comments from fishery participants and other members of the public regarding its proposal to prohibit fishing for, and possession of, horseshoe crabs (*Limulus polyphemus*) in a designated area in Federal waters (EEZ) off the mouth of the Delaware Bay, with a limited exception for vessels fishing for whelk and conch (whelk).

DATES: NMFS will take comments at public hearings in September 2000. See **SUPPLEMENTARY INFORMATION** for dates and times of the public hearings.

ADDRESSES: Copies of a Draft Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis (EA/RIR/IRFA) and a draft proposed rule are available from Richard H. Schaefer, Chief, Staff Office for Intergovernmental and Recreational Fisheries, National Marine Fisheries Service, 8484 Georgia Avenue, Suite

425, Silver Spring, MD 20910. NMFS will take comments at public hearings; for their location see **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: Paul Perra at 301–427–2014.

SUPPLEMENTARY INFORMATION: NMFS is considering a prohibition on fishing for horseshoe crabs and limiting the possession of horseshoe crabs in a roughly rectangular area approximately 1,500 square nautical miles (nm) in the EEZ off the mouth of the Delaware Bay. The proposed closed area will cover approximately 1,500 square nm and is bounded as follows: (1) On the north by a straight line connecting points 39°14.6'N. lat., 74°30.9'W. long. (3 nm off of Peck Beach, New Jersey) and 39°14.6'N lat., 74°22.5'W. long.; (2) On the east by a straight line connecting points 39°14.6'N. lat., 74°22.5'W. long. and 38°22.0'N. lat., 74°22.5'W. long.; (3) On the south side by a straight line connecting points 38°22.0'N. lat., 74°22.5'W. long. and 38°22.0'N. lat., 75°00.4'W. long. (3 nm off of Ocean City, Maryland); and (4) On the west by state waters. The possession of horseshoe crabs would be prohibited on all commercial vessels except whelk fishing vessels. For whelk fishing vessels, these vessels would be allowed to use horseshoe crabs as bait as long as they have only whelk traps on board and no other commercial fishing gear. All vessels, including whelk vessels, would be prohibited from fishing for horseshoe crabs in the closed area. A further description of the measure and the purpose and need for the proposed actions are contained in an advance notice of proposed rulemaking published on May 3, 2000 (65 FR 25698) and in the draft EA/RIR/IRFA and are not repeated here. NMFS intends to issue a proposed rule shortly in the **Federal Register**. Written comments on that proposed rule will be accepted during the comment period identified in that rule once it is published in the **Federal Register**. The public hearings announced in this notice are intended to occur during that comment period on the proposed rule. Copies of the draft proposed rule may be obtained from NMFS (see **ADDRESSES** or **FOR FURTHER INFORMATION**).

Public Hearing Schedule

NMFS will take comments at public hearings to be held as follows:

1. Tuesday, September 5, 2000, 7:30–9:30 p.m.—Department of Natural Resources and Environmental Control Auditorium, 89 Kings Highway, Dover, DE 19901.

2. Wednesday, September 6, 2000, 6:30–8:30 p.m.—New Jersey Marine Advisory Service, Education Center, Dennisville Road, Route 657, Cape May Court House, NJ 08210.

3. Thursday, September 7, 2000, 7–9 p.m.—Wicomico County Free Library, 122 South Division Street, Salisbury, MD 21802.

The purpose of this document is to alert the interested public of hearings and provide for public participation.

Special Accommodations

These hearings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Richard H. Schaefer (see **ADDRESSES**) at least 5 days prior to the meeting date.

Authority: 16 U.S.C. 5101 *et seq.*

Dated: August 17, 2000.

Bruce C. Morehead,

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

[FR Doc. 00–21371 Filed 8–21–00; 8:45 am]

BILLING CODE 3510–22–F

Notices

Federal Register

Vol. 65, No. 163

Tuesday, August 22, 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.

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Wyoming Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Wyoming Advisory Committee to the Commission will convene at 6 p.m. and recess at 8 p.m. on Monday, September 18, 2000. The purpose of the meeting is to hold a briefing on community forum format and background of presenters, and to approve plans for future activities. The Committee will reconvene at 9 a.m. and adjourn at 9 p.m. on Tuesday, September 19, 2000, to hold a community forum to include workshops on education issues affecting minority students in Wyoming public secondary schools. The meeting for both days will be located at the Holiday Inn Express, 1700 E. Valley Road, Torrington, WY 82240.

Persons desiring additional information, or planning a presentation to the Committee, should contact John Dulles, Director of the Rocky Mountain Regional Office, 303–866–1040 (TDD 303–866–1049). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, August 15, 2000.

Lisa M. Kelly,

Special Assistant to the Staff Director, Regional Programs Coordination Unit.

[FR Doc. 00–21337 Filed 8–21–00; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–307–805, A–559–502, A–122–506, A–583–505]

Revocation of Antidumping Duty Orders: Circular Welded Non-Alloy Steel Pipe and Tube From Venezuela; Small Diameter Standard and Rectangular Pipe and Tube From Singapore; and Oil Country Tubular Goods From Canada and Taiwan

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

ACTION: Notice of revocation of antidumping duty orders: circular welded non-alloy steel pipe and tube from Venezuela, small diameter standard and rectangular pipe and tube from Singapore; and oil country tubular goods from Canada and Taiwan.

SUMMARY: On December 1, 1999 and December 3, 1999, the Department of Commerce (''the Department''), pursuant to sections 751(c) and 752 of the Tariff Act of 1930, as amended (''the Act''), determined that revocation of the antidumping duty orders on circular welded non-alloy steel pipe and tube from Venezuela, small diameter standard and rectangular pipe and tube from Singapore, and oil country tubular goods (''OCTG'') from Canada and Taiwan, is likely to lead to continuation or recurrence of dumping. See 64 FR 67854, 67873, 67248.

On August 9, 2000, the International Trade Commission (''the Commission''), pursuant to section 751(c) of the Act, determined that revocation of the antidumping duty orders on circular welded non-alloy steel pipe and tube from Venezuela, small diameter standard and rectangular pipe and tube from Singapore, and OCTG from Canada and Taiwan would not be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. See 65 FR 48733 (August 9, 2000). Therefore, pursuant to 19 CFR 351.218(f)(4), the Department is publishing notice of revocation of the antidumping duty orders on circular welded non-alloy steel pipe and tube from Venezuela, small diameter standard and rectangular pipe and tube from Singapore, and OCTG from Canada and Taiwan.

Effective Date of Revocation: January 1, 2000.

FOR FURTHER INFORMATION CONTACT: Martha V. Douthit or James P. Maeder, Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave., NW, Washington, D.C. 20230; telephone: (202) 482–5050 or (202) 482–3330, respectively.

SUPPLEMENTARY INFORMATION:

Background

On May 3, 1999, the Department initiated, and the Commission instituted sunset reviews (64 FR 64 FR 23596 and 64 FR 23679) of the antidumping duty orders on circular welded non-alloy steel pipe and tube from Venezuela, small diameter standard and rectangular pipe and tube from Singapore, and OCTG from Canada and Taiwan pursuant to section 751(c) of the Act. As a result of its reviews, the Department found on December 1, 1999 and December 3, 1999 that revocation of the antidumping duty orders on circular welded non-alloy steel pipe and tube from Venezuela, small diameter standard and rectangular pipe and tube from Singapore, and OCTG from Canada and Taiwan would likely lead to continuation or recurrence of dumping and notified the Commission of the magnitude of the margins likely to prevail were the order revoked. See 64 FR 67854, 67868, 67248.

On August 9, 2000, the Commission determined, pursuant to section 751(c) of the Act, that revocation of the antidumping duty orders on circular welded non-alloy steel pipe and tube from Venezuela, small diameter standard and rectangular pipe and tube from Singapore, and OCTG from Canada and Taiwan would not be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. See Certain Pipe and Tube from Argentina, Brazil, Canada, India, Korea, Mexico, Singapore, Taiwan, Thailand, Turkey, and Venezuela, 65 FR 48733 (August 9, 2000) and USITC Publication 3316, Investigation Nos. 731–TA–537, 296, 276, 277 (Review) (July 2000).

Scope of the Orders

See Appendix.

Determination

As a result of the determination by the Commission that revocation of the antidumping duty orders is not likely to lead to continuation or recurrence of dumping and material injury to an industry in the United States, pursuant to section 751(d)(2) of the Act, and 19 CFR 351.222(i)(1), the Department hereby orders the revocation of the antidumping duty orders on circular welded non-alloy steel pipe and tube from Venezuela, small diameter standard and rectangular pipe and tube from Singapore, and OCTG from Canada and Taiwan.

The Department will instruct the U.S. Customs Service to discontinue the suspension of liquidation and collection of cash deposit rates on entries of the subject merchandise entered or withdrawn from warehouse on or after January 1, 2000. The effective date of revocation of these antidumping duty orders is January 1, 2000.

Dated: August 16, 2000.

Troy H. Cribb,

Acting Assistant Secretary for Import Administration.

Appendix—Scope of the Orders

Venezuela—Circular Welded Non-Alloy Steel Pipe and Tube (A–307–805)

The subject merchandise covered in this review is circular welded non-alloy steel pipe and tube from Venezuela. The product consists of circular cross-section, not more than 406.4mm (16 inches) in outside diameter, regardless of wall thickness, surface finish (black, galvanized, or painted), or end finish (plain end, beveled end, threaded, or threaded and coupled). These pipe and tube are generally known as standard pipe and tube and are intended for the low-pressure conveyance of water, steam, natural gas, air and other liquids and gases in plumbing and heating systems, air-conditioning units, automatic sprinkler systems, and other related uses. Standard pipe may also be used for light load-bearing applications, such as for fence tubing, and as structural pipe tubing used for framing and as support members for reconstruction or load-bearing purposes in the construction, shipbuilding, trucking, farm equipment, and other related industries. Unfinished conduit pipe is also included in this order. All carbon-steel pipe and tube within the physical description outlined above are included within the scope of this review, except line pipe, oil country tubular goods, boiler tubing, mechanical tubing, pipe and tube hollows for redraws, finished scaffolding, and finished conduit. Standard pipe that is dual or triple certified/stenciled that enters the United States as line pipe of a kind used for oil and gas pipelines is also not included in this review. Imports of the products covered by this order are currently classifiable under the following Harmonized Tariff Schedule (''HTS'') subheadings: 7306.30.10.00, 7306.30.50.25, 7306.30.50.32, 7306.30.50.40, 7306.30.50.55, 7306.30.50.85, 7306.30.50.90. Although the HTS subheadings are provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

Scope Clarification: Venezuela

On March 21, 1996, in a final scope ruling, the Department determined that: (i) Pipe certified to the API 5L line pipe specification, and (ii) pipe certified to both the API 5L line pipe specifications and the less-stringent ASTM A–53 standard pipe specifications which fall within the physical parameters outlined in the scope of the order and enter as line pipe of a kind used for oil and gas pipelines are outside the scope of the antidumping duty orders on certain welded carbon steel non-alloy pipe from Venezuela, irrespective of end use.[1]

Singapore—Small Diameter Standard and Rectangular Pipe and Tube (Light Walled Rectangular Pipe and Tube (A–559–502)

The subject merchandise in this review is light-walled rectangular pipes and tubes (''rectangular pipes'') from Singapore, which are mechanical pipes and tubes or welded carbon steel pipes and tubes of rectangular (including square) cross-section, having a wall thickness of less than 0.156 inch. Light-walled rectangular pipes and tubes are currently classifiable under item number 7306.60.5000 of the HTSUS. The HTSUS item number is provided for convenience and customs purposes only. The written product description of the scope of this order remains dispositive.

Canada and Taiwan—Oil Country Tubular Goods (''OCTG'') (A–122–506, A–583–505)

The merchandise subject to these antidumping duty orders is OCTG from Canada and from Taiwan. These include American Petroleum Institute (''API'') specification OCTG and all other pipe with the following characteristics except entries which the Department determined through its end use certification procedure were not used in OCTG applications: length of at least 16 feet; outside diameter of standard sizes published in the API or proprietary specifications for OCTG with tolerances of plus 1/8 inch for diameters less than or equal to 8 5/8 inches and plus 1/4 inch for diameters greater than 8 5/8 inches, minimum wall thickness as identified for a given outer diameter as published in the API or proprietary specifications for OCTG; a minimum of 40,000 PSI yield strength and a minimum 60,000 PSI tensile strength; and if with seams, must be electric resistance welded. Furthermore, imports covered by these orders include OCTG with non-standard size wall thickness greater than the minimum identified for a given outer diameter as published in the API or proprietary specifications for OCTG, with surface scabs or slivers, irregularly cut ends, ID or OD has not been mechanically tested or has failed those tests. The merchandise is currently classifiable under the HTSUS item numbers 7304.20, 7305.20, and 7306.20. The HTSUS item numbers are provided for convenience and customs purposes. The written description remains dispositive.

[1] *See Final Negative Determination of Scope Inquiry on Certain Circular Welded Non-Alloy Steel Pipe and Tube From Brazil, the Republic of Korea, Mexico and Venezuela,* 61 FR 11608 (March 21, 1996)

[FR Doc. 00–21396 Filed 8–21–00; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–357–802, A–583–803, A–351–809, A–580–809, A–201–805, A–583–814, A–533–502, A–549–502, A–489–501, A–583–008]

Continuation of Antidumping Duty Orders: Light-Walled Rectangular Welded Carbon Steel Pipe and Tube From Argentina and Taiwan; Circular Welded Non-Alloy Steel Pipe and Tube from Brazil, Korea, Mexico, and Taiwan; Welded Carbon Steel Pipe and Tube From India, Thailand, and Turkey; and Small Diameter Standard and Rectangular Steel Pipe and Tube From Taiwan

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

ACTION: Notice of continuation of antidumping duty orders: Light-walled rectangular welded carbon steel pipe and tube from Argentina and Taiwan; circular welded non-alloy steel pipe and tube from Brazil, India, Korea, Mexico and Taiwan; welded carbon steel pipe and tube from India, Thailand, and Turkey; and small diameter standard and rectangular pipe and tube from Taiwan.

SUMMARY: On December 1, 1999 and December 3, 1999, the Department of Commerce (''the Department''), pursuant to sections 751(c) and 752 of the Tariff Act of 1930, as amended (''the Act''), determined that revocation of the antidumping duty orders on (1) light-walled rectangular welded carbon steel pipe and tube from Argentina and Taiwan, (2) circular welded non-alloy steel pipe and tube from Brazil, Korea, Mexico, and Taiwan, (3) welded carbon steel pipe and tube from India, Thailand, and Turkey, and (4) small diameter standard and rectangular pipe and tube from Taiwan is likely to lead to continuation or recurrence of dumping. *See* 64 FR 67870; 67871; 67854; 67879; 67252, 67876, 67873.

On August 9, 2000, the International Trade Commission (''the Commission''), pursuant to section 751(c) of the Act, determined that revocation of the antidumping duty orders on light-walled rectangular welded carbon steel

pipe and tube from Argentina and Taiwan; circular welded non-alloy steel pipe and tube from Brazil, Korea, Mexico, Taiwan; welded carbon steel pipe and tube from India, Thailand, and Turkey; and small diameter standard and rectangular pipe and tube from Taiwan would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. See 65 FR 48733 (August 9, 2000). Therefore, pursuant to 19 CFR 351.218(f)(4), the Department is publishing notice of continuation of the antidumping duty orders on light-walled rectangular welded carbon steel pipe and tube from Argentina and Taiwan; circular welded non-alloy steel pipe and tube from Brazil, Korea, Mexico, and Taiwan; welded carbon steel pipe and tube from India, Thailand and Turkey; and small diameter carbon steel pipe and tube from Taiwan.

EFFECTIVE DATE OF CONTINUATION: August 22, 2000.

FOR FURTHER INFORMATION CONTACT: Martha V. Douthit or James P. Maeder, Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave., NW, Washington, D.C. 20230; telephone: (202) 482–5050 or (202) 482–3330, respectively.

SUPPLEMENTARY INFORMATION:

Background

On May 3, 1999, the Department initiated, and the Commission instituted sunset reviews (64 FR 23596 and 64 FR 23679) of the antidumping duty orders on light-walled rectangular welded carbon steel pipe and tube from Argentina and Taiwan; circular welded non-alloy steel pipe and tube from Brazil, Korea, Mexico, and Taiwan; welded carbon steel pipe and tube from India, Thailand, and Turkey; and small diameter carbon steel pipe and tube from Taiwan pursuant to section 751(c) of the Act. As a result of its reviews, the Department found on December 3, 1999, that revocation of the antidumping duty orders on light-walled rectangular welded carbon steel pipe and tube from Argentina and Taiwan; circular welded non-alloy steel pipe and tube from Brazil, Korea, Mexico, and Taiwan; welded carbon steel pipe and tube from India, Thailand, and Turkey; and small diameter carbon steel pipe and tube from Taiwan would likely lead to continuation or recurrence of dumping and notified the Commission of the magnitude of the margins likely to prevail were the order revoked. See 64 FR 67870; 67871; 67854; 67879; 67252, 67876, 67873.

On August 9, 2000, the Commission determined, pursuant to section 751(c) of the Act, that revocation of the antidumping duty orders on light-walled rectangular welded carbon steel pipe and tube from Argentina and Taiwan; circular welded non-alloy steel pipe and tube from Brazil, Korea, Mexico, and Taiwan; welded carbon steel pipe and tube from India, Thailand, and Turkey; and small diameter carbon steel pipe and tube from Taiwan would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. *See Certain Pipe and Tube from Argentina, Brazil, Canada, India, Korea, Mexico, Singapore, Taiwan, Thailand, Turkey, and Venezuela,* 65 FR 48733 (August 9, 2000) and USITC Publication 3316, Investigation No. 731–TA–409, 532, 271, 533, 534, 132, 410, 536, 253, 252 (Review)(July 2000).

Scope of the Orders

See Appendix.

Determination

As a result of the determination by the Department and the Commission that revocation of the antidumping duty orders would be likely to lead to continuation or recurrence of dumping and material injury to an industry in the United States, pursuant to section 751(d)(2) of the Act and 19 CFR 351.222(i)(1), the Department hereby orders the continuation of the antidumping duty orders on light-walled rectangular welded carbon steel pipe and tube from Argentina and Taiwan; circular welded non-alloy steel pipe and tube from Brazil, Korea, Mexico, and Taiwan; welded carbon steel pipe and tube from India, Thailand, Turkey; and small diameter carbon steel pipe and tube from Taiwan.

The Department will instruct the U.S. Customs Service to continue to collect antidumping duty deposits at the rates in effect at the time of entry for all imports of subject merchandise. The effective date of continuation of these orders will be the date of publication in the **Federal Register** of this notice. Pursuant to section 751(c)(2) and 751 (c)(6) of the Act, the Department intends to initiate the next five-year review of the orders on light-walled rectangular welded carbon steel pipe and tube from Argentina and Taiwan; circular welded non-alloy steel pipe and tube from Brazil, Korea, Mexico, and Taiwan; welded carbon steel pipe and tube from India, Thailand, and Turkey; and small diameter carbon steel pipe and tube from Taiwan not later than July 2005.

Dated: August 16, 2000.

Troy H. Cribb,

Acting Assistant Secretary for Import Administration.

Appendix—Scope of the Orders

Argentina—Light-Walled Rectangular Welded Carbon Steel Pipe and Tube (A–357–802)

The merchandise subject to this antidumping duty order is light-walled welded carbon steel tubing of rectangular (including square) cross-section, having a wall thickness of less than 0.156 inch, from Argentina. The subject merchandise is classifiable under item 7306.60.50.00 of the Harmonized Tariff Schedule of the United States (''HTSUS''). Although the HTSUS item number is provided for convenience and U.S. customs purposes, the written description remains dispositive. This review covers imports from all producers and exporters of light-walled welded carbon steel tubing from Argentina.

Taiwan—Light-Walled Rectangular Welded Carbon Steel Pipe and Tube (A–583–803)

The subject merchandise covered by the antidumping duty order on Taiwan includes shipments of light-walled welded carbon steel pipe and tube of rectangular (including square) cross-section having a wall thickness of less than 0.156 inch. The subject merchandise is classifiable under item number 7306.60.50.00 of the HTSUS. Although the HTSUS item number is provided for convenience and customs purposes, the written description remains dispositive.

India—Welded Carbon Steel Pipe and Tube (A–533–502)

The products covered by this antidumping duty order include circular welded non-alloy steel pipe and tube, of circular cross-section, but not more than 406.4 millimeters (16 inches) in outside diameter, regardless of wall thickness, surface finish (black, galvanized, or painted), or end finish (plain end, beveled end, threaded, or threaded and coupled). These pipe and tube are generally known as standard pipe, though they may also be called structural or mechanical tubing in certain applications. Standard pipe and tube are intended for the low-pressure conveyance of water, steam, natural gas, air and other liquids and gases in plumbing and heating systems, air-conditioner units, automatic sprinkler systems, and other related uses. Standard pipe may also be used for light load-bearing and mechanical applications, such as for fence tubing, and for protection of electrical wiring, such as conduit shells. The scope is not limited to standard pipe and fence tubing or those types of mechanical and structural pipe that are used in standard pipe applications. All carbon-steel pipe and tube within the physical description outlined above are included in the scope of this order, except for line pipe, oil-country tubular goods, boiler tubing, cold-drawn or cold-rolled mechanical tubing, pipe and tube hollows for redraws,

finished scaffolding, and finished rigid conduit. Imports of the products covered by this order are currently classifiable under the following HTSUS subheadings: 7306.30.10.00, 7306.30.50.25, 7306.30.50.32, 7306.30.50.40, 7306.30.50.55, 7306.30.50.85, and 7306.30.50.90. Although, the HTSUS item numbers are provided for convenience and customs purposes, the Department's written description of the scope of this order remains dispositive.

Thailand—Welded Carbon Steel Pipe and Tube (A–549–502)

The merchandise subject to this antidumping duty order is certain circular welded carbon steel pipe and tube, commonly referred to in the industry as ''standard pipe'' or ''structural tubing,'' with walls not thinner than 0.065 inches, and 0.375 inches or more, but not over 16 inches in outside diameter. The subject merchandise was classifiable under items 610.3231, 610.3234, 610.3241, 610.3242, 610.3243, and 610.3252, 610.3254, 610.3256, 610.3258, 610.4925 of the TSUSA; currently, it is classifiable under item numbers 7306.30.1000, 7306.30.5025, 7306.30.5032, and 7306.30.5040, 7306.30.5055, 7306.30.5805 and 7306.30.5090 of the HTSUS. Although the TSUSA and HTSUS item numbers are provided for convenience and customs purposes, the written description remains dispositive. There was one scope ruling in which British Standard light pipe 387/67, Class A–1 was found to be within the scope of the order per remand (58 FR 27542, May 10, 1993).

Turkey—Welded Carbon Steel Pipe and Tube (A–489–501)

The products covered by this antidumping duty order include circular welded non-alloy steel pipe and tube, of circular cross-section, not more than 16 inches in outside diameter, regardless of wall thickness, surface finish (black, galvanized, or painted) or end finish (plain end, beveled end, threaded, or threaded and coupled). These pipe and tube are generally known as standard pipe, though they may also be called structural or mechanical tubing in certain applications. Standard pipe and tube are intended for the low-pressure conveyance of water, steam, natural gas, air and other liquids and gases in plumbing and heating systems, air-conditioner units, automatic sprinkler systems, and other related uses. Standard pipe may also be used for light load-bearing and mechanical applications, such as for fence tubing, and for protections of electrical wiring, such as conduit shells. The scope is not limited to standard pipe and fence tubing or those types of mechanical and structural pipe that are used in standard pipe applications. All carbon steel pipe and tube within the physical description outline above are included in the scope of this review, except for line pipe, oil country tubular goods, boiler tubing, cold-drawn or cold-rolled mechanical tubing, pipe and tube hollows for redraws, finished scaffolding, and finished rigid conduit. The subject merchandise was classifiable under items 610.3231, 610.3234, 610.3241, 610.3242, 610.3243, and 610.3252, 610.3254, 610.3256, 610.3258, 610.4925 of the TSUSA; currently, it is classifiable under item numbers 7306.30.1000, 7306.30.5025, 7306.30.5032, and 7306.30.5040, 7306.30.5055, 7306.30.5805 and 7306.30.5090 of the HTSUS. Although the TSUSA and HTSUS item numbers are provided for convenience and customs purposes, the written description remains dispositive.

Brazil, Korea and Mexico—Circular Welded Non-Alloy Steel Pipe and Tube (A–351–809, A–580–809, A–201–805)

The merchandise subject to these antidumping duty orders is circular welded non-alloy steel pipe and tube from Brazil, Korea, and Mexico. The product consists of circular cross-section, not more than 406.4mm (16 inches) in outside diameter, regardless of wall thickness, surface finish (black, galvanized, or painted), or end finish (plain end, beveled end, threaded, or threaded and coupled). These pipe and tube are generally known as standard pipe and tube and are intended for the low-pressure conveyance of water, steam, natural gas, air and other liquids and gases in plumbing and heating systems, air-conditioning units, automatic sprinkler systems, and other related uses. Standard pipe may also be used for light load-bearing applications, such as for fence tubing, and as structural pipe tubing used for framing and as support members for reconstruction or load-bearing purposes in the construction, shipbuilding, trucking, farm equipment, and other related industries. Unfinished conduit pipe is also included in this order. All carbon-steel pipe and tube within the physical description outlined above are included within the scope of these orders, except line pipe, oil country tubular goods, boiler tubing, mechanical tubing, pipe and tube hollows for redraws, finished scaffolding, and finished conduit. Standard pipe that is dual or triple certified/stenciled that enters the United States as line pipe of a kind used for oil and gas pipelines is also not included in this order. Imports of the products covered by these orders are currently classifiable under the following HTSUS subheadings: 7306.30.10.00, 7306.30.50.25, 7306.30.50.32, 7306.30.50.40, 7306.30.50.55, 7306.30.50.85, 7306.30.50.90. Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of these orders is dispositive.

Scope Clarification: On March 21, 1996, in a final scope ruling, the Department determined that: (i) Pipe certified to the API 5L line pipe specification, and (ii) pipe certified to both the API 5L line pipe specifications and the less-stringent ASTM A–53 standard pipe specifications which fall within the physical parameters outlined in the scope of the orders and enter as line pipe of a kind used for oil and gas pipelines are outside the scope of the antidumping duty orders on certain welded carbon steel non-alloy pipe from Brazil, Korea, and Mexico, irrespective of end use. Mexico—On December 31, 1995, Tubacero International Corporation requested clarification to determine whether circular welded carbon steel piping, 16 inches in outside diameter with ⅜ inch wall thickness, for use in extremely heavy load bearing applications, is within the scope of the order. On April 25, 1996, the Department determined that circular welded carbon steel piping, 16 inches in outside diameter with ⅜ inch wall thickness, for use in extremely heavy load bearing applications, is within the scope of the order (see Notice of Scope Rulings, 61 FR 18381 (April 25, 1996)).

Mexico—Cierra Pipe, Incorporated submitted a request for a scope clarification of the subject merchandise to determine whether line pipe ''shorts'', or ''old line pipe'' which has rusted and pitted after sitting in storage, constitute line pipe of a kind used for oil and gas pipelines or is pipe and tubed covered by the order (see 63 FR 59544 (November 4, 1998).

On November 19, 1998, the Department determined that (Certain Circular Welded Non-Alloy Steel Pipe; Galvak, S.A. de C.V.) circular welded non-alloy steel pipe manufactured to ASTM A–787 specifications is within the scope.

Taiwan—Circular Welded Non-Alloy Steel Pipe and Tube (A–583–814)

The products covered by this order are: (1) Circular welded non-alloy steel pipes and tubes, of circular cross-section over 114.3 millimeters (4.5 inches), but not over 406.4 millimeters (16 inches) in outside diameter, with a wall thickness of 1.65 millimeters (0.065 inches) or more, regardless of surface finish (black, galvanized, or painted), or end finish (plain end, beveled end, threaded, or threaded and coupled); and (2) circular welded non-alloy steel pipe and tube, of circular cross-section less than 406.4 millimeters (16 inches), with a wall thickness of less than 1.65 millimeters (0.065 inches), regardless of surface finish (black, galvanized, or painted) or end finish (plain end, beveled end, threaded, or threaded and coupled). These pipe and tube are generally known as standard pipe and tube and are intended for the low pressure conveyance of water, steam, natural gas, air, and other liquids and gases in plumbing and heating systems, air-conditioning units, automatic sprinkler systems, and other related uses, and generally meet ASTM A–53 specifications. Standard pipe may also be used for light load-bearing applications, such as for fence tubing, and as structural pipe tubing used for framing and support members for construction or load-bearing purposes in the construction, shipbuilding, trucking, farm equipment, and related industries. Unfinished conduit pipe is also included in these orders. All carbon steel pipe and tube within the physical description outlined above are included within the scope of this order, except line pipe, oil country tubular goods, boiler tubing, mechanical tubing, pipe and tube hollows for redraws, finished scaffolding, and finished conduit. Standard pipe that is dual or triple certified/stenciled that enters the United States as line pipe of a kind used for oil and gas pipelines is also not included in this order. Imports of the products covered by this order are currently classifiable under the following HTS subheadings: 7306.30.10.00, 7306.30,50.25, 7306.30.50.32, 7306.30.50.40, 7306.30.50.55, 7306.30.50.85, 7306.30.50.90. The written

description of the scope of this order is dispositive.

Taiwan—Small Diameter Carbon Steel Pipe and Tube (circular welded carbon steel pipe and tube) (A–583–008)

Imports covered by this order are shipments of certain circular welded carbon steel pipe and tube. The Department defines such merchandise as welded carbon steel pipe and tube of circular cross section, with walls not thinner than 0.065 inch and 0.375 inch or more but not over 4½ inches in outside diameter. These products are commonly referred to as ''standard pipe'' and are produced to various American Society for Testing Materials Specifications, most notably A–53, A–120, or A–135. Standard pipe is currently classified under HTSUS item numbers 7306.30.5025, 7306.30.5032, 7306.30.5040, and 7306.30.5055. Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the merchandise under this order is dispositive.

[FR Doc. 00–21397 Filed 8–21–00; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–821–802]

Continuation of Suspended Antidumping Duty Investigation: Uranium From Russia

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

ACTION: Notice of continuation of suspended antidumping duty investigation: uranium from Russia

SUMMARY: On July 5, 2000, the Department of Commerce (''the Department''), pursuant to sections 751(c) and 752 of the Tariff Act of 1930, as amended (''the Act''), determined that termination of the agreement suspending the antidumping duty investigation (the ''Agreement'') on uranium from Russia, is likely to lead to continuation or recurrence of dumping. *See Certain Uranium from Russia; Final Results of Sunset Review of Suspended Antidumping Duty Investigation (''Final Results''),* 65 FR 41439 (July 5, 2000). On August 9, 2000, the International Trade Commission (''the Commission''), pursuant to section 751(c) of the Act, determined that termination of the Agreement on uranium from Russia would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. *See Uranium from Russia, Ukraine, and Uzbekistan (''ITC Final Results''),* 65 FR 48734 (August 9, 2000). Therefore, pursuant to 19 CFR 351.218(f)(4), the Department is publishing this notice of the continuation of the Agreement on uranium from Russia.

EFFECTIVE DATE: August 22, 2000.

FOR FURTHER INFORMATION CONTACT: Kathryn B. McCormick or James P. Maeder, Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave., NW, Washington, DC 20230; telephone: (202) 482–1930 or (202) 482–3330, respectively.

SUPPLEMENTARY INFORMATION

Background:

On August 2, 1999, the Department initiated, and the Commission instituted, sunset reviews (64 FR 67247 and 64 FR 41965, respectively) of the Agreement on uranium from Russia, pursuant to section 751(c) of the Act. As a result of its review, the Department found on July 5, 2000 that termination of the Agreement on uranium from Russia would likely lead to continuation or recurrence of dumping and notified the Commission of the magnitude of the margin likely to prevail were the Agreement terminated. *See Final Results* (65 FR 41439).

On August 9, 2000, the Commission determined, pursuant to section 751(c) of the Act, that termination of the Agreement on uranium from Russia would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. *See ITC Final Results* (65 FR 48734), and USITC Publication 3334 (August 2000), Investigation No. 731–TA–539–C, E and F (Review).

Scope

According to the June 3, 1992, preliminary determination, the suspended investigation of uranium from Russia encompassed one class or kind of merchandise.[1] The merchandise included natural uranium in the form of uranium ores and concentrates; natural uranium metal and natural uranium compounds; alloys, dispersions (including cermets), ceramic products, and mixtures containing natural uranium or natural uranium compound; uranium enriched in U^{235} and its compounds; alloys dispersions (including cermets), ceramic products and mixtures containing uranium enriched in U^{235} or compounds or uranium enriched in U^{235}; and any other forms of uranium within the same class or kind. The uranium subject to these investigations was provided for under subheadings 2612.10.00.00, 2844.10.10.00, 2844.10.20.10, 2844.10.20.25, 2844.10.20.50, 2844.10.20.55, 2844.10.50, 2844.20.00.10, 2844.20.00.20, 2844.20.00.30, and 2844.20.00.50 of the Harmonized Tariff Schedule of the United States (''HTSUS'').[2] In addition, the Department preliminarily determined that highly-enriched uranium (''HEU'') (uranium enriched to 20 percent or greater in the isotope uranium-235) is not within the scope of the investigation.

On October 30, 1992, the Department issued a suspension of the antidumping duty investigation of uranium from Russia and an amendment of the preliminary determination.[3] The notice amended the scope of the investigation to include HEU.[4] Imports of uranium ores and concentrates, natural uranium compounds, and all other forms of enriched uranium were classifiable under HTSUS subheadings 2612.10.00, 2844.10.20, 2844.20.00, respectively. Imports of natural uranium metal and forms of natural uranium other than compounds were classifiable under HTSUS subheadings 2844.10.10 and 2844.10.50.[5]

In addition, Section III of the Agreement provides that uranium ore from Russia that is milled into U_3O_8 and/or converted into UF_6 in another country prior to direct and/or indirect importation into the United States is considered uranium from Russia and is subject to the terms of the Agreement, regardless of any subsequent modification or blending.[6] Uranium enriched in U^{235} in another country prior to direct and/or indirect

[1] The Department based its analysis of the comments on class or kind submitted during the proceeding and determined that the product under investigation constitutes a single class or kind of merchandise. The Department based its analysis on the ''Diversified'' criteria (*see Diversified Products Corp.* v. *United States,* 6 CIT 1555 (1983); *see also Preliminary Determination of Sales at Less Than Fair Value: Uranium from Kazakhstan, Kyrgyzstan, Russia, Tajikistan, Ukraine and Uzbekistan; and Preliminary Determination of Sales at Not Less Than Fair Value: Uranium from Armenia, Azerbaijan, Byelarus, Georgia, Moldova and Turkmenistan,* 57 FR 23380, 23382 (June 3, 1992).

[2] *See Preliminary Determination of Sales at Less Than Fair Value: Uranium from Kazakhstan, Kyrgyzstan, Russia, Tajikistan, Ukraine and Uzbekistan; and Preliminary Determination of Sales at Not Less Than Fair Value: Uranium from Armenia, Azerbaijan, Byelarus, Georgia, Moldova and Turkmenistan,* 57 FR 23380, 23381 (June 3, 1992).

[3] *See Antidumping; Uranium from Kazakhstan, Kyrgyszstan, Russia, Tajikistan, Ukraine, and Uzbekistan; Suspension of Investigations and Amendment of Preliminary Determinations,* 57 FR 49220 (October 30, 1992).

[4] *Id.* at 49235.

[5] *Id.*

[6] *Id.* at 49235.

importation into the United States is not considered uranium from the Russian Federation and is not subject to the terms of the Agreement.

In addition, Section M.1 of the Agreement in no way prevents the Russian Federation from selling directly or indirectly any or all of the HEU in existence at the time of the signing of the agreement and/or LEU produced in Russia from HEU to the Department of Energy (''DOE''), its governmental successor, its contractors, or U.S. private parties acting in association with DOE or the USEC and in a manner not inconsistent with the Agreement between the United States of America and the Russian Federation concerning the disposition of HEU resulting from the dismantlement of nuclear weapons in Russia.

There were three amendments to the Agreement on Russian uranium. In particular, the second amendment to the Russian suspension agreement, on November 4, 1996, permitted, among other things, the sale in the United States of Russian low-enriched uranium (''LEU'') derived from HEU and included within the scope of the suspension agreement Russian uranium which has been enriched in a third country prior to importation into the United States. [7] According to the amendment, these modifications remained in effect until October 3, 1998. [8]

On August 6, 1999, USEC, Inc. and its subsidiary, United States Enrichment Corporation, requested that the Department issue a scope ruling to clarify that enriched uranium located in Kazakstan at the time of the dissolution of the Soviet Union is within the scope of the Russian suspension agreement. Respondent interested parties filed an opposition to the scope request on August 27, 1999. That scope request is pending before the Department at this time.

Determination:

As a result of the determinations by the Department and the Commission that termination of the Agreement on uranium from Russia would be likely to lead to continuation or recurrence of dumping and material injury to an industry in the United States, pursuant to section 751(d)(2) of the Act, the Department hereby orders the continuation of the Agreement on uranium from Russia. The Department will instruct the U.S. Customs Service to continue to collect antidumping duty deposits at the rates in effect at the time of entry for all imports of subject merchandise. The effective date of continuation of this Agreement will be the date of publication in the **Federal Register** of this Notice of Continuation. Pursuant to section 751(c)(2) and 751(c)(6) of the Act, the Department intends to initiate the next five-year review of this Agreement not later than August 2005.

Dated: August 16, 2000.

Troy H. Cribb,

Acting Assistant Secretary for Import Administration.

[FR Doc. 00–21394 Filed 8–21–00; 8:45 am]

BILLING CODE 3510–DS–P

[7] *See Amendments to the Agreement Suspending the Antidumping Investigation on Uranium from the Russian Federation,* 61 FR 56665 (November 4, 1996).

[8] *Id.* 61 FR at 56667.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–844–802; A–823–802]

Revocation of Antidumping Duty Order on Uranium From Ukraine and Termination of Suspended Antidumping Duty Investigation on Uranium From Uzbekistan

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

ACTION: Notice of revocation of antidumping duty order on uranium from Ukraine and termination of suspended antidumping duty investigation on uranium From Uzbekistan.

SUMMARY: On March 3, 2000, the Department of Commerce (''the Department''), pursuant to sections 751(c) and 752 of the Tariff Act of 1930, as amended (''the Act''), determined that revocation of the antidumping duty order on uranium from Ukraine would be likely to lead to continuation or recurrence of dumping. *See Uranium from Ukraine; Final Results of Expedited Sunset Review of Antidumping Duty Order* (''*Final Results: Ukraine*''), 65 FR 11552 (March 3, 2000). On July 5, 2000, the Department determined that termination of the suspended antidumping duty investigation on uranium from Uzbekistan would be likely to lead to continuation or recurrence of dumping. *See Uranium from Uzbekistan; Final Results of Full Sunset Review of Suspended Antidumping Duty Investigation* (''*Final Results: Uzbekistan*''), 65 FR 41441 (July 5, 2000).

On August 9, 2000, the International Trade Commission (''the Commission''), pursuant to section 751(c) of the Act, determined that revocation of the above antidumping duty order on uranium from Ukraine and termination of the suspended antidumping duty investigation on uranium from Uzbekistan would not be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. *See Uranium from Russia, Ukraine and Uzbekistan,* (''*ITC Final Results*''), 65 FR 48734 (August 9, 2000). Therefore, pursuant to 19 CFR 351.222(i)(1), the Department is publishing notice of the revocation of the antidumping duty order on uranium from Ukraine and the termination of the suspended antidumping duty investigation on uranium from Uzbekistan.

EFFECTIVE DATE: January 1, 2000.

FOR FURTHER INFORMATION CONTACT: Kathryn B. McCormick or James Maeder, Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave., NW, Washington, DC 20230; telephone: (202) 482–1930 or (202) 482–3330, respectively.

SUPPLEMENTARY INFORMATION:

Background

On August 2, 1999, the Department initiated, and the Commission instituted, sunset reviews (64 FR 41915) of the antidumping duty order on uranium from Ukraine and the agreement suspending the antidumping duty investigation on uranium from Uzbekistan. As a result of its reviews, the Department found that revocation of the antidumping duty order and termination of the suspended antidumping duty investigation would likely lead to continuation or recurrence of dumping, and notified the Commission of the magnitude of the margins were the order revoked and suspension agreement terminated.

On August 9, 2000, the Commission determined, pursuant to section 751(c) of the Act, that revocation of the antidumping duty order on uranium from Ukraine and the termination of the suspended antidumping duty investigation on uranium from Uzbekistan would not be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. *See ITC Final Results,* 65 FR 48734, and USITC Publication 3334 (August 2000), Investigation Nos. 731–TA–539–C, E and F (Review).

Scope of the Order and Suspension Agreement

Ukraine

The merchandise subject to this antidumping duty order includes Ukrainian natural uranium in the form of uranium ores and concentrates; natural uranium metal and natural uranium compounds; alloys, dispersions (including cermets), ceramic products, and mixtures containing natural uranium or natural uranium compounds; uranium enriched in U^{235} and its compounds; alloys, dispersions (including cermets), ceramic products and mixtures containing uranium enriched in U^{235} or compounds or uranium enriched in U^{235}. Low enriched uranium (''LEU'') is included within the scope of the order; highly enriched uranium (''HEU'') is not. LEU is uranium enriched in U^{235} to a level of up to 20 percent, while HEU is uranium enriched in U^{235} to a level of 20 percent or more. The uranium subject to this order is provided for under subheadings 2612.10.00.00, 2844.10.10.00, 2844.10.20.10, 2844.10.20.25, 2844.10.20.50, 2844.10.20.55, 2844.10.50.00, 2844.20.00.10, 2844.20.00.20, 2844.20.00.30, and 2844.20.00.50 of the Harmonized Tariff Schedule of the United States (''HTSUS'').[1] Although the above HTSUS subheadings are provided for convenience and customs purposes, the written description remains dispositive.

The Department clarified, in the scope of the order, that: ''milling'' or ''conversion'' performed in a third country does not change the country of origin for the purposes of this order. Milling consists of processing uranium ore into uranium concentrate. Conversion consists of transforming uranium concentrate into natural uranium hexafluoride (UF_6). Since milling or conversion does not change the country of origin, uranium ore or concentrate of Ukrainian origin that is subsequently milled and/or converted in a third country will still be considered of Ukrainian origin and subject to antidumping duties (58 FR 45483, August 30, 1993).

Uzbekistan

According to the June 3, 1992, preliminary determination, the suspended investigation included natural uranium in the form of uranium ores and concentrates; natural uranium metal and natural uranium compounds; alloys, dispersions (including cermets), ceramic products, and mixtures containing natural uranium or natural uranium compound; uranium enriched in U^{235} and its compounds; alloys dispersions (including cermets), ceramic products and mixtures containing uranium enriched in U^{235} or compounds or uranium enriched in U^{235}; and any other forms of uranium within the same class or kind (57 FR 23381, 23382 (June 3, 1992)). The uranium subject to these investigations was provided for under HTSUS subheadings 2612.10.00.00, 2844.10.10.00, 2844.10.20.10, 2844.10.20.25, 2844.10.20.50, 2844.10.20.55, 2844.10.50, 2844.20.00.10, 2844.20.00.20, 2844.20.00.30, and 2844.20.00.50. *Id.* In addition, the Department preliminarily determined that HEU was not covered within the scope of the investigation, and that the subject merchandise constituted a single class or kind of merchandise.

On October 30, 1992, the Department issued a suspension of the antidumping duty investigation of uranium from Uzbekistan and an amendment of the preliminary determination.[2] The notice amended the scope of the investigation to include HEU.[3] The suspension agreement provided that uranium ore from Uzbekistan that is milled into U_3O_8 and/or converted into UF_6 in another country prior to direct and/or indirect importation into the United States is considered uranium from Uzbekistan and is subject to the terms of the Agreement.[4] Further, uranium enriched in U^{235} in another country prior to direct and/or indirect importation into the United States was not considered uranium from Uzbekistan and was not subject to the terms of the suspension agreement.[5] In this suspension agreement, imports of uranium ores and concentrates, natural uranium compounds, and all forms of enriched uranium are classifiable under HTSUS subheadings 2612.10.00, 2844.10.20, 2844.20.00, respectively. Imports of natural uranium metal and forms of natural uranium other than compounds were classifiable under HTSUS subheadings 2844.10.10 and 2844.44.10.50.

On October 13, 1995, the Department issued an amendment to the suspension agreement on uranium from Uzbekistan. Among other things, this amendment modified the agreement to include Uzbek uranium enriched in a third country prior to importation into the United States.

Determination

As a result of the determinations by the Commission that revocation of the antidumping duty order on uranium from Ukraine and the termination of the suspended antidumping duty investigation on uranium from Uzbekistan would not be likely to lead to continuation or recurrence of dumping and material injury to an industry in the United States, pursuant to section 751(d)(2) of the Act, the Department hereby orders the revocation of the antidumping duty order on uranium from Ukraine and the termination of the suspended antidumping duty investigation on uranium from Uzbekistan. The Department will instruct the Customs Service to discontinue suspension of liquidation and collection of cash deposits on entries of subject merchandise entered or withdrawn from warehouse on or after January 1, 2000 (the effective date). The Department will complete any pending administrative reviews of this order and suspension agreement and will conduct administrative reviews of subject merchandise entered prior to the effective date of revocation and termination, respectively, in response to appropriately filed requests for review.

Dated: August 16, 2000.

Troy H. Cribb,

Acting Assistant Secretary for Import Administration.

[FR Doc. 00–21395 Filed 8–21–00; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–489–502]

Continuation of Countervailing Duty Order: Welded Carbon Steel Pipes and Tubes From Turkey

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

ACTION: Notice of continuation of countervailing duty order: welded carbon steel pipes and tubes from Turkey.

SUMMARY: On April 3, 2000, the Department of Commerce (''the

[1] *See Preliminary Determination of Sales at Less Than Fair Value: Uranium from Kazakhstan, Kyrgyzstan, Russia, Tajikistan, Ukraine and Uzbekistan; and Preliminary Determination of Sales at Not Less Than Fair Value: Uranium from Armenia, Azerbaijan, Byelarus, Georgia, Moldova and Turkmenistan,* 57 FR 23380, 23381 (June 3, 1992).

[2] *See Antidumping; Uranium from Kazakhstan, Kyrgyszstan, Russia, Tajikistan, Ukraine, and Uzbekistan; Suspension of Investigations and Amendment of Preliminary Determinations,* 57 FR 49220 (October 30, 1992).

[3] *Id.* at 49221.

[4] *Id.* at 49255.

[5] *Id.*

Department''), pursuant to sections 751(c) and 752 of the Tariff Act of 1930, as amended (''the Act''), determined that revocation of the countervailing duty order on welded carbon steel pipes and tubes from Turkey, is likely to lead to continuation or recurrence of a countervailable subsidy. *See Welded Carbon Steel Pipes and Tubes from Turkey; Final Results of Full Sunset Review* (*''Final Results''*), 65 FR 17486 (April 3, 2000). On August 9, 2000, the International Trade Commission (''the Commission''), pursuant to section 751(c) of the Act, determined that revocation of the countervailing duty order on welded carbon steel pipes and tubes from Turkey would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. *See Certain Pipe and Tube from Argentina, Brazil, Canada, India, Korea, Mexico, Singapore, Taiwan, Thailand, Turkey, and Venezuela* (*''ITC Final Results''*), 65 FR 48733 (August 9, 2000). Therefore, pursuant to 19 CFR 351.218(f)(4), the Department is publishing notice of the continuation of the countervailing duty order on welded carbon steel pipes and tubes from Turkey.

EFFECTIVE DATE: August 22, 2000.

FOR FURTHER INFORMATION CONTACT: Kathryn B. McCormick or James P. Maeder, Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave., NW., Washington, DC 20230; telephone: (202) 482–1930 or (202) 482–3330, respectively.

SUPPLEMENTARY INFORMATION:

Background

On May 1, 1999, and May 3, 1999, respectively, the Department initiated, and the Commission instituted, sunset reviews (64 FR 23596 and 64 FR 23679, respectively) of the countervailing duty order on welded carbon steel pipes and tubes from Turkey, pursuant to section 751(c) of the Act. As a result of its review, the Department found on April 3, 2000, that revocation of the countervailing duty order on welded carbon steel pipes and tubes from Turkey would likely lead to continuation or recurrence of a countervailable subsidy and notified the Commission of the net countervailable subsidy likely to prevail were the order revoked. *See Final Results,* (65 FR 17486).

On August 9, 2000, the Commission determined, pursuant to section 751(c) of the Act, that revocation of the countervailiing duty order on welded carbon steel pipes and tubes from Turkey would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. *See ITC Final Results,* (65 FR 48733) and USITC Publication 3316 (July 2000), Investigation Nos. 701–TA–253 and 731–TA–273 (Reviews).

Scope

This order covers shipments of Turkish welded carbon steel pipes and tubes, having an outside diameter of 0.375 inch or more, but not more than 16 inches, of any wall thickness. These products, commonly referred to in the industry as standard pipe and tube or structural tubing, are produced in accordance with various American Society Testing and Materials (''ASTM'') specifications, most notably A–53, A–120, A–500, or A–501. The subject merchandise was originally classifiable under item number 416.30 of the Tariff Schedules of the United States Annotated (''TSUSA''); currently, they are classifiable under item numbers 7306.30.10 and 7306.30.50 of the Harmonized Tariff Schedule of the United States (''HTSUS''). Although the TSUSA and HTSUS item numbers are provided for convenience and customs purposes, the written description remains dispositive.

Determination

As a result of the determinations by the Department and the Commission that revocation of the countervailing duty order would be likely to lead to continuation or recurrence of a countervailable subsidy and material injury to an industry in the United States, pursuant to section 751(d)(2) of the Act, the Department hereby orders the continuation of the countervailing duty order on welded carbon steel pipes and tubes from Turkey. The Department will instruct the U.S. Customs Service to continue to collect countervailing duty deposits at the rates in effect at the time of entry for all imports of subject merchandise. The effective date of continuation of this order will be the date of publication in the **Federal Register** of this Notice of Continuation. Pursuant to section 751(c)(2) and 751(c)(6) of the Act, the Department intends to initiate the next five-year review of this order not later than August 2005.

Dated: August 16, 2000.

Troy H. Cribb,

Acting Assistant Secretary for Import Administration.

[FR Doc. 00–21393 Filed 8–21–00; 8:45 am]

BILLING CODE 3510–DS–P

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: Notice of partially closed meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, 5 U.S.C. app. 2, notice is hereby given that the Visiting Committee on Advanced Technology, National Institute of Standards and Technology (NIST), will meet Wednesday, September 13, 2000 from 8:15 a.m. to 5:30 p.m. and Thursday, September 14, 2000 from 8:00 a.m. to 12:15 p.m. The Visiting Committee on Advanced Technology is composed of fourteen members appointed by the Director of NIST; who are eminent in such fields as business, research, new product development, engineering, labor, education, management consulting, environment, and international relations. The purpose of this meeting is to review and make recommendations regarding general policy for the Institute, its organization, its budget, and its programs within the framework of applicable national policies as set forth by the President and the Congress. The agenda will include an update on NIST programs; an in-depth review of the Chemical Science and Technology Laboratory; an in-depth review of the Manufacturing Extension Partnership Program; a Report from the Chair of the Board on Assessment, an in-depth review of Technology Services; and a laboratory tour. Discussions scheduled to begin at 4:30 p.m. and to end at 5:30 p.m. on September 13, 2000 and to begin at 8:00 a.m. and to end at 12:15 p.m. on September 14, 2000, on staffing of management positions at NIST, the NIST budget, including funding levels of the Advanced Technology Program and the Manufacturing Extension Partnership, and feedback sessions will be closed.

DATES: The meeting will convene September 13, 2000 at 8:15 a.m. and will adjourn at 12:15 p.m. on September 14, 2000.

ADDRESSES: The meeting will be held in the Radio Building, Room 1107 (seating capacity 60, includes 35 participants), National Institute of Standards and Technology, Boulder, Colorado.

FOR FURTHER INFORMATION CONTACT: Janet R. Russell, Administrative Coordinator, Visiting Committee on

Advanced Technology, National Institute of Standards and Technology, Gaithersburg, MD 20899–1004, telephone number (301) 975–2107.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Administration, with the concurrence of the General Counsel, formally determined on July 12, 2000, that portions of the meeting of the Visiting Committee on Advanced Technology which involve discussion of proposed funding of the Advanced Technology Program and the Manufacturing Extension Partnership Program may be closed in accordance with 5 U.S.C. 552b(c)(9)(B), because those portions of the meetings will divulge matters the premature disclosure of which would be likely to significantly frustrate implementation of proposed agency actions; and that portions of meetings which involve discussion of the staffing issues of management and other positions at NIST may be closed in accordance with 5 U.S.C. 552b(c)(6), because divulging information discussed in those portions of the meetings is likely to reveal information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Dated: August 14, 2000.

Karen H. Brown,

Deputy Director.

[FR Doc. 00–21336 Filed 8–21–00; 8:45 am]

BILLING CODE 3510–13–M

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Announcement of a Meeting To Discuss an Opportunity To Join a Cooperative Research and Development Consortium on Service Life Prediction of Sealant Formulations Consortia

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Notice of public meeting.

SUMMARY: The National Institute of Standards and Technology (NIST) invites interested parties to attend a meeting on September 24, 2000 and September 25, 2000 on Service Life Prediction of Sealant Formulations. The goal of the consortium is to demonstrate the effectiveness of a reliability based approach to the prediction of service life for a sealant formulations.

DATES: The meeting will take place on September 24, 2000 from 9:00 a.m. until 5:00 p.m., and on September 25, 2000 from 9:00 a.m. until 12:00 p.m. Interested parties should contact NIST to confirm their interest at the address, telephone number or FAX number shown below.

ADDRESSES: The meeting will take place in Lecture Room B of the Administration Building (Building 101), National Institute of Standards and Technology, Gaithersburg, MD 20899–0001.

FOR FURTHER INFORMATION CONTACT: Dr. Christopher C. White, Building and Fire Research Building (226), Room B350, 100 Bureau Drive, Stop 8621, National Institute of Standards and Technology, Gaithersburg, MD 20899–8621. Telephone: 301–975–6010; FAX: 301–990–6891; e-mail: Christopher.white@nist.gov.

SUPPLEMENTARY INFORMATION: Any program undertaken will be within the scope and confines of The Federal Technology Transfer Act of 1986 (Public Law 99–502, 15 U.S.C. 3710a), which provides federal laboratories including NIST, with the authority to enter into cooperative research agreements with qualified parties. Under this law, NIST may contribute personnel, equipment, and facilities but no funds to the cooperative research program. This is not a grant program.

The R&D staff of each industrial partner in the Consortium will be able to interact with NIST researchers regarding current experimental methods to determine the service life of sealant formulations. The current state-of-the-art for service life predictions employ outdoor exposure as the only reliable test method. This leads to a choice by the manufacturers of new sealant formulations: Conduct these tests and incur long product introduction times, or omit these tests and incur increased risk of liability exposure. There is little confidence in the relationship between accelerated exposure and service life.

This conference will focus on the implementation of a reliability based protocol to establish confidence in accelerated determination of the service life of sealant formulations. Additionally, the issues of proper installation, joint construction and proper materials selection will be discussed as they relate to durability of in-service sealants.

Dated: August 14, 2000.

Karen H. Brown,

Deputy Director.

[FR Doc. 00–21335 Filed 8–21–00; 8:45 am]

BILLING CODE 3510–13–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 081400E]

Pacific Fishery Management Council; Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The Pacific Fishery Management Council (Council) and its advisory entities will hold public meetings.

DATES: The Council and its advisory entities will meet September 11–15, 2000. The Council meeting will begin on Tuesday, September 12, at 9 a.m., reconvening each day through Friday. All meetings are open to the public, except a closed session will be held from 8 a.m. until 9 a.m. on Tuesday, September 12 to address litigation and personnel matters. The Council will meet as late as necessary each day to complete its scheduled business.

ADDRESSES: The meetings and hearing will be held at the Red Lion Hotel Sacramento, 1401 Arden Way, Sacramento, CA 95815; telephone: (916) 922–8041.

Council address: Pacific Fishery Management Council, 2130 SW Fifth Avenue, Suite 224, Portland, OR 97201.

FOR FURTHER INFORMATION CONTACT: Dr. Donald O. McIsaac, Executive Director; telephone: (503) 326–6352.

SUPPLEMENTARY INFORMATION: The following items are on the Council agenda, but not necessarily in this order:

A. Call to Order

1. Opening Remarks, Introductions
2. Council Member Appointments
3. Roll Call
4. Executive Director's Report
5. Status of Federal Regulation Implementation
6. Approve Agenda
7. Approve April and June 2000 Minutes

B. Marine Reserves

1. Marine Reserves Phase I Considerations Report
2. Marine Reserves Phase II Considerations
3. Marine Reserve Implementation

C. Habitat Issues

1. Endangered Species Act and Essential Fish Habitat Requirements in Regard to Klamath River Flows

2. Report of the Habitat Steering Group (HSG)

D. Pacific Halibut Management

1. Status of 2000 Fisheries
2. Status of Bycatch Estimate
3. Proposed Changes to the Catch Sharing Plan and Annual Regulations

E. Salmon Management

1. Sequence of Events and Status of Fisheries
2. Preliminary Report of the Oregon Coastal Natural Coho Work Group
3. Scientific and Statistical Committee Methodology Review Priorities

F. Administrative and Other Matters

1. Research and Data Needs
2. Status of Legislation
3. Proposed Change in Terms for Council Advisory Body Members
4. Appointments to Advisory Groups (Coastal Pelagic Species, Highly Migratory Species, and Salmon Technical Team)
5. Report of the Budget Committee
6. Council Workload Priorities
7. Draft Agenda for November 2000

G. Groundfish Management

1. Status of Federal Groundfish Activities
2. Groundfish Strategic Plan
3. Exempted Fishing Permit Applications
4. Rebuilding Programs for Canary Rockfish and Cowcod
5. New Stock Assessments for Lingcod and Pacific Ocean Perch
6. Preliminary Harvest Levels and Other Specifications for 2001
7. Sablefish Permit Stacking Concept
8. Permit Transfer Regulations
9. Stocks to be Assessed in 2001 and Agency Commitments
10. Proposed Management Measures for 2001
11. Status of Fisheries and Inseason Adjustments

H. Highly Migratory Species Management

Update on Fishery Management Plan (FMP) Development

I. Coastal Pelagic Species Management

Coastal Pelagic Species FMP Amendment 9: Bycatch, Squid Maximum Sustainable Yield, Tribal Fishing Rights

SCHEDULE OF MEETINGS

SUNDAY, SEPTEMBER 10, 2000		
Groundfish Management Team	1 p.m.	Shasta Room
Groundfish Advisory Subpanel	1 p.m.	Sierra A Room
MONDAY, SEPTEMBER 11, 2000		
Council Secretariat	7 a.m.	California Room
Groundfish Management Team	8 a.m.	Shasta Room
Scientific and Statistical Committee	8 a.m.	Sierra B Room
Groundfish Advisory Subpanel	8 a.m.	Sierra A Room
Habitat Steering Group	9 a.m.	Oroville Room
Highly Migratory Species Advisory Subpanel	1 p.m.	Klamath Room
Budget Committee	2 p.m.	Almanor Room
Briefing on Stock Assessments	2:30 p.m.	Sierra A Room
TUESDAY, SEPTEMBER 12, 2000		
Council Secretariat	7 a.m.	California Room
California State Delegation	7 a.m.	Almanor Room
Oregon State Delegation	7 a.m.	Sierra A Room
Washington State Delegation	7 a.m.	Sierra B Room
Groundfish Advisory Subpanel	8 a.m.	Sierra A Room
Scientific and Statistical Committee	8 a.m.	Sierra B Room
Highly Migratory Species Advisory Subpanel	8 a.m.	Klamath Room
Enforcement Consultants	5:30 p.m.	Almanor Room
Groundfish Management Team	As Needed	Shasta Room
WEDNESDAY, SEPTEMBER 13, 2000		
Council Secretariat	7 a.m.	California Room
California State Delegation	7 a.m.	Almanor Room
Oregon State Delegation	7 a.m.	Sierra A Room
Washington State Delegation	7 a.m.	Sierra B Room
Groundfish Advisory Subpanel	8 a.m.	Sierra A Room
Salmon Technical Team, Scientific and Statistical Committee—Joint Workshop	8 a.m.	Sierra B Room
Enforcement Consultants	As Needed	Almanor Room
Groundfish Management Team	As Needed	Shasta Room
THURSDAY, SEPTEMBER 14, 2000		
Council Secretariat	7 a.m.	California Room
California State Delegation	7 a.m.	Almanor Room
Oregon State Delegation	7 a.m.	Sierra A Room
Washington State Delegation	7 a.m.	Sierra B Room
Coastal Pelagic Species Advisory Subpanel	1 p.m.	Sierra B Room
Enforcement Consultants	As Needed necessary	Almanor Room
Groundfish Advisory Subpanel	As Needed Necessary	Sierra A Room
Groundfish Management Team	As Needed Necessary	Shasta Room
FRIDAY, SEPTEMBER 15, 2000		
Council Secretariat	7 a.m.	California Room
California State Delegation	7 a.m.	Almanor Room
Oregon State Delegation	7 a.m.	Sierra A Room

SCHEDULE OF MEETINGS—Continued

Washington State Delegation	7 a.m.	Sierra B Room

Although non-emergency issues not contained in this agenda may come before this Council for discussion, those issues may not be the subject of formal Council action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Ms. Carolyn Porter at (503) 326–6352 at least 5 days prior to the meeting date.

Dated: August 16, 2000.

Richard W. Surdi,

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

[FR Doc. 00–21370 Filed 8–21–00; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

[Docket Number 980212036–0235–06]

RIN 0660–AA11

Management and Administration of the .us Domain Space

AGENCY: National Telecommunications and Information Administration, U.S. Department of Commerce.

ACTION: Notice, Request for Public Comment.

SUMMARY: The National Telecommunications and Information Administration (''NTIA''), Department of Commerce, requests comments on a draft statement of work and draft methods and procedure section (the ''Draft SOW''), which is expected to be incorporated in a request for proposals [1] for management and administration of the .us domain space. The Draft SOW is set forth in Appendix A of this document. The public is invited to comment on any aspect of the Draft SOW including, but not limited to, the specific questions set forth below. NTIA expects to revise the Draft SOW based on public comments received. Further, NTIA may solicit additional comments for this or other elements of its request for proposals, proceed with alternative procurement mechanisms, or choose to take other actions necessary to secure appropriate management and administration of the .us domain space.

DATES: Interested parties are invited to submit comments on the Draft SOW no later than October 6, 2000.

SUBMISSION OF DOCUMENTS: The Department invites the public to submit comments in paper or electronic form. Comments may be mailed to Karen A. Rose, Department of Commerce, National Telecommunications and Information Administration, Room 4701 HCHB, 1401 Constitution Avenue, NW., Washington, DC 20230. Paper submissions should include a diskette in ASCII, WordPerfect (please specify version) or Microsoft Word (please specify version) format. Diskettes should be labeled with the name and organizational affiliation of the filer, and the name and version of the word processing program used to create the document. In the alternative, comments may be submitted electronically to the following electronic mail address <usdomain@ntia.doc.gov>. Comments submitted via electronic mail should also be submitted in one or more of the formats specified above.

FOR FURTHER INFORMATION CONTACT: Karen A. Rose, Office of International Affairs, NTIA, telephone: 202–482–1866, electronic mail: <krose@ntia.doc.gov>; or Jeffrey E.M. Joyner, Esq., Office of Chief Counsel, NTIA, telephone: 202–482–1816, or electronic mail: <jjoyner@ntia.doc.gov>.

Authority: 15 U.S.C. 1512; 47 U.S.C. 902(b)(2)(H); 47 U.S.C. 902(b)(2)(I); 47 U.S.C. 902(b)(2)(M); 47 U.S.C. 904(c)(1).

SUPPLEMENTARY INFORMATION: The .us domain is the country code top level domain (''ccTLD'') of the Internet domain name system (''DNS'') that corresponds to the United States. Network Solutions, Inc., is responsible for the administration of the .us top level domain (''usTLD'') under its Cooperative Agreement with the Department of Commerce. Network Solutions has subcontracted administration of the usTLD to the Information Sciences Institute of the University of Southern California (''USC/ISI'' or the ''usTLD Administrator''). Dr. Jon Postel established the original structure and administrative mechanisms of the usTLD in RFC 1480, entitled The US Domain. Currently, second-level domain space is designated for states and U.S. territories, and the usTLD space is further subdivided into localities. Individuals and organizations may request an exclusive delegation from the usTLD Administrator to provide a registry and registrar services for a particular locality or localities. Local governments and community-based organizations typically use the usTLD, although some commercial names have been assigned. (Current usTLD policy requires prospective subdomain managers to submit written authorization from the relevant local public authority for the delegation.) Where registration for a locality has not been delegated, the usTLD Administrator itself provides necessary registry and registrar services. The usTLD is a widely distributed registry, currently with over 8000 subdomain delegations to over 800 individuals and entities, who maintain a registry and provide registration services for commercial, educational, and governmental entities. This distributed registration model affords scalable registration services and opportunities for commercial entities to provide name registration services. Nevertheless, because of the relative lack of public awareness about the availability of usTLD domain names and its deeply hierarchical and somewhat cumbersome structure, the usTLD has not attracted a high level of domain name registration activity and remains under-populated in comparison with other ccTLDs. It has been suggested for some time that the general absence of non-locality based registration space in the usTLD has contributed to overcrowding in the generic .com, .net, and .org top level domains (''gTLDs'').

[1] The request for proposal, if issued, will be consistent with all pertinent U.S. Government procurement regulations, and will be posted in the Commerce Business Daily and on the National Telecommunications and Information Administration's homepage at <www.ntia.doc.gov>.

On July 1, 1997, as part of the ''Framework for Global Electronic Commerce,'' President Clinton directed the Secretary of Commerce to privatize management of certain technical aspects of the DNS in a manner that increases competition and facilitates international participation in DNS management.[2] In response to this directive, the Department of Commerce, through NTIA, published a request for comment on a ''green paper'' entitled ''Improvement of Technical Management of Internet Names and Addresses.''[3] NTIA subsequently issued a statement of policy entitled ''Management of Internet Names and Addresses'' setting forth the Administration's policy regarding privatization of certain technical aspects of the domain name system.[4] As part of both the proposal and the final statement of policy, the Department noted its commitment to further explore and seek public input, through a separate request for comment, about the evolution of the usTLD space.

On August 4, 1998, NTIA solicited comments addressing the future expansion and administration of the usTLD space.[5] On March 9, 1999, NTIA hosted a public meeting regarding the future management and administration of the .us domain with approximately 60 participants, including the current usTLD Administrator, current .us registrars, educators, representatives of the technical, public interest and business communities, and federal, state and foreign government officials.[6] NTIA also established an open electronic mailing list to facilitate further public discussions of the issues.[7]

In an effort to develop a more concrete framework for the procurement of usTLD administration services, NTIA has now prepared this Draft SOW for public comment, which may be incorporated in a request for proposal (''RFP'') for management and administration of the usTLD. The public is invited to comment on any aspect of the Draft SOW.

Questions for the Draft SOW

The public is invited to comment on any aspect of the Draft SOW including, but not limited to, the specific questions set forth below. When responding to specific questions, responses should cite the number(s) of the questions addressed, and the ''section'' of the Draft SOW to which the question(s) correspond. Please provide any references to support the responses submitted.

Section I.A

Question 1

Regardless of the naming structure or registration policies of the usTLD, several core registry functions need to be provided by the successful offeror responding to an RFP to administer the usTLD (''Awardee''). Does the list in Section I.A of the Draft SOW accurately reflect the full range of core registry functions? Should other/additional core functions be included?

Section I.B

Question 2

Are any particular technical specifications, software, or methods and procedures necessary to complete the tasks outlined? Are there other tasks that should be required as part of this section?

Section I.C

Question 3

While usTLD registration policies may change or be adjusted over time, the Draft SOW contemplates that the current usTLD locality-based structure will continue to be supported. What mechanisms should Awardee employ to provide outreach to and coordination among the current usTLD community? Is information dissemination through a website (as required in Section I.A. of the Draft SOW) sufficient?

Question 4

Are there any drawbacks or disadvantages to continuing the support for the current .us structure? If support for the existing usTLD structure, or portions of it, should be discontinued, please describe how any transition should take place.

Question 5

Regarding the requirement to investigate and report on possible structural, procedural, and policy improvements to the current usTLD structure, are there specific procedures or policy improvements that should be implemented by Awardee prior to completion of this study? Are there issues that need to be specifically addressed in the required study, such as ''locality-squatting,'' the role of state and local governments, or appropriate cost recovery mechanisms?

Question 6

In the SOW, the Department of Commerce contemplates directing the usTLD Administrator to suspend additional locality delegations and to provide registration services directly for all undelegated subdomains. The Draft SOW contemplates that this arrangement would continue until the required study is completed. This ''status quo'' period is intended to provide a stable environment in which to conduct the study. Is such delegation suspension during this time necessary? Is the requirement to provide direct registration services in the undelegated subdomains enough to ensure the continued availability of the usTLD during this period? Should delegation transfers also be suspended?

Question 7

Currently, the usTLD Administrator does not charge fees for its services. We contemplate that the Awardee would administer the existing locality-based usTLD structure under this same policy, pending completion of the study and the approval of any recommended cost recovery mechanism. Should the

[2] See ''A Framework for Global Electronic Commerce'' (July 1, 1997) (available at <http://www.ecommerce.gov/framewrk.htm>).

[3] See ''Improvement of Technical Management of Internet Names and Addresses,'' Proposed Rule and Request for Public Comment, National Telecommunications and Information Administration, Department of Commerce, 63 FR 8825 (Feb. 20, 1998) (available at <http://www.ntia.doc.gov/ntiahome/domainname/domainname130.htm>).

[4] See ''Management of Internet Names and Addresses,'' Statement of Policy, National Telecommunications and Information Administration, Department of Commerce, 63 FR 31741 (June 10, 1998) (available at <http://www.ntia.doc.gov/ntiahome/domainname/domainhome.htm>). The Department of Commerce entered into a memorandum of understanding with the Internet Corporation for Assigned Names and Numbers (ICANN) on November 25, 1998, in which the parties agreed to collaborate on a transition mechanism to privatize technical management of the domain name system.

[5] See ''Enhancement of the .us Domain Space,'' Notice, Request for Comments, National Telecommunications and Information Administration, Department of Commerce, 63 FR 41547 (Aug. 4, 1998) (available at <http://www.ntia.doc.gov/ntiahome/domainname/usrfc/dotusrfc.htm>). The comment period was extended to October 5, 1998, to afford interested parties a full opportunity to address the issues raised in the request. See also ''Extension of Comment Period,'' National Telecommunications and Information Administration, Department of Commerce, 63 FR 45800 (Aug. 24, 1998) (available at <http://www.ntia.doc.gov/ntiahome/domainname/usrfc/dotusext.htm>).

[6] See ''Enhancement of the .us Domain Space, Notification of Public Meeting,'' Notice, National Telecommunications and Information Administration, Department of Commerce, 64 FR 6633 (Feb. 10, 1999). The agenda for that meeting is available at <http://www.ntia.doc.gov//ntiahome/domainname/dotusagenda.htm>.

[7] See ''Enhancement of the .us Domain Space, Notification of Open Electronic Mailing List for Public Discussions Regarding the Future Management and Administration of the .us Domain Space,'' Notice, National Telecommunications and Information Administration, Department of Commerce, 64 FR 26365 (May 14, 1999) (available at <http://www.ntia.doc.gov/ntiahome/domainname/usrfc/dotuslistfedreg51099.htm>).

Awardee be allowed to establish a cost recovery mechanism for the existing usTLD space upon award? If so, on what basis should such fees be determined and how should such fees be phased in?

Section I.D

Question 8

Commenters have suggested that an expanded usTLD structure that allows direct registrations under the usTLD as well as under specified second level domains would be most attractive for prospective registrants. In this Draft SOW we provide a great deal of latitude to consider and propose expansion of the usTLD structure. Should the final SOW impose more specific requirements in this area? Should certain second-level domains in the usTLD be required or specified? If so, which ones and how should they be selected? Should a second level domain for the registration of domain names for personal, non-commercial use be created? Are there disadvantages to allowing second level domain registrations directly under .us? Would a system that both establishes specific second level domains and allows direct registration under .us be feasible or would a mixed approach cause confusion for users?

Question 9

The Draft SOW contemplates that the Awardee will follow ICANN adopted policies relating to open ccTLDs, unless otherwise directed by the Department of Commerce. NTIA believes that this will allow straightforward administration of the expanded usTLD, with little additional policy development required. To the extent that additional substantive policy is required, NTIA contemplates that it would work cooperatively with the Awardee to develop such policy. What are the advantages and disadvantages to such an approach? Should other approaches be considered? Please describe alternate approaches, and discuss their advantages and disadvantages.

Question 10

Under current usTLD policy, registrations in the usTLD must be hosted on computers in the United States (RFC 1480 Section 1.3). Should this requirement apply to the expanded usTLD structure? Should registrations in the usTLD be further restricted to individuals or entities ''located in'' or ''with a connection to'' the United States? If so, what are appropriate criteria for determining eligibility: valid street address in the United States; citizenship or residency in the United States; incorporation and/or establishment in the United States? How would such criteria be established and enforced? How would such requirements affect administration of the usTLD?

Question 11

The Draft SOW contemplates that registrations in the expanded usTLD would be performed by competitive registrars through a shared registration system. (Awardee will not be permitted to serve as a usTLD registrar, except with respect to registrations in the existing, locality-based usTLD space until the required study has been completed.) Under this system, who should be eligible to serve as usTLD registrars? ICANN has established accreditation procedures for registrars in the .com, .net and .org top level domains. Should all individuals and entities accredited by ICANN be eligible to register in the usTLD? If not, why not? What alternative process, procedures, criteria, or additional requirements should be used?

Question 12

What type of contractual arrangement and provisions should be required of usTLD registrars? Should usTLD registrars enter into an agreement similar to ICANN's Registrar Accreditation Agreement (see <http://www.icann.org/nsi/icann-raa-04nov99.htm>). How would the ICANN agreement need to be modified to fit the usTLD context? Is this a feasible approach? Are there any provisions of the ICANN agreement that should not be included in a usTLD accreditation agreement? If so, which provisions should not be included and why? Are there any provisions that should be added, and if so, why?

Question 13

Should the interface between Awardee's usTLD registry and the usTLD registrars be specified in the final SOW? If so, should the interface follow the specifications set forth in RFC 2832 (see <http://www.ietf.org/rfc/rfc2832.text?number=2832>), or should other/additional technical and/or functional specifications be used? What, if any, quality of service requirements should Awardee be expected to meet? If other/additional specifications should be used, what should these specifications be?

Question 14

It is likely that Awardee will want to license usTLD registrars to use its registry access software. Is Network Solutions' Registrar License Agreement (see http://www.icann.org/nsi/nsi-rla-28sept99.htm) a good model for such a license? If not, why not? What provisions of the NSI agreement should be deleted? What provisions should be added?

Section II

Question 15

On February 23, 2000, ICANN's Governmental Advisory Committee (''GAC'') adopted ''Principles for the Delegation and Administration of Country Code Top Level Domains'' (see <http://www.icann.org/gac/gac-cctldprinciples-23feb00.htm>). The document sets forth basic principles for the administration and management of ccTLDs, as well as a framework for the relationships among the relevant local governments in the context of a ccTLD, the ccTLD administrator, and ICANN. The Department of Commerce has endorsed and intends to implement the GAC Principles. Are there any provisions of the GAC Principles that should not be included in an agreement between Department of Commerce and the Awardee, or between the Awardee and ICANN? If so, which provisions should not be included and why? Are there any provisions that should be added, and if so, why?

Kathy D. Smith,

Chief Counsel.

Appendix A

I. Statement of Work

Considerable latitude exists for the submission of creative proposals responsive to this solicitation; however, each proposal must address lists of minimum services that are outlined below. These lists should not be viewed as exhaustive; as such, offerors are encouraged to suggest other services that they consider important to the efficient administration and management of the usTLD. The provision of services below may be accomplished through coordinating resources and services provided by others, but joint proposals should clearly indicate how the requirements of the Statement of Work will be fulfilled.

Proposals should describe the systems, software, hardware, facilities, infrastructure, and operation, for the following functions:

A. Core Registry Functions

- Operation and maintenance of the primary, authoritative server for the usTLD;
- Operation and/or administration of a constellation of secondary servers for the usTLD;
- Compilation, generation, and propagation of the usTLD zone file(s);
- Maintenance of an accurate and up-to-date registration (Whois) database for usTLD registrations;
- Maintenance of an accurate and up-to-date database of usTLD sub-delegation managers; and

• Promotion of and registration in the usTLD, including maintenance of a website with up-to-date policy and registration information for the usTLD domain.

B. Technical Enhancements to the Existing, Locality-Based usTLD

A number of technical enhancements to the usTLD system functions are required to make the system more robust and reliable. Because the usTLD has operated for the most part on a delegated basis for a number of years, the availability of centralized contact information for the usTLD has proven difficult to maintain. For example, the current usTLD Administrator advises but does not require that the administrator of a delegated subdomain operate a database of accurate and up-to-date registration information (''Whois'') service.

There is considerable latitude for suggesting enhancements to the existing, locality-based usTLD system, however, the following tasks must be incorporated into each proposal. Proposals should describe the systems, software, hardware, facilities, infrastructure, and operation, for completing the tasks as well as proposed methods for the collecting registration and delegation information:

• Development of a single database for up-to-date and verified contact information for all delegations made in the usTLD to locality-level and second level (where delegated) administrators, and for all sub-delegations made by such locality-level and second level administrators. Such databases should allow for multiple string and field searching through a free, public, web-based interface, and consist of at least the following elements:

The name of the delegation;

The IP address of the primary nameserver and secondary nameserver(s) for the delegation;

The corresponding names of those nameservers;

The date of delegation;

The name and postal address of the delegated manager;

The name, postal address, e-mail address, voice telephone number, and (where available) fax number of the technical contact for the delegated manager; and

The name, postal address, e-mail address, voice telephone number, and (where available) fax number of the administrative contact for the delegated manager.

• Development of an enhanced searchable Whois database that contains, or provides access to, all domain name registrations at the delegated and sub-delegated levels. Such Whois database should allow for multiple string and field searching through a free, public, web-based interface, and consist of at least the following elements:

—The name of the domain registered;
—The IP address of the primary nameserver and secondary nameserver(s) for the registered domain name;
—The corresponding names of those nameservers;
—The identity of the delegated manager under which the name is registered;
—The creation date of the registration;
—The name and postal address of the domain name holder;
—The name, postal address, e-mail address, voice telephone number, and (where available) fax number of the technical contact for the domain name holder; and
—The name, postal address, e-mail address, voice telephone number, and (where available) fax number of the administrative contact for the domain name holder.

• Modernization and automation of .us registry and registration operations, including the creation of an electronic database to store historical usTLD registration data.

C. Administration of the Existing, Locality-Based usTLD Structure

During previous consultations with the public on the administration of the usTLD, a considerable number of parties expressed a desire for the continued operation and support of the existing usTLD domain structure. Some also noted that enhanced coordination of the existing locality-based usTLD structure would make the space more easily accessible and increase communication and cooperation within the community of usTLD subdelegation managers. Some concerns have been expressed that more should be undertaken to ensure that the locality-based aspects of the usTLD are operating in the interest of the relevant local community.

Proposals should describe how the offeror will perform the following functions:

• Continue to provide service and support for existing delegees and registrants in the existing, locality-based usTLD structure under current practice, including policies set forth in RFC 1480 and other documented usTLD policies.

• Conduct an investigation and submit a report to the Department of Commerce, within 9 months of the award, evaluating the compliance of existing sub-domain managers with the requirements of RFC 1480 and other documented usTLD policies. Such report must recommend structural, procedural, and policy changes designed to enhance such compliance and increase the value of the locality-based structure to local communities. During this evaluation period, Awardee shall make no additional locality delegations unless otherwise directed by the Department of Commerce.

• Continue to provide direct registry and registrar services for all other undelegated third level locality sub-domains, including services for CO and CI, and undelegated special purpose domains (K12, CC, TEC, LIB, MUS, STATE, DST, COG and GEN).

D. Expansion of the .us Space

Many parties in previous consultations have suggested that the current usTLD space should be expanded by creating opportunities for registration directly at the second level and/or at the third level under specified second level domains. It has been suggested that this more ''generic'' space would greatly increase the attractiveness of the usTLD to potential registrants. Awardee will not be allowed to act as a registrar in the expanded usTLD space.

Proposals should describe how the offeror will perform the following functions:

• Develop and implement a new structure for the usTLD that enables the registration of domain names directly under the usTLD and/or under specified second level domains. The proposed expanded usTLD structure, including proposed administration procedures and registration policies, must be described. Awardee must agree to be bound by a Department of Commerce contract to follow ICANN adopted policies applicable to open ccTLDs unless otherwise directed by the Department of Commerce.

• Develop and implement a shared registration system whereby qualified competing registrars may register domain names for their customers in the expanded usTLD space. At a minimum, the system must allow an unlimited number of accredited/licensed registrars to register domain names in the expanded usTLD; provide equivalent access to the system for all accredited/licensed registrars to register domains and transfer domain name registrations among competing accredited/licensed registrars; update domain name registrations; and provide technical support for accredited/licensed registrars.

• Provide customer service and technical support to accredited/licensed usTLD registrars and registry support for the expanded usTLD space.

• Provide the core registry functions listed in Section A above.

• Require usTLD registrars to participate in an alternative dispute resolution procedure, consistent with United States law and international treaty obligations, to resolve cases of alleged cyber-squatting. Offerors are encouraged to consider how ICANN's uniform dispute resolution procedure (UDRP) might be implemented in the context of the usTLD.

• Develop an enhanced searchable Whois database that contains, or provides access to, all domain name registrations in the enhanced usTLD space. Such database must be accessible through any ''universal Whois service'' adopted by ICANN registrars and must accommodate multiple string and field searching through a free public, web based interface and consist of at least the following elements:

—The name of the usTLD domain registered;
—The IP address of the primary nameserver and secondary nameserver(s) for the registered usTLD domain name;
—The corresponding names of those nameservers;
—The identity of the usTLD registrar under which the name is registered;
—The creation date of the registration;
—The name and postal address of the usTLD domain name holder;
—The name, postal address, e-mail address, voice telephone number, and (where available) fax number of the technical contact for the usTLD domain name; and
—The name, postal address, e-mail address, voice telephone number, and (where available) fax number of the administrative contact for the usTLD domain name.

II. Methods and Procedures

On February 23, 2000, ICANN's Governmental Advisory Committee adopted ''Principles for the Delegation and Administration of Country Code Top Level Domains'' (*see* <http://www.icann.org/gac/

gac-cctldprinciples-23feb00.htm>). The document, which enjoys the support of the Department of Commerce, sets forth basic principles for the administration and management of ccTLDs, as well as a framework for the relationship between the relevant local government in the context of a ccTLD, the ccTLD administrator, and ICANN. The Awardee will be required to abide by the principles and procedures set forth in the document, and enter into contractual arrangement consistent with the document, unless otherwise directed by the Department of Commerce not to follow specific provisions.

[FR Doc. 00–21338 Filed 8–21–00; 8:45 am]

BILLING CODE 3510–60–P

CONSUMER PRODUCT SAFETY COMMISSION

Petition Requesting Banning of Baby Bath Seats

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: The Commission has received a petition (HP 00–4) requesting that the Commission ban bath seats and bath rings used for bathing infants in bathtubs. The Commission solicits written comments concerning the petition.

DATES: The Office of the Secretary must receive comments on the petition by October 23, 2000.

ADDRESSES: Comments, preferably in five copies, on the petition should be mailed to the Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207, telephone (301) 504–0800, or delivered to the Office of the Secretary, Room 501, 4330 East-West Highway, Bethesda, Maryland 20814. Comments may also be filed by telefacsimile to (301) 504–0127 or by email to cpsc-os@cpsc.gov. Comments should be captioned ''Petition HP 00–4, Petition to Ban Bath Seats.'' A copy of the petition is available for inspection at the Commission's Public Reading Room, Room 419, 4330 East-West Highway, Bethesda, Maryland.

FOR FURTHER INFORMATION CONTACT: Rockelle Hammond, Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207; telephone (301) 504–0800, ext. 1232.

SUPPLEMENTARY INFORMATION: The Commission has received correspondence from The Consumer Federation of America (''CFA'') and other consumer groups requesting that the Commission issue a rule banning baby bath seats and bath rings. The petitioners assert that these products pose an unreasonable risk of injury primarily by giving parents and other caregivers a false sense of security that children using the products will be safe in the bathtub. They argue that recent research indicates that parents using bath seats are more likely to engage in ''risk-taking behavior,'' such as leaving the infant alone briefly and using more water in the bathtub, than caregivers who do not use bath seats. The petitioners state that, to date, 66 incidents of drowning and 37 reports of near drowning involving bath seats have been identified. The Commission is docketing the correspondence as a petition under provisions of the Federal Hazardous Substances Act, 15 U.S.C. 1261–1278.

Interested parties may obtain a copy of the petition by writing or calling the Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 504–0800. A copy of the petition is also available for inspection from 8:30 a.m. to 5 p.m., Monday through Friday, in the Commission's Public Reading Room, Room 419, 4330 East-West Highway, Bethesda, Maryland.

Dated: August 16, 2000.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission

[FR Doc. 00–21257 Filed 8–21–00; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Meeting of the President's Information Technology Advisory Committee (Formerly the Presidential Advisory Committee on High Performance Computing and Communications, Information Technology, and the Next Generation Internet

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and summary agenda for the next meeting of the President's Information Technology Advisory Committee. The meeting will be open to the public. Notice of this meeting is required under the Federal Advisory Committee Act, (Pub. L. 92–463).

DATES: September 20, 2000.

ADDRESSES: NSF Board Room (Room 1235), National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

PROPOSED SCHEDULE AND AGENDA: The President's Information Technology Advisory Committee (PITAC) will meet in open session from approximately 8:00 a.m. to 12:15 p.m. and 1:30 p.m. to 3:30 p.m. on September 20, 2000.

This meeting will include: (1) Updates and reports from the PITAC's panels on learning, digital libraries, healthcare; the digital divide; and international issues; (2) a discussion on 21st century technologies; (3) a discussion on IT and the Humanities; and (4) a discussion of PITAC next steps and future studies.

FOR FURTHER INFORMATION CONTACT: The National Coordination Office for Computing, Information, and Communications provides information about this Committee on its web site at: http://www.ccic.gov; it can also be reached at (703) 292–4873. Public seating for this meeting is limited, and is available on a first-come, first-served basis.

Dated: August 15, 2000.

L. M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 00–21269 Filed 8–21–00; 8:45 am]

BILLING CODE 5001–10–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Strategic Environmental Research and Development Program, Scientific Advisory Board

ACTION: Notice.

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92–463), announcement is made of the following Committee meeting:

Date of Meeting: October 16, 2000 from 0830 to 1645 and October 17, 2000 from 0830 to 1705.

Place: Coeur D'Alene Resort, West 414 Appleway, Coeur d'Alene, Idaho 83814.

Matters to be Considered: Research and Development proposals and continuing projects requesting Strategic Environmental Research and Development Program funds in excess of $1M will be reviewed.

This meeting is open to the public. Any interested person may attend, appear before, or file statements with the Scientific Advisory Board at the time and in the manner permitted by the Board.

For Further Information Contact: Ms. Veronica Rice, SERDP Program Office, 901 North Stuart Street, Suite 3093, Arlington, VA or by telephone at (703) 696–2119.

Dated: August 16, 2000.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, DoD.

[FR Doc. 00–21268 Filed 8–21–00; 8:45 am]

BILLING CODE 5001–10–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Meeting of the United States Commission on National Security/21st Century

AGENCY: Department of Defense, Office of the Undersecretary of Defense (Policy).

ACTION: Notice of closed meeting.

SUMMARY: The United States Commission on National Security/21st Century will meet in closed session on August 30, 2000. The Commission was originally chartered by the Secretary of Defense on 1 July 1998 (charter revised on 18 August 1999) to conduct a comprehensive review of the early twenty-first century global security environment; develop appropriate national security objectives and a strategy to attain these objectives; and recommend concomitant changes to the national security apparatus as necessary. This meeting is being announced less than fifteen days before the meeting dates due to scheduling difficulties.

The Commission will meet in closed session on August 30, 2000, to receive updates on Phase Three research and analysis and to provide overall guidance on the structure and content of the Phase Three report. By Charter, the Phase Three report is to be delivered to the Secretary of Defense no later than February 16, 2001.

In accordance with Section 10(d) of the Federal Advisory Committee Act, Public Law 92–463, as amended [5 U.S.C., Appendix II], it is anticipated that matters affecting national security, as covered by 5 U.S.C. 552b(c)(1)(1988), will be presented throughout the meeting, and that, accordingly, the meeting will be closed to the public.

DATES: Wednesday, August 30, 2000, 8:30 a.m.–5:00 p.m.

ADDRESSES: The CNA Corporation Conference Center, 4825 Mark Center Drive, Alexandria, VA 22311.

FOR FURTHER INFORMATION CONTACT: Contact Dr. Keith A. Dunn, National Security Study Group, Suite 532, Crystal Mall 3, 1931 Jefferson Davis Highway, Arlington, VA 22202–3805. Telephone 703–602–4175.

Dated: August 16, 2000.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 00–21267 Filed 8–21–00; 8:45 am]

BILLING CODE 5001–10–M

DEPARTMENT OF DEFENSE

National Reconnaissance Office

Privacy Act of 1974; System of Records

AGENCY: National Reconnaissance Office, DOD.

ACTION: Notice to add three systems of records.

SUMMARY: The National Reconnaissance Office is adding three systems of records notices to its inventory of record systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective without further notice on September 21, 2000 unless comments are received which result in a contrary determination.

ADDRESSES: National Reconnaissance Office, 14675 Lee Road Chantilly, VA 20151–1715.

FOR FURTHER INFORMATION CONTACT: Ms. Barbara Freimann at (703) 808–5029.

SUPPLEMENTARY INFORMATION: The National Reconnaissance Office systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on August 11, 2000, to the House Committee on Government Reform, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, 'Federal Agency Responsibilities for Maintaining Records About Individuals,' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: August 16, 2000.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

National Reconnaissance Agency

Requesting Records

Records are retrieved by name or by some other personal identifier. It is therefore especially important for expeditious service when requesting a record that particular attention be provided to the Notification and/or Access Procedures of the particular record system involved so as to furnish the required personal identifiers, or any other pertinent personal information as may be required to locate and retrieve the record.

Blanket Routine Uses

Certain 'blanket routine uses' of the records have been established that are applicable to every record system maintained within the Department of Defense unless specifically stated otherwise within a particular record system. These additional blanket routine uses of the records are published below only once in the interest of simplicity, economy and to avoid redundancy.

Law Enforcement Blanket Routine Use

In the event that a system of records maintained by this component to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records 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.

Disclosure When Requesting Information Blanket Routine Use

A record from a system of records maintained by this component may be disclosed as a routine use to a Federal, state, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to a component decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit.

Disclosure of Requested Information Blanket Routine Use

A record from a system of records maintained by this component may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, 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.

Congressional Inquiries Blanket Routine Use

Disclosure from a system of records maintained by this component may be

made to a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual.

Private Relief Legislation Blanket Routine Use

Relevant information contained in all systems of records of the Department of Defense published on or before August 22, 1975, may be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular A–19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

Disclosures Required by International Agreements Blanket Routine Use

A record from a system of records maintained by this component may be disclosed to foreign law enforcement, security, investigatory, or administrative authorities in order to comply with requirements imposed by, or to claim rights conferred in, international agreements and arrangements including those regulating the stationing and status in foreign countries of Department of Defense military and civilian personnel.

Disclosure to State and Local Taxing Authorities Blanket Routine Use

Any information normally contained in IRS Form W–2 which is maintained in a record from a system of records maintained by this component may be disclosed to state and local taxing authorities with which the Secretary of the Treasury has entered into agreements pursuant to Title 5 U.S.C., Sections 5516, 5517, 5520, and only to those state and local taxing authorities for which an employee or military member is or was subject to tax regardless of whether tax is or was withheld. This routine use is in accordance with Treasury Fiscal Requirements Manual Bulletin Number 76–07.

Disclosure to the Office of Personnel Management Blanket Routine Use

A record from a system of records subject to the Privacy Act and maintained by this component may be disclosed to the Office of Personnel Management concerning information on pay and leave, benefits, retirement deductions, and any other information necessary for the Office of Personnel Management to carry out its legally authorized Government-wide personnel management functions and studies.

Disclosure to the Department of Justice for Litigation Blanket Routine Use

A record from a system of records maintained by this component may be disclosed as a routine use to any component of the Department of Justice for the purpose of representing the Department of Defense, or any officer, employee or member of the Department in pending or potential litigation to which the record is pertinent.

Disclosure to Military Banking Facilities Overseas Blanket Routine Use

Information as to current military addresses and assignments may be provided to military banking facilities who provide banking services overseas and who are reimbursed by the Government for certain checking and loan losses. For personnel separated, discharged, or retired from the Armed Forces, information as to last known residential or home of record address may be provided to the military banking facility upon certification by a banking facility officer that the facility has a returned or dishonored check negotiated by the individual or the individual has defaulted on a loan and that if restitution is not made by the individual, the U.S. Government will be liable for the losses the facility may incur.

Disclosure of Information to the General Services Administration Blanket Routine Use

A record from a system of records maintained by this component may be disclosed as a routine use to the General Services Administration for the purpose of records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

Disclosure of Information to the National Archives and Records Administration Blanket Routine Use

A record from a system of records maintained by this component may be disclosed as a routine use to the National Archives and Records Administration for the purpose of records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

Disclosure to the Merit Systems Protection Board Blanket Routine Use

A record from a system of records maintained by this component may be disclosed as a routine use to the Merit Systems Protection Board, including the Office of the Special Counsel for the purpose of litigation, including administrative proceedings, appeals, special studies of the civil service and other merit systems, review of OPM or component rules and regulations, investigation of alleged or possible prohibited personnel practices; including administrative proceedings involving any individual subject of a DOD investigation, and such other functions, promulgated in 5 U.S.C. 1205 and 1206, or as may be authorized by law.

Counterintelligence Purposes Blanket Routine Use

A record from a system of records maintained by this component may be disclosed as a routine use outside the DOD or the U.S. Government for the purpose of counterintelligence activities authorized by U.S. Law or Executive Order or for the purpose of enforcing laws which protect the national security of the United States.

QNRO–1

SYSTEM NAME:

Health and Fitness Evaluation Records.

SYSTEM LOCATION:

Management Services and Operations, Environmental Safety Health and Fitness Office, Fitness Unit, National Reconnaissance Office, 14675 Lee Road, Chantilly, VA 20151–1715.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

National Reconnaissance Office (NRO) civilian, military, and contractor personnel who have chosen to participate in a wellness and fitness program.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, Social Security Number, employer, date of birth, parent organization, and health history to include such items as blood pressure and cholesterol levels, orthopedic problems, and exercise restrictions, participants' program goals from which the health staff design individual fitness programs, a physician's referral when it has been required for participation in the program.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

National Security Act of 1947, as amended, 50 U.S.C. 401 et seq; 5 U.S.C. 301, Departmental Regulations; E.O. 12333; and E.O. 9397 (SSN).

PURPOSE(S):

The Environmental Safety Health and Fitness staff use these records to provide fitness assessments and design wellness programs for participants. Each participant is given a paper copy of the assessment and program goals.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The 'Blanket Routines Uses' published at the beginning of the NRO compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Automated information system, maintained in computers and computer output products.

RETRIEVABILITY:

Name, Social Security Number, and parent organization.

SAFEGUARDS:

Records are stored in a secure, gated facility, guard, badge, and password access protected. Access to and use of these records are limited to fitness staff whose official duties require such access. Records are stored on a standalone computer; paper files are stored in a locked filing cabinet. Office access is restricted to a limited number of personnel.

RETENTION AND DISPOSAL:

Records are destroyed six years after date of the last entry. Electronic records are deleted; paper records are shredded.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Environmental Safety Health and Fitness Division, Management Services and Operations, National Reconnaissance Office, 14675 Lee Road, Chantilly, VA 20151–1715.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the National Reconnaissance Office, Information Access and Release Center, 14675 Lee Road, Chantilly, VA 20151–1715.

Request should include the individual's full name, address, Social Security Number, and other information identifiable from the record.

In addition, the requester must provide a notarized statement or an unsworn declaration made in accordance with 28 U.S.C. 1746, in the following format:

If executed without the United States: 'I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature)'.

If executed within the United States, its territories, possessions, or commonwealths: 'I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)'.

RECORD ACCESS PROCEDURES:

Individuals seeking to access information about themselves contained in this system should address written inquiries to the National Reconnaissance Office, Information Access and Release Center, 14675 Lee Road, Chantilly, VA 20151–1715.

Request should include the individual's full name, address, Social Security Number, and other information identifiable from the record.

In addition, the requester must provide a notarized statement or an unsworn declaration made in accordance with 28 U.S.C. 1746, in the following format:

If executed without the United States: 'I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature)'.

If executed within the United States, its territories, possessions, or commonwealths: 'I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)'.

CONTESTING RECORD PROCEDURES:

The NRO rules for accessing records, for contesting contents and appealing initial agency determinations are published in NRO Directive 110–3 and NRO Instruction 110–5; 32 CFR part 326; or may be obtained from the NRO Privacy Act Coordinator, National Reconnaissance Office, 14675 Lee Road, Chantilly, VA 20151–1715.

RECORD SOURCE CATEGORIES:

Information is supplied by the participants; the ESFH staff, and occasionally the participant's physician.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

QNRO–2

SYSTEM NAME:

Patient Medical Records.

SYSTEM LOCATION:

Management Services and Operations, Environmental Safety Health and Fitness Office Medical Unit, National Reconnaissance Office, 14675 Lee Road, Chantilly, VA 20151–1715.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

National Reconnaissance Office (NRO) civilian, military, and contractor personnel who choose to seek medical assistance.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, Social Security Number, employer, date of birth, work telephone number, at times the home telephone number, reason for the office visit, and a health history summary. Charts may include immunization records, tuberculosis testing, and a patient-provided general health history as needed.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

National Security Act of 1947, as amended, 50 U.S.C. 401 et seq; 5 U.S.C. 301, Departmental Regulations; E.O. 12333; and E.O. 9397 (SSN).

PURPOSE(S):

Medical staff maintain patient charts recording the purpose of each visit and treatment as administered.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The 'Blanket Routines Uses' published at the beginning of the NRO compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Medical files are in hardcopy only while patient registration information is maintained on a computer.

RETRIEVABILITY:

Patient name.

SAFEGUARDS:

Records are stored in a secure, gated facility, guard, badge, and password access protected. Access to and use of these records are limited to medical staff whose official duties require such access. Records are kept in a filing cabinet in a locked room. The computer's logon capability is terminated when the visiting room is unsupervised.

RETENTION AND DISPOSAL:

Patient charts are retained for the duration of a patient's employment plus

30 years; records are then shredded. Inactive records may be stored in an archive center. The electronic records are to be destroyed at three-month intervals.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Environmental Safety Health and Fitness Office, Management Services and Operations, Medical Unit, National Reconnaissance Office, 14675 Lee Road, Chantilly, VA 20151–1715.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the National Reconnaissance Office, Information Access and Release Center, 14675 Lee Road, Chantilly, VA 20151–1715.

Request should include the individual's full name, address, Social Security Number, and other information identifiable from the record.

In addition, the requester must provide a notarized statement or an unsworn declaration made in accordance with 28 U.S.C. 1746, in the following format:

If executed without the United States: 'I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature)'.

If executed within the United States, its territories, possessions, or commonwealths: 'I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)'.

RECORD ACCESS PROCEDURES:

Individuals seeking to access information about themselves contained in this system should address written inquiries to the National Reconnaissance Office, Information Access and Release Center, 14675 Lee Road, Chantilly, VA 20151–1715.

Request should include the individual's full name, address, Social Security Number, and other information identifiable from the record.

In addition, the requester must provide a notarized statement or an unsworn declaration made in accordance with 28 U.S.C. 1746, in the following format:

If executed without the United States: 'I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature)'.

If executed within the United States, its territories, possessions, or commonwealths: 'I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)'.

CONTESTING RECORD PROCEDURES:

The NRO rules for accessing records, for contesting contents and appealing initial agency determinations are published in NRO Directive 110–3 and NRO Instruction 110–5; 32 CFR part 326; or may be obtained from the NRO Privacy Act Coordinator, National Reconnaissance Office, 14675 Lee Road, Chantilly, VA 20151–1715.

RECORD SOURCE CATEGORIES:

Information is supplied by patients seeking medical assistance and by the medical staff.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

QNRO–3

SYSTEM NAME:

Diet and Nutrition Evaluation Records.

SYSTEM LOCATION:

Management Services and Operations, Environmental Safety Health and Fitness Office, Fitness Unit, National Reconnaissance Office, 14675 Lee Road, Chantilly, VA 20151–1715.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

National Reconnaissance Office (NRO) civilian, military, and contractor personnel who choose to participate in a nutrition program.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, Social Security Number, date of birth, work telephone number, and health history information such as blood pressure and cholesterol levels, height, weight, and activity level. A computer nutrition analysis is generated after the participant supplies a three day diet log.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

National Security Act of 1947, as amended, 50 U.S.C. 401 et seq; 5 U.S.C. 301, Departmental Regulations; E.O. 12333; and E.O. 9397 (SSN).

PURPOSE(S):

The Environmental Safety Health and Fitness staff use these records to provide a diet analysis and design a nutrition regime for the program participants. Each participant is given a copy of the analysis.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The 'Blanket Routines Uses' published at the beginning of the NRO compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Automated information system, maintained in computers and computer output products.

RETRIEVABILITY:

Name and Social Security Number.

SAFEGUARDS:

Records are stored in a secure, gated facility, guard, badge, and password access protected. Access to and use of the records are limited to fitness staff whose official duties require such access. Information is stored in a commercial-off-the-shelf application loaded on a standalone computer that is kept in a locked room with restricted access.

RETENTION AND DISPOSAL:

Records are maintained only as long as individuals participate in the nutrition program. Inactive records are deleted from the system.

SYSTEM MANAGER(S) AND ADDRESS:

Cheif, Environmental Safety Health and Fitness Office, Fitness Unit, National Reconnaissance Office, 14675 Lee Road, Chantilly, VA 20151–1715.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the National Reconnaissance Office, Information Access and Release Center, 14675 Lee Road, Chantilly, VA 20151–1715.

Request should include the individual's full name, address, Social Security Number, and other information identifiable from the record.

In addition, the requester must provide a notarized statement or an unsworn declaration made in accordance with 28 U.S.C. 1746, in the following format:

If executed without the United States: 'I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature)'.

If executed within the United States, its territories, possessions, or

commonwealths: 'I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)'.

RECORD ACCESS PROCEDURES:

Individuals seeking to access information about themselves contained in this system should address written inquiries to the National Reconnaissance Office, Information Access and Release Center, 14675 Lee Road, Chantilly, VA 20151–1715.

Request should include the individual's full name, address, Social Security Number, and other information identifiable from the record.

In addition, the requester must provide a notarized statement or an unsworn declaration made in accordance with 28 U.S.C. 1746, in the following format:

If executed without the United States: 'I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature)'.

If executed within the United States, its territories, possessions, or commonwealths: 'I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)'.

CONTESTING RECORD PROCEDURES:

The NRO rules for accessing records, for contesting contents and appealing initial agency determinations are published in NRO Directive 110–3 and NRO Instruction 110–5; 32 CFR part 326; or may be obtained from the NRO Privacy Act Coordinator, National Reconnaissance Office, 14675 Lee Road, Chantilly, VA 20151–1715.

RECORD SOURCE CATEGORIES:

Information is supplied by the program participants and by fitness staff.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 00–21270 Filed 8–21–00; 8:45 am]

BILLING CODE 5001–10–F

DEPARTMENT OF DEFENSE

Defense Finance and Accounting Service

Privacy Act of 1974; System of Records

AGENCY: Defense Finance and Accounting Service, DoD.

ACTION: Notice of a new system of records.

SUMMARY: The Defense Finance and Accounting Service proposes to add a system of records notice to its inventory of record systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

DATES: This action will be effective without further notice on September 21, 2000 unless comments are received that would result in a contrary determination.

ADDRESSES: Privacy Act Officer, Defense Finance and Accounting Service, 1931 Jefferson Davis Highway, ATTN: DFAS/PE, Arlington, VA 22240–5291.

FOR FURTHER INFORMATION CONTACT: Mrs. Pauline E. Korpanty at (703) 607–3743.

SUPPLEMENTARY INFORMATION: The complete inventory of Defense Finance and Accounting Service record system notices subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act was submitted on August 11, 2000, to the House Committee on Government Reform, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, 'Federal Agency Responsibilities for Maintaining Records About Individuals,' dated February 8, 1996, (61 FR 6427, February 20, 1996).

Dated: August 16, 2000.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

T7333

SYSTEM NAME:

Travel Payment System.

SYSTEM LOCATION:

Defense Finance and Accounting Service, Finance Directorate (Travel Programs and Services Division), 1931 Jefferson Davis Highway, Room 416, Arlington, VA 22240–5291.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

DoD civilian personnel; active, former, and retired military members; military reserve personnel; Army and Air National Guard personnel; Air Force Academy nominees, applicants, and cadets; dependents of military personnel; and foreign nationals residing in the United States all in receipt of competent government travel orders.

CATEGORIES OF RECORDS IN THE SYSTEM:

Travel vouchers and subvouchers; travel allowance payment lists; travel voucher or subvoucher continuation sheets; vouchers and claims for dependent travel and dislocation or trailer allowances; certificate of non-availability of government quarters and mess; multiple travel payments list; travel payment card; requests for fiscal information concerning transportation requests; bills of lading; meal tickets; public vouchers for fees and claim for reimbursement for expenditures on official business; claim for fees and mileage of witness; certifications for travel under classified orders; travel card envelopes; and statements of adverse effect utilization of government facilities.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations; DoD 7000.14–R, Volume 9; and E.O. 9397 (SSN).

PURPOSE(S):

To provide a basis for reimbursing individuals for expenses incident to travel for official Government business purposes and to account for such payments.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To the Internal Revenue Service to provide information concerning the pay of travel allowances which are subject to federal income tax.

The 'Blanket Routine Uses' published at the beginning of the DFAS compilation of systems of records notices apply to this system.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12) may be made from this system to 'consumer reporting agencies' as defined in the Fair Credit Reporting Act, 15 U.S.C. 1681a(f) or the Federal Claims Collection Act of 1966, 31 U.S.C. 3701(a)(3). The purpose of the disclosure is to aid in the collection of outstanding debts owed to the Federal Government; typically, to provide an incentive for debtors to repay delinquent Federal Government debts by making these debts part of their credit records.

The disclosure is limited to information necessary to establish the

identity of the individual, including name, address, and taxpayer identification number (Social Security Number); the amount, status, and history of the claim; and the agency or program under which the claim arose for the sole purpose of allowing the consumer reporting agency to prepare a commercial credit report.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders, card files, notebooks, binders, visible file binders, cabinets, magnetic tape, cassettes, and computer printouts.

RETRIEVABILITY:

Retrieved by individual's name and/or Social Security Number.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record, and who are authorized to use the record system in the performance of their official duties. All individuals are properly screened and cleared for need-to-know. Additionally, at some Centers, records are in office buildings protected by guards and controlled by screening of personnel and registering of visitors.

RETENTION AND DISPOSAL:

Disposition pending (until NARA disposition is approved, treat as permanent).

SYSTEM MANAGER(S) AND ADDRESS:

Director, Financial Services Directorate, Defense Finance and Accounting Service, Finance Directorate, 1931 Jefferson Davis Highway, Arlington, VA 22240–5291.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system of records should address written inquiries to the Director, Financial Services Directorate, Defense Finance and Accounting Service-Columbus Center, 4280 E. 5th Avenue, Building 6, Columbus, OH 43218–2317.

Individuals should furnish full name, Social Security Number, current address, and other information verifiable from the record itself.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves in this system of records should address written inquiries to the Director, Financial Services Directorate, Defense Finance and Accounting Service-Columbus Center, 4280 E. 5th Avenue, Building 6, Columbus, OH 43218–2317.

Individuals should furnish full name, Social Security Number, current address, and other information verifiable from the record itself.

CONTESTING RECORD PROCEDURES:

The DFAS rules for accessing records and for contesting contents and appealing initial agency determinations are published in DFAS Regulation 5400.11–R; 32 CFR part 324; or may be obtained from the Privacy Act Officer at any DFAS Center.

RECORD SOURCE CATEGORIES:

Information is obtained from the individual traveler, related voucher documents, Defense Accounting Officers; and other DoD Components.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 00–21272 Filed 8–21–00; 8:45 am]

BILLING CODE 5001–10–F

DEPARTMENT OF DEFENSE

Defense Information Systems Agency

Privacy Act of 1974; Systems of Records

AGENCY: Defense Information Systems Agency, DoD.

ACTION: Notice to add two systems of records.

SUMMARY: The Defense Information Systems Agency is proposing to add two systems of records notices to its existing inventory of records systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective without further notice on September 21, 2000, unless comments are received which result in a contrary determination.

ADDRESSES: Privacy Administrator, Defense Information Systems Agency, CI0/D03A, 3701, N. Fairfax Drive, Arlington, VA 22203–1713.

FOR FURTHER INFORMATION CONTACT: Mr. Tommie Gregg at (703) 696–1891.

SUPPLEMENTARY INFORMATION: The Defense Information Systems Agency systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on August 11, 2000, to the House Committee on Government Reform, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, 'Federal Agency Responsibilities for Maintaining Records About Individuals,' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: August 16, 2000.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

KD3D.01

SYSTEM NAME

Continuity of Operations Plans.

SYSTEM LOCATION:

Defense Information Systems Agency, Continuity of Operations Office (D3D), 701 South Courthouse Road, Arlington, VA 22204–2199.

CATEGORIES OF INDIVIDUALS COVERED BY THIS SYSTEM:

Personnel at Defense Information Systems Agency locations designated to occupy ''key'' positions that directly support the plan when an emergency situation develops.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual's name, home address, office/home telephone numbers. It will also contain medical information on designated personnel requiring medication during Continuity of Operations Plan ''button up'' situations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations; E.O. 12656, Assignment of Emergency Preparedness Responsibilities; and DoD Directive 3020.26, Continuity of Operations Policy and Planning.

PURPOSE(S):

To apprise designated personnel on the Continuity of Operations Office staff of their responsibilities and relocation assignments in conditions of emergency. This system will incorporate the Continuity of Operations Office plans from agency field offices to create one consolidated agency-wide Continuity of Operations Plan.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DOD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The ''Blanket Routine Uses set forth at the beginning of the agency''s

compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on paper and on electronic media.

RETRIEVABILITY:

Information is retrieved by individual's name.

SAFEGUARDS:

The building in which the plan is housed employs security guards. Records that are maintained are in areas that are accessible only to authorized personnel who are properly screened, cleared, and trained. Access to personal information is restricted to those who require the records in the performance of official duties and to the individuals who are the subjects of the record or their authorized representatives.

RETENTION AND DISPOSAL:

Disposition pending. Records will be retained until final disposition authority has been established by the National Archives and Records Administration.

SYSTEM MANAGER AND ADDRESS:

Chief, Defense Information Systems Agency, Continuity of Operations, D3D, 702 South Courthouse Road, Arlington, VA 22204–2199.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Privacy Administrator, Defense Information Systems Agency, Information Resources Management Division, Office of the Chief Information Officer, 3701 North Fairfax Drive, Arlington, VA 22203–1713.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Privacy Administrator, Defense Information Systems Agency, Information Resources Management Division, Office of the Chief Information Officer, 3701 North Fairfax Drive, Arlington, VA 22203–1713.

CONTESTING RECORD PROCEDURES:

DISA's rules for accessing records, for contesting contents and appealing initial agency determinations are published in DISA Instruction 210–225–2; 32 CFR part 316; or may be obtained from the Privacy Administrator, Defense Information Systems Agency, Information Resources Management Division, Office of the Chief Information Officer, 3701 North Fairfax Drive, Arlington, VA 22203–1713.

RECORD SOURCE CATEGORIES:

Individual.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

KDTI.01

SYSTEM NAME:

Permanent Change of Station Records.

SYSTEM LOCATION:

Research, Development and Acquisition Information Support Directorate, Defense Technical Information Center, 8725 John J. Kingman Road, Suite 0944, Fort Belvoir, VA 22060–6218.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All Air Force, Army, Coast Guard, Marine Corps, and Navy officer and enlisted personnel and their family members; DoD civilian employees and their family members.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personnel employment/pay records consisting of name, Social Security Number, date of birth, compensation data, service history, and demographic information such as home town and duty station locations. Family member data (spouse and dependent children) such as name, date of birth, sex, Social Security Number, and residence address.

Reassignment data to include change of duty station transactions; service member's entitlement for a move; new duty station location; travel authorization; move schedule; personally owned vehicle shipments; inventory of household goods; and passport information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations; 5 U.S.C. Chapter 57; 10 U.S.C. 3013, Secretary of the Army; 10 U.S.C. 5013, Secretary of the Navy; 10 U.S.C. 8013, Secretary of the Air Force; and E.O. 9397 (SSN).

PURPOSE(S):

To provide an interactive electronic database which authorized personnel can access for purposes of conducting on-line permanent change of duty transactions, to include but not limited to entitlement calculations; electronic funds transfers; inventorying, shipment, storage, and delivery of household goods; transportation of the individual and family members; shipment of personally owned vehicles; and housing applications.

To permit personnel to obtain the current status of each transaction and to update those records associated with specific moves.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The ''Blanket Routine Uses'' set forth at the beginning of the DISA's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records will be stored in electronic storage media.

RETRIEVABILITY:

Retrieval of records will be accomplished by name, Social Security Number, and/or PIN. Individuals will be provided a PIN to enable them to obtain the status of their duty station move and update individual move-related records.

SAFEGUARDS:

Information will be electronically protected by secure transmission and accessible only to authorized personnel. Access to personal information is restricted to those who require the records in performance of their official duties, and to individuals who are the subjects of the record or their authorized representatives. Access to personal information is further restricted by the use of a PIN.

RETENTION AND DISPOSAL:

Disposition pending. Records will be retained until final disposition authority has been established by the National Archives and Records Administration.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Research Development and Acquisition Information Support Directorate, Defense Technical Information Center, 8725 John J. Kingman Road, Suite 0944, Fort Belvoir, VA 22060–6218.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the Privacy Administrator, Information Resources

Management Division, Office of the Chief Information Officer, 3701 North Fairfax Drive, Arlington, VA 22203–1713.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves, contained in this system should address written inquiries to the Privacy Administrator, Information Resources Management Division, Office of the Chief Information Officer, 3701 North Fairfax Drive, Arlington, VA 22203–1713.

Written requests should contain the full name of the individual, Social Security Number, their current address, and telephone number.

CONTESTING RECORD PROCEDURES:

DISA's rules for accessing records, for contesting contents and appealing initial agency determinations are published in DISA Instruction 210–225–2; 32 CFR part 316; or may be obtained from the Privacy Administrator, Defense Information Systems Agency, Information Resources Management Division, Office of the Chief Information Officer, 3701 North Fairfax Drive, Arlington, VA 22203–1713.

RECORD SOURCE CATEGORIES:

The individual and Defense Manpower Data Center.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 00–21271 Filed 8–21–00; 8:45 am]

BILLING CODE 5001–10–F

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Information Management Group, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before September 21, 2000.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Wai-Sinn Chan, Acting Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, N.W., Room 10235, New Executive Office Building, Washington, D.C. 20503 or should be electronically mailed to the internet address Wai-Sinn_L._Chan@omb.eop.gov.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.* new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: August 16, 2000.

John Tressler,

Leader, Regulatory Information Management Office of the Chief Information Officer.

Office of Postsecondary Education

Type of Review: New Collection.

Title: The U.S. Brazil Higher Education Consortia Program (JS).

Frequency: Annually.

Affected Public: Not-for-profit institutions (primary).

Reporting and Recordkeeping Hour Burden:

Responses: 80.

Burden Hours: 2400.

Abstract: The U.S. Brazil Higher Education Consortia Program is a competition grant program which supports institutional cooperation and student exchange between the United States and Brazil. Funding supports the participation of U.S. institutions and students in bilateral consortia of institutions of higher education. Funding will be multiyear, with projects lasting up to 4 years.

This information collection is being submitted under the Streamlined Clearance Process for Discretionary Grant Information Collections (1890–0001). Therefore, the 30-day public comment period notice will be the only public comment notice published for this information collection.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov*, or should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW, Room 4050, Regional Office Building 3, Washington, D.C. 20202–4651. Requests may also be electronically mailed to the internet address OCIO_IMG_Issues@ed.gov or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request. Comments regarding burden and/or the collection activity requirements should be directed to Schubart at (202) 708–9266. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 00–21307 Filed 8–21–00; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Nevada

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Nevada Test Site. The Federal Advisory Committee Act (Pub. L. No. 92–463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

DATES: Wednesday, September 6, 2000; 6:30 p.m.–9 p.m.

ADDRESSES: Nevada Support Facility, Great Basin Room, 232 Energy Way, North Las Vegas, NV.

FOR FURTHER INFORMATION CONTACT: Kevin Rohrer, U.S. Department of Energy, Office of Environmental Management, P.O. Box 98518, Las Vegas, Nevada 89193–8513, phone: 702–295–0197, fax: 702–295–5300.

SUPPLEMENTARY INFORMATION:

Purpose of the Board

The purpose of the Advisory Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda

1. Nomination of CAB officers for FY 2001.
2. An update on Long-Term Stewardship issues.

Copies of the final agenda will be available at the meeting.

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Kevin Rohrer, at the telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Minutes: The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585 between 9:00 a.m. and 4 p.m., Monday-Friday, except Federal holidays. Minutes will also be available by writing to Kevin Rohrer at the address listed above.

Issued at Washington, DC, on August 17, 2000.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 00–21384 Filed 8–21–00; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Oak Ridge Reservation

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB) Oak Ridge. The Federal Advisory Committee Act (Pub. L. No. 92–463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

DATES: Wednesday, September 6, 2000; 6:00 pm–9:30 pm.

ADDRESSES: Garden Plaza Hotel, 215 S. Illinois Avenue, Oak Ridge, TN.

FOR FURTHER INFORMATION CONTACT: Dave Adler, Federal Coordinator, Department of Energy Oak Ridge Operations Office, P.O. Box 2001, EM–90, Oak Ridge, TN 37831. Phone (865) 576–4094; Fax (865) 576–9121 or e-mail: adlerdg@oro.doe.gov.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda

1. Presentation by Jason Darby, DOE-Oak Ridge Operations on the Remediation Effectiveness Report for the Oak Ridge Reservation.

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Dave Adler at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments at the end of the meeting.

Minutes: Minutes of this meeting will be available for public review and copying at the Department of Energy's Information Resource Center at 105 Broadway, Oak Ridge, TN between 7:30 a.m. and 5:30 p.m. Monday through Friday, or by writing to Dave Adler, Department of Energy Oak Ridge Operations Office, P.O. Box 2001, EM–90, Oak Ridge, TN 37831, or by calling him at (865) 576–4094.

Issued at Washington, DC on August 17, 2000.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 00–21385 Filed 8–21–00; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC00–123–000]

Allegheny Energy Unit 1 and Unit 2, L.L.C., and Allegheny Energy Supply Company, LLC; Notice of Filing

August 16, 2000.

Take notice that on August 14, 2000, Allegheny Energy Unit 1 and Unit 2, L.L.C. (Unit 1 and Unit 2) and Allegheny Energy Supply Company, LLC (AE Supply), have filed a Joint Application Under Section 203 of the Federal Power Act For The Disposition Of Jurisdictional Facilities requesting Commission approval of the merger of Unit 1 and Unit 2 into AE Supply.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before September 13, 2000. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–21334 Filed 8–21–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–454–000]

Arkansas Western Pipeline, L.L.C.; Notice of Proposed Changes in FERC Gas Tariff

August 16, 2000.

Take notice that on August 9, 2000, Arkansas Western Pipeline, L.L.C. (AWP) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following revised tariff sheets, to be effective September 8, 2000:

Second Revised Sheet No. 13
Second Revised Sheet No. 105

AWP states that the purpose of this filing is to comply with requirements of FERC Order Nos. 637, 637–A and 637–B that pipelines make tariff filings to remove from their tariff provisions inconsistent with the removal of the price ceiling on short-term capacity releases.

AWP further states that it has served copies of this filing upon the company's jurisdictional customers and interested state commissions. Questions concerning this filing may be directed to counsel for AWP, James F. Bowe, Jr., Dewey Ballantine LLP, at (202) 429–1444, fax (202) 429–1579, or jbowe@deweyballantine.com.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C.

20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–21293 Filed 8–21–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–339–001]

Arkansas Western Pipeline, L.L.C.; Notice of Proposed Changes in FERC Gas Tariff

August 16, 2000.

Take notice that on August 11, 2000, Arkansas Western Pipeline, L.L.C. (AWP) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following pro forma revised tariff sheet, to be effective on a date to be determined by the Commission pursuant to Order No. 637.

Third Revised Sheet No. 105

AWP also requested that it be permitted to withdraw the following pro forma tariff sheets previously filed in this proceeding:

Second Revised Sheet No. 13
Second Revised Sheet No. 105

AWP states that the purpose of this filing is to withdraw from this proceeding changes to AWP's tariff that are duplicative of tariff changes to provisions inconsistent with the removal of the price ceiling on short-term capacity releases which AWP has made in a separate limited Section 4 proceeding designated Docket No. RP00–454–000.

AWP further states that it has served copies of this filing upon the company's jurisdictional customers and interested state commissions and all persons on the official service list for this proceeding.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–21304 Filed 8–21–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–457–000]

Black Marlin Pipe Line Company; Notice of Proposed Changes in FERC Gas Tariff

August 16, 2000.

Take notice that on August 11, 2000, Black Marlin Pipe Line Company (BMPL) tendered for filing to become part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets, with an effective date of September 11, 2000:

Title Page
Second Revised Sheet No. 1
Second Revised Sheet No. 2
First Revised Sheet No. 3A
First Revised Sheet No. 102
Second Revised Sheet No. 127
Second Revised Sheet No. 209A
Second Revised Sheet No. 210
Third Revised Sheet No. 213B
First Revised Sheet No. 219
Second Revised Sheet No. 220
Fourth Revised Sheet No. 221
First Revised Sheet No. 305
First Revised Sheet No. 312
First Revised Sheet No. 317
First Revised Sheet No. 318
First Revised Sheet No. 325

BMPL states that on March 1, 1999 the Blue Dolphin Energy Company assumed ownership of BMPL's offshore system. The BMPL onshore system, a section 311 facility consisting of 39 miles of pipe extending from Bryan County, Oklahoma to Lamar County, Texas, was not included in the sale to Blue Dolphin Energy Company. In the instant filing, BMPL is making tariff revisions reflecting the change in ownership including removing references to the BMPL's former onshore facilities, and updating addresses and phone numbers. Additionally, BMPL is making certain other minor corrections to its tariff.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–21295 Filed 8–21–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. MT00–15–000]

Canyon Creek Compression Company; Notice of Proposed Changes in FERC Gas Tariff

August 16, 2000.

Take notice that on August 11, 2000, Canyon Creek Compression Company (Canyon) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, Second Revised Sheet No. 189 to be effective September 1, 2000.

Canyon states that the tariff sheet was filed to facilitate compliance with Order No. 637 and the revised reporting requirements in Section 161.3(l)(2) of the Federal Energy Regulatory Commission's Regulations.

Canyon respectively requests waiver of any provisions of its Tariff and/or the

Commission's Regulations required to permit the instant filing to become effective as proposed.

Canyon states that copies of the filing have been mailed to its customers and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–21299 Filed 8–21–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP00–370–002]

Columbia Gas Transmission Corporation; Notice of Cancellation Rate Schedule X–45

August 16, 2000.

Take notice that on August 9, 2000, Columbia Gas Transmission Corporation (Columbia) tendered for filing with the Federal Energy Regulatory Commission (Commission) the following changes to its FERC Gas Tariff effective September 9, 2000:

Second Revised Volume No. 1

Third Revised Sheet No. 6

Original Volume No. 2

Seventeenth Revised Sheet No. 4
First Revised Sheet No. 439

Columbia states that this filing is being made to provide for the cancellation in its entirety of Columbia's Rate Schedule X–45 authorized under Docket No. CP76–256 (56 FPC 932 (1976)).

The cancellation of Rate Schedule X–45 is being filed pursuant to an order issued on July 14, 2000 in Docket No. CP00–370–000 (93 FERC 62,025 (2000)), wherein the Commission granted Columbia permission to abandon service under the above-referenced agreement.

Columbia states further that copies of this filing have been mailed to all of its customers and affected state regulatory commissions. This filing is also available for public inspection at its offices at 12801 Fair Lakes Parkway, Fairfax, Virginia and 10 G Street, N.E., Suite 580, Washington, D.C.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–21298 Filed 8–21–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–354–001]

Columbia Gas Transmission Corporation; Notice of Proposed Changes in FERC Gas Tariff

August 16, 2000.

Take notice that on August 9, 2000, Columbia Gas Transmission Corporation (Columbia) filed as part of its FERC Gas Tariff, Second Revised Volume No. 1 (Tariff), the revised tariff sheets listed on Appendix A, with a proposed effective date of August 1, 2000.

Columbia states that on June 23, 2000, it filed tariff sheets in Docket No. RP00–354 to update its tariff consistent with Commission policy and decisions on tariff filings made by other interstate pipelines concerning permissible discounting arrangements and negotiated-rate authority related changes. On July 27, 2000, the Commission accepted the filed tariff sheets to be effective August 1, 2000, subject to Columbia making compliance filing within 15 days. The instant filing is being made to comply with the July 27 Order, provided, by submitting the tariff revisions in this filing Columbia is not waiving its right to seek rehearing and/or clarification of the July 27 Order.

Columbia states that copies of its filing are available for inspection at its offices at 12801 Fair Lakes Parkway, Fairfax, Virginia; and 10 G Street, NE, Suite 580, Washington, DC; and have been mailed to all firm customers, interruptible customers and affected state commissions.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–21305 Filed 8–21–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–383–009]

Dominion Transmission, Inc.; Notice of Negotiated Rate Compliance Filing

August 16, 2000.

Take notice that on August 9, 2000, Dominion Transmission, Inc. (DTI) (formerly CNG Transmission Corporation) tendered for filing to the Federal Energy Regulatory Commission (Commission) the following tariff sheets in compliance with the Commission's order issued July 31, 2000, in this proceeding:

Second Revised Sheet No. 111
First Revised Sheet No. 111A

DTI requests an effective date of August 10, 2000, for these tariff sheets.

DTI states that copies of the filing have been served on all parties on the official service list, DTI's customers, and

interested state commissions. DTI further states that copies of the filing are being made available for public inspection during regular business hours in DTI's offices in Clarksburg, West Virginia.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–21303 Filed 8–21–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–452–000]

Garden Banks Gas Pipeline, LLC; Notice of Proposed Changes in FERC Gas Tariff

August 16, 2000.

Take notice that on August 9, 2000, Garden Banks Gas Pipeline, LLC (GBGP) tendered for filing the following tariff sheet to be effective September 1, 2000:

Fifth Revised Sheet No. 59

The sole purpose of this filing is to reflect a change in the World Wide Web address for Garden Bank's Internet Web Site. The new address is www.shell-gt.com. This change is necessitated to better align the website address with a recent corporate name change.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–21291 Filed 8–21–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–455–000]

Honeoye Storage Corporation; Notice of Proposed Changes in FERC Gas Tariff

August 16, 2000.

Take notice that on August 10, 2000, Honeoye Storage Corporation (Honeoye) tendered for filing the following as part of its FERC Gas Tariff, Second Revised Volume 1, the following revised tariff sheets, to be effective September 15, 2000.

First Revised Sheet No. 22
Original Sheet 22A
Original Sheet 22B

Honeoye states that the purpose of the filing is to substitute certain tariff sheets which make changes to the General Terms and Conditions of the Gas Tariff. Honeoye proposes to grant to its customers the right to make title transfers of gas which is held in the Honeoye gas field to other customers. Honeoye also proposes to set forth terms and conditions that would apply: (i) To customer-owned top gas in the Honeoye Gas Field at contract termination, and (ii) to customer-owned cushion gas in the Honeoye Gas Field at contract termination. Honeoye states that there will be no change in existing storage rates and revenues under the proposed revisions. Honeoye also states that these changes will not apply to Providence Gas Company, a former customer whose contract terminated on March 31, 2000.

Honeoye requests waiver of the Commission's Regulations to the extent necessary to permit the tariff sheets to become effective September 15, 2000.

Honeoye states that copies of the filing are being mailed to Honeoye's jurisdictional customers and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–21294 Filed 8–21–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–316–001]

Kinder Morgan Interstate Gas Transmission LLC; Notice of Tariff Filing

August 16, 2000.

Take notice that on August 10, 2000, Kinder Morgan Interstate Gas Transmission LLC (KMIGT) tendered for filing tariff sheets to be effective in Appendix A of its filing. These tariff sheets are being filed to comply with the Commission's Order dated July 26, 2000 in this docket.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/

rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–21302 Filed 8–21–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–345–001]

K N Wattenberg Transmission Limited Liabililty Co.; Notice of Tariff Filing

August 16, 2000.

Take notice that on August 10, 2000, K N Wattenberg Transmission Limited Liability Co. (KNW) tendered for filing tariff sheets to be effective as shown below. These tariff sheets are being filed to comply with the Commission's Order dated July 26, 2000 in this docket.

FERC Gas Tariff, First Revised Volume No. 1 To be Effective August 1, 2000

Sub. First Revised Sheet No. 86D
Sub. First Revised Sheet No. 87A

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–21301 Filed 8–21–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–150–002]

Millennium Pipeline Company, L.P.; Notice of Date Change of the Scoping Meeting for the Proposed Millennium Pipeline Project, as Amended, and Extension of Time To File Comments

August 16, 2000.

To accommodate the Village Manager and Village Board of Croton-on-Hudson, New York, the date for the scoping comment meeting for the proposed Millennium Pipeline Project amendment filed in the above-referenced docket, has been changed. The location and time for this meeting are listed below:

Date and Time: September 14, 2000, 7 p.m.

Location: Croton-on-Hudson Municipal Building, Van Wyck Street, Croton-on-Hudson, New York; 914–271–4781.

There is no change to the date for the planned site visit along the proposed route which will occur on August 29 through 31, 2000.

Since the new date for the scoping meeting falls outside the comment period identified in the Notice of Intent to Prepare a Supplement to the Draft Environmental Impact Statement (dated August 9, 2000), the comment period has been extended from September 8, 2000 to September 22, 2000.

Additional information may be obtained from Paul McKee in the Commission's Office of External Affairs, at (202) 208–1088.

David P. Boergers,

Secretary.

[FR Doc. 00–21297 Filed 8–21–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–453–000]

Mississippi Canyon Gas Pipeline, LLC; Notice of Proposed Changes in FERC Gas Tariff

August 16, 2000.

Take notice that on August 9, 2000, Mississippi Canyon Gas Pipeline, LLC (MCGP) tendered for filing the following tariff sheet to be effective September 1, 2000:

Third Revised Sheet No. 57

The sole purpose of this filing is to reflect a change in the World Wide Web address for Mississippi Canyon's Internet Web Site. The new address is www.shell-gt.com. This change is necessitated to better align the website address with a recent corporate name change.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–21292 Filed 8–21–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–451–000]

Nautilus Pipeline Company, LLC; Notice of Proposed Changes in FERC Gas Tariff

August 16, 2000.

Take notice that on August 9, 2000, Nautilus Pipeline Company, LLC (Nautilus) tendered for filing the following tariff sheet to be effective September 1, 2000.

Fifth Revised Sheet No. 72

The sole purpose of this filing is to reflect a change in the World Wide Web address for Nautilus' Internet Web Site. The new address is www.shell-gt.com. This change is necessitated to better align the website address with a corporate name change.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections

385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–21306 Filed 8–21–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–326–002]

Tennessee Gas Pipeline Company; Notice of Compliance Filing

August 16, 2000.

Take notice that on August 14, 2000, Tennessee Gas Pipeline Company (Tennessee), tendered for filing its report of activities during the first year of service under Rate Schedule PAL, Tennessee's parking and loaning service.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before August 23, 2000. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–21296 Filed 8–21–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. MT00–16–000]

Trailblazer Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

August 16, 2000.

Take notice that on August 11, 2000, Trailblazer Pipeline Company (Trailblazer) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1 (Tariff), Second Revised Sheet No. 199 to be effective September 1, 2000:

Trailblazer states that the tariff sheet was filed to facilitate compliance with Order No. 637 and the revised reporting requirements in Section 161.3(l)(2) of the Federal Energy Regulatory Commission's Regulations.

Trailblazer respectively requests waiver of any provisions of its Tariff and/or the Commission's Regulations required to permit the instant filing to become effective as proposed.

Trailblazer states that copies of the filing have been mailed to its customers and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–21300 Filed 8–21–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG00–242–000, et al.]

Solar Turbines Incorporated, et al.; Electric Rate and Corporate Regulation Filings

August 16, 2000.

Take notice that the following filings have been made with the Commission:

1. Solar Turbines Incorporated

[Docket No. EG00–242–000]

Take notice that on August 11, 2000, Solar Turbines Incorporated, 2000 Pacific Coast Highway, San Diego, California 92186 (Solar), filed with the Federal Energy Regulatory Commission (Commission) an Application for Determination of Exempt Wholesale Generator Status pursuant to part 365 of the Commission's Regulations and Section 32 of the Public Utility Holding Company Act, as amended (the Application).

The Application seeks a determination that Solar qualifies for Exempt Wholesale Generator status. Solar is a Delaware Corporation that owns and operates a gas-fired combined cycle cogeneration facility rates at 69 MW. Solar historically has engaged in the sale of electricity to Metropolitan Edison Company (Met-Ed) as a Qualifying Facility (QF) under the Public Utility Regulatory Policies Act of 1978 (PURPA). Upon Solar's determination as a EWG, the facility will be used for the generation of electricity exclusively for sale at wholesale.

Copies of this Application have been served upon the Pennsylvania Public Utility Commission and the Securities and Exchange Commission.

Comment date: September 6, 2000, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

2. Allegheny Energy Supply Hunlock Creek, LLC

[Docket No. EG00–243–000]

Take notice that on August 11, 2000, Allegheny Energy Supply Hunlock Creek, LLC filed an Application for Determination of Exempt Wholesale Generator Status pursuant to Section 32(a)(1) of the Public Utility Holding Company Act of 1935, all as more fully explained in the Application.

Comment date: September 6, 2000, in accordance with Standard Paragraph E at the end of this notice.

3. Entergy Services, Inc.

[Docket No. ER00–3394–000]

Take notice that on August 11, 2000, Entergy Services, Inc., on behalf of Entergy Mississippi, Inc., tendered for filing an Interconnection and Operating Agreement with GenPower McAdams LLC (McAdams), and a Generator Imbalance Agreement with McAdams.

Comment date: September 1, 2000, in accordance with Standard Paragraph E at the end of this notice.

4. Virginia Electric and Power Company

[Docket No. ER00–3395–000]

Take notice that on August 11, 2000, Virginia Electric and Power Company (Virginia Power or the Company) tendered for filing the following:

1. Service Agreement for Firm Point-to-Point Transmission Service by Virginia Electric and Power Company to H.Q. Energy Services (U.S.) Inc. designated as Service Agreement No. 293 under the Company's FERC Electric Tariff, Second Revised Volume No. 5.

2. Service Agreement for Non-Firm Point-to-Point Transmission Service by Virginia Electric and Power Company to H.Q. Energy Services (U.S.) Inc. designated as Service Agreement No. 294 under the Company's FERC Electric Tariff, Second Revised Volume No. 5.

The foregoing Service Agreements are tendered for filing under the Open Access Transmission Tariff to Eligible Purchasers effective June 7, 2000. Under the tendered Service Agreements, Virginia Power will provide point-to-point service to H.Q. Energy Services (U.S.) Inc. under the rates, terms and conditions of the Open Access Transmission Tariff.

Virginia Power requests an effective date of August 11, 2000, the date of filing of the Service Agreements.

Copies of the filing were served upon H.Q. Energy Services (U.S.) Inc., the Virginia State Corporation Commission, and the North Carolina Utilities Commission.

Comment date: September 1, 2000, in accordance with Standard Paragraph E at the end of this notice.

5. Commonwealth Edison Company

[Docket No. ER00–3396–000]

Take notice that on August 11, 2000, Commonwealth Edison Company (ComEd), tendered for filing a Short-Term Firm Transmission Service Agreement with UtiliCorp United Inc., (UCU) under the terms of ComEd's Open Access Transmission Tariff (OATT).

ComEd requests an effective date of July 14, 2000 for the Agreement with UCU, and accordingly, seeks waiver of the Commission's notice requirements.

Comment date: September 1, 2000, in accordance with Standard Paragraph E at the end of this notice.

6. Ohio Valley Electric Corporation, Indiana-Kentucky Electric Corporation

[Docket No. ER00–3397–000]

Take notice that on August 11, 2000, Ohio Valley Electric Corporation (including its wholly-owned subsidiary, Indiana-Kentucky Electric Corporation) (OVEC), tendered for filing a Service Agreement for Non-Firm Point-to-Point Transmission Service, dated July 25, 2000 (the Service Agreement) between H.Q. Energy Service (U.S.) Inc. (H.Q. Energy) and OVEC. OVEC proposes an effective date of July 28, 2000 and requests waiver of the Commission's notice requirement to allow the requested effective date. The Service Agreement provides for non-firm transmission service by OVEC to H.Q. Energy.

In its filing OVEC states that the rates and charges included in the Service Agreement are the rate charges set forth in OVEC's Open Access Transmission Tariff.

Copies of this filing were served upon H.Q. Energy.

Comment date: September 1, 2000, in accordance with Standard Paragraph E at the end of this notice.

7. Indianapolis Power & Light Company

[Docket No. ER00–3398–000]

Take notice that on August 11, 2000, Indianapolis Power & Light Company (IPL), tendered for filing service agreements executed under IPL's Open Access Transmission Tariff and an index of customers.

Comment date: September 1, 2000, in accordance with Standard Paragraph E at the end of this notice.

8. Allegheny Energy Service Corporation, on behalf of Allegheny Energy Supply Company, LLC

[Docket No. ER00–3399–000]

Take notice that on August 11, 2000, Allegheny Energy Service Corporation on behalf of Allegheny Energy Supply Company, LLC (Allegheny Energy Supply), tendered for filing Second Revised Service Agreement No. 79 under the Market Rate Tariff to incorporate a Netting Agreement with Conectiv Energy Supply, Inc., into the tariff provisions. Allegheny Energy Supply requests a waiver of notice requirements to make the Netting.

Agreement effective as of July 25, 2000 or such other date as ordered by the Commission.

Copies of the filing have been provided to the Public Utilities Commission of Ohio, the Pennsylvania Public Utility Commission, the Maryland Public Service Commission, the Virginia State Corporation Commission, the West Virginia Public Service Commission, and all parties of record.

Comment date: September 1, 2000, in accordance with Standard Paragraph E at the end of this notice.

9. Solar Turbines Incorporated

[Docket No. ER00–3400–000]

Take notice that on August 11, 2000, Solar Turbines Inc. (Solar), applied to the Commission for exception of Solar's Rate Schedule FERC No. 1; the granting of certain blanket approvals including authority to sell electric at market-based rates and the waiver of certain Commission regulations. Solar intends to engage in wholesale electric power sales from its York facility.

Comment date: September 1, 2000, in accordance with Standard Paragraph E at the end of this notice.

10. Southern Company Services, Inc.

[Docket No. ER00–3401–000]

Take notice that on August 11, 2000, Southern Company Services, Inc., as agent for Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company, and Savannah Electric and Power Company (Southern Companies), tendered for filing the Generator Backup Service Agreement (the Service Agreement) between International Paper Company (International Paper) and Southern Companies under Southern Companies' Generator Backup Service Tariff (FERC Electric Tariff, Original Volume No. 9). The Service Agreement supplies International Paper with unscheduled capacity and energy in connection with sales from its electric generating facility as a replacement for unintentional differences between the facility's actual metered generation and its scheduled generation. The Service Agreement is dated as of July 14, 2000, and shall terminate upon twelve (12) months prior written notice of either party.

Comment date: September 1, 2000, in accordance with Standard Paragraph E at the end of this notice.

11. Commonwealth Edison Company

[Docket No. ER00–3402–000]

Take notice that on August 11, 2000, Commonwealth Edison Company (ComEd), tendered for filing ten Short-Term Firm Transmission Service Agreements with The Energy Authority,

Inc. (TEA) Merrill Lynch Capital Services, Inc. (MLCS), Niagara Mohawk Energy Marketing, Inc. (NMEM), PacifiCorp Power Marketing (PPM), PG&E Energy Trading—Power, L.P. (PG&E), PPL EnergyPlus, LLC (PPL), Public Service Company of Colorado (PSC), Public Service Electric and Gas Company (PSEG), Tennessee Power Company (TPCO), and Unicom Energy, Inc. (UEI) under the terms of ComEd's Open Access Transmission Tariff (OATT).

ComEd requests an effective date of August 11, 2000 for the Agreements, and accordingly, seeks waiver of the Commission's notice requirements.

Copies of this filing were served on TEA, MLCS, NMEM, PPM, PG&E, PPL, PSC, PSEG, TPCO and UEI.

Comment date: September 1, 2000, in accordance with Standard Paragraph E at the end of this notice.

12. Cinergy Services, Inc.

[Docket No. ER00–3403–000]

Take notice that on August 11, 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 H.Q. Energy Services (U.S.) Inc. (HQUS).

Cinergy and HQUS are requesting an effective date of July 17, 2000.

Comment date: September 1, 2000, in accordance with Standard Paragraph E at the end of this notice.

13. Southwest Power Pool, Inc.

[Docket No. ER00–3404–000]

Take notice that on August 11, 2000, Southwest Power Pool, Inc. (SPP), tendered for filing revised service agreements for Firm Point-to-Point Transmission Service, Non-Firm Point-to-Point Transmission Service and Loss Compensation Service with PPL EnergyPlus LLC. Earlier versions of these agreements identifying PPL Electric Utilities Corporation, d/b/a/ PPL Utilities as the Transmission Customer were filed by the Commission and accepted as Service Agreement Nos. 351, 352 and 353, respectively.

SPP seeks an effective date of July 20, 2000, for revised agreements.

Comment date: September 1, 2000, in accordance with Standard Paragraph E at the end of this notice.

14. Southwest Power Pool, Inc.

[Docket No. ER00–3405–000]

Take notice that on August 11, 2000, Southwest Power Pool, Inc. (SPP), tendered for filing executed service agreements for Firm Point-to-Point Transmission Service and Non-Firm Point-to-Point Transmission Service with Golden Spread Electric Cooperative, Inc. (Transmission Customer).

SPP seeks an effective date of August 10, 2000 for each of the service agreements.

Copies of this filing were served on the Transmission Customer.

Comment date: September 1, 2000, in accordance with Standard Paragraph E at the end of this notice.

15. Dayton Power and Light Company

[Docket No. ER00–3413–000]

Take notice that on August 11, 2000, Dayton Power and Light Company (Dayton), tendered for filing service agreements establishing with Cinergy Capital & Trading, Inc., as customers under the terms of Dayton's Open Access Transmission Tariff.

Dayton requests an effective date of one day subsequent to this filing for the service agreements. Accordingly, Dayton requests waiver of the Commission's notice requirements.

Copies of this filing were served upon with Cinergy Capital & Trading, Inc., and the Public Utilities Commission of Ohio.

Comment date: September 1, 2000, in accordance with Standard Paragraph E at the end of this notice.

16. Dayton Power and Light Company

[Docket No. ER00–3414–000]

Take notice that on August 11, 2000, Dayton Power and Light Company (Dayton), tendered for filing service agreements establishing Cinergy Capital & Trading, Inc., as customers under the terms of Dayton's Open Access Transmission Tariff.

Dayton requests an effective date of one day subsequent to this filing for the service agreements. Accordingly, Dayton requests waiver of the Commission's notice requirements.

Copies of this filing were served upon establishing Cinergy Capital & Trading, Inc., and the Public Utilities Commission of Ohio.

Comment date: September 1, 2000, in accordance with Standard Paragraph E at the end of this notice.

17. Dayton Power and Light Company

[Docket No. ER00–3415–000]

Take notice that on August 11, 2000, Dayton Power and Light Company (Dayton), tendered for filing service agreements establishing Amerada Hess Corporation as customers under the terms of Dayton's Open Access Transmission Tariff.

Dayton requests an effective date of one day subsequent to this filing for the service agreements. Accordingly, Dayton requests waiver of the Commission's notice requirements.

Copies of this filing were served upon establishing Amerada Hess Corporation and the Public Utilities Commission of Ohio.

Comment date: September 1, 2000, in accordance with Standard Paragraph E at the end of this notice.

18. Dayton Power and Light Company

[Docket No. ER00–3416–000]

Take notice that on August 11, 2000, Dayton Power and Light Company (Dayton), tendered for filing service agreements establishing with Amerada Hess Corporation as customers under the terms of Dayton's Open Access Transmission Tariff.

Dayton requests an effective date of one day subsequent to this filing for the service agreements. Accordingly, Dayton requests waiver of the Commission's notice requirements.

Copies of this filing were served upon with Amerada Hess Corporation and the Public Utilities Commission of Ohio.

Comment date: September 1, 2000, in accordance with Standard Paragraph E at the end of this notice.

19. CMS Marketing, Services and Trading Company

[Docket No. ER00–3152–001]

Take notice that on August 11, 2000, CMS Marketing, Services and Trading Company (CMS MST), tendered for filing, an amended Service Agreement establishing its public utility affiliate, Consumers Energy Company (CECo), as a customer. CECo's commitment made in the original July 14, 2000 application to exclude all purchases from CMS MST from any rate calculations for its ten wholesale requirements customers and twelve special contracts customers is proposed to be incorporated in the amended service agreement.

CMS MST also seeks waiver of any regulations of the Federal Energy Regulatory Commission necessary to permit an effective date of August 1, 2000, and a shortened notice period.

Comment date: September 1, 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. 00–21333 Filed 8–21–00; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6856–3]

Withdrawal of Request for Comment on Renewal Information Collections for the Notification of Episodic Releases of Oil and Hazardous Substances; and the Continuous Release Reporting Regulations (CRRR) Under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) is announcing that it has withdrawn the following notices published in the **Federal Register** (June 13, 2000) that solicited comment on EPA's request to renew existing ICRs: Notification of Episodic Release of Oil and Hazardous Substances (EPA ICR No. 1049.09, OMB No. 2050–0046) (65 FR 37128); and Continuous Release Reporting Regulations (CRRR) under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) (EPA ICR No. 1445.05, OMB No. 2050–0086) (65 FR 37131).

FOR FURTHER INFORMATION CONTACT: Lynn Beasley, (703) 603–9086. Facsimile number: (703) 603–9104. Electronic address: beasley.lynn@epa.gov. Comments should not be submitted to this contact person.

SUPPLEMENTARY INFORMATION:

I. Why Are the Requests for Comment Withdrawn?

The EPA has withdrawn the request for comment so that it may include more information in each of the Information Collection Requests before asking the public to comment and so that it may issue another notice to give the public a 60 day period for comment.

II. Does EPA Intend To Renew the Existing ICRs?

Yes, EPA plans to submit the continuing Information Collection Requests (ICRs) to the Office of Management and Budget (OMB): Notification of Episodic Releases of Oil and Hazardous Substances (EPA ICR No. 1049.09, OMB No. 2050–0046); and Continuous Release Reporting Regulations (CRRR) under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA)(EPA ICR No. 1445.05, OMB No. 2050–0086).

III. When Will the Comment Period Begin?

EPA will announce its plan to submit the Information Collection Request in subsequent **Federal Register** notices. The subsequent **Federal Register** notices will also include detailed Agency milestones and a schedule for completion of the renewal process for each Information Collection Request.

Dated: August 15, 2000.

Larry G. Reed,

Acting Director, Office of Emergency and Remedial Response.

[FR Doc. 00–21380 Filed 8–21–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6855–5]

Agency Information Collection Activities; Submission of EPA ICR# 0794.09 to OMB for Review and Approval

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of submission to OMB.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) entitled: Notification of Substantial Risk under TSCA Section 8(e) (EPA ICR# 0794.09; OMB# 2070–0046) has been forwarded to the Office of Management and Budget (OMB) for review and approval pursuant to 5 CFR 1320.12. The ICR, which is abstracted below, describes the nature of the information collection and its estimated cost and burden. A **Federal Register** notice announcing the Agency's intent to seek OMB approval for this ICR and a 60-day public comment opportunity, requesting comments on the request and the contents of the ICR, was issued on March 2, 2000 (65 FR 11306). One comment was received, which is addressed in the attachment to this ICR.

DATES: Additional comments may be submitted on or before September 21, 2000.

ADDRESSES: Send comments, referencing EPA ICR No. 0794.09 and OMB Control No. 2070–0046, to the following addresses: Sandy Farmer, U.S. Environmental Protection Agency, Collection Strategies Division (Mail Code: 2822), 1200 Pennsylvania Avenue, NW., Washington, DC 20460; and to: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer by phone at (202) 260–2740, or via e-mail at: ''farmer.sandy@epa.gov,'' or download off the Internet at http://www.epa.gov/icr/icr.htm and refer to EPA ICR No. 0794.09.

SUPPLEMENTARY INFORMATION: *Title:* Notification of Substantial Risk under TSCA Section 8(e) (OMB Control No. 2070–0046; EPA ICR No. 0794.09), expiring 09/30/2000. This is a request for extension of a currently approved collection.

Abstract: Section 8(e) of the Toxic Substances Control Act (TSCA) requires that any person who manufactures, imports, processes or distributes in commerce a chemical substance or mixture and who obtains information that reasonably supports the conclusion that such substance or mixture presents a substantial risk of injury to health or the environment must immediately inform EPA of such information. EPA routinely disseminates TSCA section 8(e) data it receives to other Federal agencies to provide information about newly discovered chemical hazards and risks.

Responses to the collection of information are mandatory (see 15 U.S.C. 2607(e)). Respondents may claim all or part of a document confidential. EPA will disclose information that is covered by a claim of confidentiality only to the extent permitted by, and in accordance with, the procedures in TSCA section 14 and 40 CFR part 2. 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 March 2, 2000 (65 FR 11306). EPA received comments on this ICR during the comment period, which are addressed in an attachment to the ICR.

Burden Statement: The annual public reporting burden for this collection of information is estimated to average 27 hours per response for initial TSCA section 8(e) submissions, and 5 hours per follow-up/supplemental section 8(e) submission. 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: Companies that manufacture, process, distribute or import chemical substances or mixtures.

Frequency of Collection: On occasion.

Estimated No. of Respondents: 267.

Estimated Total Annual Burden on Respondents: 8,209 hours.

Estimated Total Annual Non-labor Costs: $0.

Changes in Burden Estimates: The total burden associated with this ICR has decreased from 9,500 hours in the previous ICR to 8,209 for this ICR. This adjustment in burden reflects a reduction in the anticipated number of follow-up or supplemental TSCA section 8(e) notices received by EPA.

According to the procedures prescribed in 5 CFR 1320.12, EPA has submitted this ICR to OMB for review and approval. Any comments related to the renewal of this ICR should be submitted within 30 days of this notice, as described above.

Dated: August 15, 2000.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 00–21378 Filed 8–21–00; 8:45 am]

BILLING CODE 6550–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6855–4]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; Compliance Requirement for Child-Resistant Packaging

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: Compliance Requirement for Child-resistant Packaging, (EPA ICR No. 0616.07, OMB No. 2070–0052). The ICR, which expires on August 30, 2000, is abstracted below and describes the nature of the information collection and its estimated cost and burden. A **Federal Register** document, required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on August 4, 1999 (64 FR 42365). EPA did not receive any comments on this ICR during the comment period.

DATES: Additional comments may be submitted on or before September 21, 2000.

ADDRESSES: Send comments, referencing EPA ICR No. 0616.07 and OMB Control No. 2070–0052, to the following addresses: Ms Sandy Farmer, U.S. Environmental Protection Agency, Office of Environmental Information, Collection Strategies Division (Mail Code: 2822), 1200 Pennsylvania Avenue, NW., Washington, DC 20460 And to: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer by phone at 202–260–2740, or via e-mail at ''farmer.sandy@epa.gov'', or using the address indicated below. Please refer to EPA ICR No. 0616.07 and OMB Control No. 2070–0052.

SUPPLEMENTARY INFORMATION: *Title:* Compliance Requirement for Child-resistant Packaging (OMB Control No. 2070–0052; EPA ICR No. 0616.07) expiring 08/31/2000. This is a request for extension of a currently approved collection.

Abstract: This ICR covers packaging information on pesticide products sold and distributed to the general public in the United States. Section 25 (c)(3) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) authorizes the Environmental Protection Agency (EPA, the Agency) to establish standards for packaging of pesticide products and pesticidal devices to protect children and adults from serious illness or injury resulting from accidental ingestion or contact. The law requires that these standards are designed to be consistent with those under the Poison Prevention Packaging Act, administered by the Consumer Product Safety Commission (CPSC). The information covered by this request is collected when a pesticide registrant certifies to the Agency that the packaging for the pesticide product meets the standards of 40 CFR part 157, or requests an exemption to the requirement. Unless a pesticide product qualifies for an exemption, the product must meet certain criteria regarding toxicity and use, and it must also be sold and distributed in child-resistant packaging (CRP). Registrants must certify to the Agency that the packaging or devise meets the standards set forth by the Agency. There are no forms associated with this information collection activity. 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.

Burden Statement: The incorporation of alternative methods to verify that the package meets the requirements of 40 CFR 157.32 have allowed manufacturers to use extrapolation schemes, available child-resistant protocol test data, and supporting documentation without spending the time and money to develop the data on their exact package. The burden and cost to industry also is minimized by the reference of the CPSC effectiveness standards and protocol test procedures which precludes duplicative testing for pesticidal and non-pesticidal purposes, as well as allowing for the use of CRP developed for non-pesticidal purposes.

The annual public reporting and recordkeeping burden for this collection of information is estimated to average 1.7 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: Pesticide registrants subject to certification regulations in 40 CFR part 157.

Estimated Number of Respondents: 502.

Frequency of Response: As needed.

Estimated Total Annual Burden: 853.4.

Estimated Total Annualized Non-labor Burden Costs: $0.

According to the procedures prescribed in 5 CFR 1320.12, EPA has submitted this ICR to OMB for review and approval. Any comments related to the renewal of this ICR should be submitted within 30 days of this notice, as described above.

Dated: August 14, 2000.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 00–21379 Filed 8–21–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6856–2]

Regulatory Reinvention (XL) Pilot Projects; Project XL Final Project Agreement: PPG Industries, Inc.

AGENCY: Environmental Protection Agency.

ACTION: Notice of Project XL final project agreement.

SUMMARY: EPA is requesting comments on a proposed Project XL Final Project Agreement (FPA) for PPG Industries, Inc. (hereafter ''PPG''). The FPA is a voluntary Agreement developed collaboratively by PPG and EPA.

DATES: The period for submission of comments ends on September 5, 2000.

ADDRESSES: All comments on the proposed Final Project Agreement should be sent to: Mr. Bill Waugh, US EPA, Ariel Rios Building, Mail Code 7403, 1200 Pennsylvania Avenue, NW, Washington, D.C. 20460 or Ms. Lisa Reiter, US EPA, Ariel Rios Building, Mail Code 1802, 1200 Pennsylvania Avenue, NW, Washington, D.C. 20460. Comments may also be faxed to Bill Waugh (202) 260–1216 or Lisa Reiter (202) 260–3125. Comments may also be received via electronic mail sent to: *waugh.bill@epa.gov* or *reiter.lisa@epa.gov.*

FOR FURTHER INFORMATION CONTACT: To obtain a copy of the Project Fact Sheet or the proposed Final Project Agreement, contact: Bill Waugh, US EPA, Ariel Rios Building, Mail Code 7403, 1200 Pennsylvania Avenue, NW, Washington, D.C. 20460 or Ms. Lisa Reiter, US EPA, Ariel Rios Building, Mail Code 1802, 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, a hard copy of the proposed FPA will be available from PPG—contact Jean Chun, Senior Toxicologist, PPG XL Coordinator for a copy (412) 492–5482.

Questions to EPA regarding the documents can be directed to Bill Waugh at (202) 260–3489 or Lisa Reiter at (202) 260–9041. To be included on the PPG XL mailing list about future public meetings, XL progress reports and other mailings from PPG on the XL project, contact Jean Chun, Senior Toxicologist, PPG Industries, Inc., 4325 Rosanna Drive, Allison Park, PA 15101 or at (412) 492–5482. For information on all other aspects of the XL Program, contact Christopher Knopes at the following address: Office of Environmental Policy 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.

SUPPLEMENTARY INFORMATION: Project XL, announced in the **Federal Register** on May 23, 1995 (60 FR 27282), gives regulated entities the opportunity to develop alternative strategies that will replace or modify specific regulatory or procedural requirements on the condition that they produce greater environmental benefits.

The EPA Office of Prevention, Pesticides and Toxic Substances (OPPTS) has developed a set of computerized risk screening tools that have the potential to significantly advance pollution prevention objectives. The objective of the P2 Framework approach is to inform decision making at early stages of new chemical product development and to promote the selection and application of safer chemical substances and processes. Annually, EPA evaluates approximately two thousand (2000) Pre-Manufacture Notifications (PMNs) that are submitted to the Agency pursuant to Section 5 of EPA's Toxic Substances Control Act (TSCA). The Act requires that persons who manufacture (or import) a new chemical substance provide such notice to EPA 90 days prior to commencing nonexempt commercial manufacture. However, the law does not require that the submitter conduct laboratory tests to evaluate the potential hazard and risk of the new chemical substance. If the Agency does not take regulation action within 90 days of receipt of the PMN, the submitter may manufacture that new chemical substance. Operating under this time limitation, and often lacking sufficient data, EPA has developed methods to quickly screen chemical substances in the absence of data—known as the P2 Framework. In an outreach effort to industry, the Agency is making the P2 Framework methodologies available and is demonstrating how these tools can help design safer chemical substances, reduce waste generation, and identify other P2 Framework opportunities. Industry response to the incorporation of EPA's P2 Framework into the chemical development process has been positive.

PPG proposes to apply the P2 Framework early in its new product development process to help it identify and develop products and processes that can be sustained both environmentally and economically. Applying the P2 Framework as a part of its new product development process, PPG will incorporate environmental and health information into the early stages of its chemical development operations as well as identify opportunities for pollution prevention. PPG is planning on using the P2 Framework at three Research and Development (R&D) facilities located at Monroeville, Allison Park, and Harmarville; all are located in the greater Pittsburgh, PA area. PPG believes many other companies can develop environmentally preferable products by applying the P2 Framework, especially at the R&D stage of product development. The use of the P2 Framework will assist PPG when it is designing new chemical substances and products by enabling PPG to conduct an analysis similar to that performed by EPA for each PMN that is submitted to EPA. PPG will incorporate information obtained from use of the P2

Framework methodologies into its TSCA Section 5 submissions.

Unless the requirements for an exemption are met, a PMN submitter may not manufacture a new chemical substance until 90 days after it has submitted a PMN, even if information submitted to EPA indicates that the chemical substance will not present an unreasonable risk. However, when EPA determines during its initial review that a PMN chemical substance does not present an unreasonable risk to the environment or human health, the substance is not likely to be regulated by EPA. Therefore, PPG and EPA have agreed that, with respect to PMN substances that meet these criteria, based on PPG's initial pre-submission screen of the PMN materials using the P2 Framework and EPA's own review, PPG will be allowed to submit a Simultaneous Test Market Exemption (TME) Application and PMN for those chemical substances which have been evaluated by PPG in accordance with P2 principles. If the TME requirements are met (see 40 CFR 720.38) and the chemical substance gets dropped from PMN review 30 days of submission, PPG may begin manufacture under the TME within 45 days of submission in accordance with the limitations of the TME Application, and may commence normal manufacture at the conclusion of the 90-day PMN review period.

PPG's Project includes a series of innovative actions to help demonstrate to other chemical manufacturers how the P2 Framework can help develop products that are sustainable both environmentally and economically, while saving companies significant resources. This Project also includes several outreach initiatives for the purpose of promoting the use of the P2 Framework. Each initiative is designed to make other industry representatives aware of the source reduction, pollution prevention and economic benefits that can be realized by using the P2 Framework.

Dated: August 16, 2000.

Christopher A. Knopes,

Associate Director, Office of Environmental Policy and Innovation.

[FR Doc. 00–21381 Filed 8–21–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6849–5]

Notice of Proposed Administrative Settlement Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act

AGENCY: Environmental Protection Agency.

ACTION: Notice; request for public comment.

SUMMARY: In accordance with Section 122(h) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (''CERCLA''), 42 U.S.C. 9622(i), notice is hereby given of a proposed administrative settlement concerning the Brownsville Drums Superfund Site, with Denova Environmental, Inc.

The settlement requires the settling parties to pay a total of $290,778.51 as payment of past response costs and $34,880.00 in future costs to the Hazardous Substances Superfund. The settlement includes a covenant not to sue pursuant to Section 107 of CERCLA, 42 U.S.C. 9607.

For thirty (30) days following the date of publication of this notice, the Agency will receive written comments relating to this notice and will receive written comments relating to the settlement. The Agency will consider all comments received and may modify or withdraw its consent to the settlement if comments received disclose facts or considerations which indicate that the settlement is inappropriate, improper, or inadequate. The Agency's response to any comments received will be available for public inspection at 1445 Ross Avenue, Dallas, Texas 75202–2733.

DATES: Comments must be submitted on or before September 21, 2000.

ADDRESSES: The proposed settlement and additional background information relating to the settlement are available for public inspection at 1445 Ross Avenue, Dallas, Texas 75202–2733. A copy of the proposed settlement may be obtained from Lydia Behn, 1445 Ross Avenue, Dallas, Texas 75202–2733 or by calling (214) 665–8419. Comments should reference the Brownsville Drums Superfund Site, Cameron County, Texas, and EPA Docket Number 06–03–2000, and should be addressed to Lydia Behn at the address listed above.

FOR FURTHER INFORMATION CONTACT: Joseph Compton, 1445 Ross Avenue, Dallas, Texas 75202–2733 or call (214) 665–8506.

Dated: August 1, 2000.

Lynda F. Carroll,

Acting Regional Administrator, Region 6.

[FR Doc. 00–21376 Filed 8–21–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6855–6]

Virginia State Prohibition on Discharges of Vessel Sewage; Receipt of Petition and Tentative Determination

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Notice is hereby given that a petition was received from the Commonwealth of Virginia on May 23, 2000, requesting a determination by the Regional Administrator, Environmental Protection Agency Region III, pursuant to section 312(f) of Public Law 92–500, as amended by Public Law 95–217 and Public Law 100–4 (the Clean Water Act), that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for the navigable waters of Smith Mountain Lake, Bedford, Franklin and Pittsylvania Counties, Virginia.

DATES: Comments and views regarding this petition and EPA's tentative determination may be filed on or before September 21, 2000.

ADDRESSES: Comments or requests for information or copies of the applicant's petition should be addressed to Edward Ambrogio, U.S. Environmental Protection Agency, Region III, Office of Ecological Assessment and Management, 1650 Arch Street, Philadelphia, PA 19103.

FOR FURTHER INFORMATION CONTACT: Edward Ambrogio, U.S. Environmental Protection Agency, Region III, Office of Ecological Assessment and Management, 1650 Arch Street, Philadelphia, PA 19103. Telephone: (215) 814–2758. Fax: (215) 814–2782. Email: ambrogio.edward@epa.gov.

SUPPLEMENTARY INFORMATION: This petition was made by the Office of the Secretary of Natural Resources on behalf of the Virginia Department of Environmental Quality (VADEQ). Upon receipt of an affirmative determination in response to this petition, VADEQ would completely prohibit the discharge of sewage, whether treated or not, from any vessel in Smith Mountain Lake in accordance with section 312(f)(3) of the Clean Water Act and 40 CFR 140.4(a).

Smith Mountain Lake, named after the mountain located at its southeastern edge, is an inland reservoir located in the Piedmont physiographic province of west central Virginia. The lake is situated in the Roanoke River Basin and fed by two main tributaries, the Roanoke River and the Blackwater River, as well as other minor tributaries. It was formed in 1965 after the completion of the Smith Mountain Hydroelectric Dam by Appalachian Power Company and reached full pond in 1966. The lake is approximately 20,000 acres in area, forms 500 miles of shoreline, and is bordered by the three counties of Bedford, Franklin and Pittsylvania. It flows into another large reservoir, Leesville Lake. The two lakes form a pumped storage facility for hydroelectric power generation during peak demand periods.

Bedford County has been using the lake as a drinking water source since March 31, 1999. The water treatment plant is now withdrawing an annual average of approximately 20,000 gallons per day. The water intake for this facility is located on the north side of the Roanoke River arm of the lake, approximately 2 miles east of the Hales Ford Bridge, directly across the lake from Becky's Creek. The proposed No-Discharge Zone would include Smith Mountain Lake, from Smith Mountain Dam (Gap of Smith Mountain) upstream to the 795.0 foot contour (normal pool elevation) in all tributaries, including waters to above the confluence with Back Creek in the Roanoke River arm, and to the Brooks Mill Bridge (Route 834) on the Blackwater River arm.

Information submitted by the Commonwealth of Virginia states that there are 17 waterfront facilities that operate pumpout facilities in the proposed Smith Mountain Lake No-Discharge Zone. Twelve of these 17 also provide dump stations, and there are 15 additional dump stations located at 14 other marinas for a total of 27 dump stations. There is one proposed pumpout and a mobile pumpout operated by Ferrum College. Also, funding is being sought by the Virginia Department of Health to provide a mobile ''floating'' pumpout facility to operate on the lake.

Details of these facilities' location, availability and hours of operation are as follows:

Virginia Dare Marina is located on State Route 853 in Bedford County. The marina currently operates one stationary pumpout facility accessible to all boaters. The pumpout facility is also a reception facility for portable toilet sanitary wastes. The marina has received approval of Clean Vessel Act funding for a pumpout facility upgrade. The marina's sewage disposal hours of operation are 10am–4pm, April through October.

Campers Paradise Marina is located off State Route 122, one mile north of Hales Ford Bridge that connects Bedford County and Franklin County. The marina currently operates one stationary pumpout facility accessible to all boaters. A drive-by dump station on-site acts as a receptacle for sanitary waste from portable toilets. The marina's sewage disposal hours of operation are 7 am–7 pm, 11 months per year.

Lake Haven Marina is located off State Route 626 in southeast Bedford County. The marina currently operates one stationary pumpout facility located in the middle of a dock allowing equal access to all boaters. The dump station is located on land next to the septic tank and drainfield. The marina's sewage disposal hours of operation are 8 am–4 pm, April through October.

Mitchell Point Marina is located at the end of State Route 734 in southeast Bedford County. The marina currently operates a mobile pumpout unit attached to a trailer mechanism accessible to all boaters. The dump station is located next to the septic tank and drainfield. The marina's sewage disposal hours of operation are 7 am–4 pm, May through October.

Saunders Parkway Marina is located off State Route 626 in southeast Bedford County. The marina currently operates one stationary pumpout facility located on a fixed pier allowing equal access to all boaters. The dump station is located on land next to the boat repair facility. The marina's sewage disposal hours of operation are 9 am–5 pm, June through September.

Smith Mountain Lake Yacht Club is located off State Route 823 in Bedford County. The yacht club has recently completed construction of a new, state-of the-art pumpout system accessible to all boaters. The marina's sewage disposal hours of operation are 9 am–5 pm, 12 months per year.

Waterwheel Marina is located off State Route 821 in Bedford County. The marina operates a mobile unit attached to a trailer mechanism accessible to all boaters. The marina's sewage disposal hours of operation are 9 am–3 pm, five months per year.

Webster Marine Center is located off State Route 122 in Bedford County. The marina operates one stationary pumpout located on a floating pier allowing equal access to all boaters. The dump station is located next to the septic tank. The marina has received approval of Clean Vessel Act funding for a pumpout facility upgrade. The marina's sewage disposal hours of operation are 8 am–3 pm, eight months per year.

Smith Mountain Lake State Park facility is owned by the State of Virginia and operated by the Department of Conservation and Recreation. The Department applied for and was awarded Clean Vessel Act funds for the installation of a sanitary waste pumpout unit and dump station. The facility is expected to be functional in the year 2000 boating season. A drive-by dump station on-site currently acts as a receptacle for sanitary waste from portable toilets.

Bay Roc Marina is located off State Route 634 in Franklin County. The marina operates one stationary pumpout facility located on land near the mooring pier accessible to all boaters. The dump station is located behind the marina restroom facilities. The marina is open all year.

Boats at Smith Mountain Lake, Inc. is located off State Route 122 in Franklin County. The marina operates one stationary pumpout facility located on a mooring pier accessible to all boaters. The dump station is located between the pumpout facility and marina store. The marina's sewage disposal hours of operation are 8 am–4 pm, seven months per year.

Bridgewater Plaza Marina is located off State Route 122 in Franklin County. The marina operates one stationary pumpout facility located on the fuel dock accessible to all boaters. The marina's sewage disposal hours of operation are 7 am–11 pm, March through November.

Crazy Horse Marina is located off State Route 616 in Franklin County. The marina operates one stationary pumpout facility located on the fuel dock accessible to all boaters. The marina's sewage disposal hours of operation are 8 am–8 pm, April through October.

Pelican Point Yacht Club located off State Route 957 in Union Hall in Franklin County. The marina operates a mobile pumpout unit attached to a trailer mechanism accessible to all boaters. A recreation vehicle dump station on-site acts as a receiving facility for sanitary waste from portable toilets. The marina's sewage disposal hours of operation are 9 am–4 pm, 10 months per year.

Shoreline Marina is located off State Route 949 in Franklin County. The marina operates a stationary pumpout

unit located on the fuel dock accessible to all boaters. The dump station is located next to the marina store. This marina has utilized Clean Vessel Act funding to upgrade its sanitary waste handling capacity. The marina's sewage disposal hours of operation are 9 am–5 pm, year round.

Lakeside Marina is located off State Route 626 in Pittsylvania County. The marina operates a stationary pumpout unit located on the fuel dock accessible to all boaters. The dump station is located on land near the septic tank and drainfield. The marina's sewage disposal hours of operation are 8 am–4 pm, six months per year.

Lumpkin Marina is located off State Route 626 in Pittsylvania County. The marina completed construction of a new pumpout system accessible to all boaters in the 1999 season using Clean Vessel Act funding. It provides a dump station facility for portable toilets at the septic tank behind the boathouse. The marina's sewage disposal hours of operation are 8 am–7 pm, May through October.

Smith Mountain Dock & Lodge is located off State Route 626 in Pittsylvania County. The marina operates a stationary pumpout unit located on the fuel dock accessible to all boaters. The marina uses existing sanitary facilities as a dump station. These facilities are located on a fixed pier next to the boating facility. The marina's sewage disposal hours of operation are 8 am–9 pm, April through October.

The Virginia Department of Health Marina Regulations address treatment of collected vessel sewage from pumpouts and dump stations (found at 12 VAC 5–570–180 C.5 and 12 VAC 5–570–190 C. respectively). No public sewer systems are available to service the above described marina facilities. All wastes from these marinas are treated by on-site septic systems and the treatment of collected sewage is in compliance with Federal, State and local regulations.

According to the State's petition, there are a total of 18,840 vessels registered in Virginia where the principal area of usage is in one of the three counties surrounding Smith Mountain Lake. This assumes that: (1) When boats are used in one of the three counties they are used on Smith Mountain Lake; and that (2) the boats may be stored anywhere in Virginia but are principally used on Smith Mountain Lake, so a good number of regular transient vessels are included in the figure. Most of the recreational vessel population is limited to the season from April to October.

Transient boats from other states and Virginia registered boats that are principally used elsewhere, but may at times be brought to Smith Mountain Lake, are not included in this number. An assumption can be made that the majority of such boats would be trailerable. This is supported by Health Department marina inspection slip counts which indicate only 53 out of 2,417 slips or moorings at commercial marinas are designated as transient vessel slips. Low demand for transient slips probably indicates boats are trailered and ramp launched. Most of the trailerable boats would not be of a size expected to have a holding tank.

All 18,840 vessels would not occupy the lake at the same time. The information suggests that as far as simultaneous occupancy of the lake this number is high, or more likely, it is very high for the smaller, easily trailered boats, and somewhat more accurate for the larger, site-committed boats. The vessel population based on length is 4,705 vessels less than 16 feet in length, 13,309 vessels between 16 feet and 26 feet in length, 749 vessels between 26 feet and 40 feet in length, and 77 vessels greater than 40 feet in length. Based on number and size of boats, and using various methods to estimate the number of holding tanks, it is estimated that six pumpouts and seven dump stations are needed for Smith Mountain Lake. As described above, there are currently 17 operational pumpout facilities and 27 operational dump stations in Smith Mountain Lake.

The EPA hereby makes a tentative affirmative determination that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for Smith Mountain Lake, Bedford, Franklin and Pittsylvania Counties, Virginia. A final determination on this matter will be made following the 30-day period for public comment and may result in a Virginia State prohibition of any sewage discharges from vessels in Smith Mountain Lake.

Comments and views regarding this petition and EPA's tentative determination may be filed on or before September 21, 2000. Comments or requests for information or copies of the applicant's petition should be addressed to Edward Ambrogio, U.S. Environmental Protection Agency, Region III, Office of Ecological Assessment and Management, 1650 Arch Street, Philadelphia, PA 19103; Telephone: (215) 814–2758, Fax: (215) 814–2782, Email: ambrogio.edward@epa.gov.

Dated: August 19, 2000.

Bradley M. Campbell,

Regional Administrator, Region III.

[FR Doc. 00–21377 Filed 8–21–00; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection(s) Being Reviewed by the Federal Communications Commission for Extension Under Delegated Authority; Comments Requested

August 16, 2000.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number.

Comments are requested concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before October 23, 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 A–804, 445 Twelfth Street, S.W., 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 No.: 3060–0261.

Title: Transmitter Measurements.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Individuals or households; business or other for-profit entities; not-for-profit institutions; state, local or tribal governments.

Number of Respondents: 129,900.

Estimated Time Per Respondent: .033 hours.

Frequency of Responses: On occasion.

Total Annual Burden: 4,287 hours.

Needs and Uses: This information collection requires technical measurements on each transmitter upon initial installation. This information helps assure proper operation of transmitters, thereby reducing instances of interference.

OMB Control No.: 3060–0295.

Title: Supplemental information to be furnished by applicants for facilities under this subpart.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities; not-for-profit institutions; state, local or tribal governments.

Number of Respondents: 2,028.

Estimated Time Per Respondent: .025 hours.

Frequency of Responses: On occasion.

Total Annual Burden: 507 hours.

Needs and Uses: This information collection requires certain applicants requesting 800 MHz facilities to furnish a list of any other licensed facilities they hold within 40 miles of the applied for base station. This information is used to determine if an applicant's proposed system is necessary in light of communications facilities it alerady owns.

Federal Communications Commission.

William F. Canton,

Deputy Secretary.

[FR Doc. 00–21410 Filed 8–21–00; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission, Comments Requested

August 16, 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 October 23, 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, S.W., 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 No.: 3060–0625.

Title: Amendment of the Commission's Rules to Establish New Personal Communications Services (Interference Protection).

Form No.: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Individuals or households; business or other for-profit; not-for-profit institutions; and state, local or tribal government.

Number of Respondents: 100.

Estimated Time Per Response: 2 hours.

Frequency of Response: On occasion.

Total Annual Burden: 200 hours.

Total Annual Cost: $40,000.00.

Needs and Uses: Section 24.237 requires that the results of the coordination process between incumbent microwave users and PCS licensees be reported to the Commission only if the parties fail to agree. Additionally, the Commission requires that each broadband PCS licensee perform an engineering analysis to assure that the proposed facilities will not cause interference to existing OFS stations within the specified coordination distance of a magnitude greater than a specified criteria, unless there is prior agreement with the affected OFS licensee. This collection is revised because the requirement in Section 24.204 was eliminated and removed from the Commission's rules.

OMB Control No.: 3060–0626.

Title: Regulatory Treatment of Mobile Services.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents: 1,074.

Estimated Time Per Response: 1–10 hours.

Frequency of Response: On occasion.

Total Annual Burden: 6,673 hours.

Needs and Uses: This information collection provides the Commission with technical, operational and licensing data for common carriers and private mobile radio services. This information is necessary to establish regulatory symmetry among similar mobile services.

Federal Communications Commission.

William F. Caton,

Deputy Secretary.

[FR Doc. 00–21411 Filed 8–21–00; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL RESERVE SYSTEM

Notice of Proposals To Engage in Permissible Nonbanking Activities or To Acquire Companies That Are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR Part 225) to engage de novo, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act. 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 the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than September 15, 2000.

A. Federal Reserve Bank of New York (Betsy Buttrill White, Senior Vice President) 33 Liberty Street, New York, New York 10045–0001:

1. Queens County Bancorp, Inc., Flushing, New York; to acquire Haven Bancorp, Inc., Westbury, New York, and thereby indirectly acquire CFS Bank, Woodhaven, New York; CFS Investment, Inc., Westbury, New York; CFS Investments New Jersey, Park Ridge, New Jersey, and Columbia Preferred Capital Corporation, Westbury, New York, and thereby engage in operating a federal savings bank, pursuant to § 225.28(b)(4)(ii) of Regulation Y; securities brokerage activities, pursuant to § 225.28(b)(7)(i) of Regulation Y; and purchasing residential and commercial real estate loans, pursuant to § 225.28 (b)(1)and(2) of Regulation Y.

Board of Governors of the Federal Reserve System, August 16, 2000.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 00–21281 Filed 8–21–00; 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 September 15, 2000.

A. Federal Reserve Bank of Boston (Richard Walker, Community Affairs Officer) 600 Atlantic Avenue, Boston, Massachusetts 02106–2204:

1. Northfield MHC, Northfield, Vermont, and Northfield Bancorp, Inc., Northfield, Vermont; to become bank holding companies by acquiring 100 percent of the voting shares of Northfield Savings Bank, Northfield, Vermont.

B. Federal Reserve Bank of Minneapolis (JoAnne F. Lewellen, Assistant Vice President) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. Flathead Holding Company of Bigfork, Bigfork, Montana; to merge with Mountain Bank System, Inc., Bigfork, Montana, and thereby indirectly acquire voting shares of Valley Bank of Belgrade, Belgrade, Montana.

C. Federal Reserve Bank of Kansas City (D. Michael Manies, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198–0001:

1. Central Financial Corporation, Hutchinson, Kansas; to acquire 20 percent of the voting shares of Bank of Nevada, Las Vegas, Nevada (in organization).

D. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. Tradition Bancshares, Inc., Houston, Texas, and Tradition Bancshares of Delaware, Inc., Wilmington, Delaware; to become bank holding companies by acquiring 100 percent of the voting shares of First National Bank of Bellaire, Houston, Texas.

Board of Governors of the Federal Reserve System, August 16, 2000.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 00–21280 Filed 8–21–00; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices, Acquisitions of Shares of Banks or Bank Holding Companies; Correction

This notice corrects a notice (FR Doc. 00–20742) published on pages 49986 and 49987 of the issue for Wednesday, August 16, 2000.

Under the Federal Reserve Bank of Chicago heading, the entry for Edwin L. Adler, Lake Angelus, Michigan, is revised to read as follows:

A. Federal Reserve Bank of Chicago (Phillip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. Edwin L. Adler, Lake Angelus, Michigan; to acquire additional voting shares of Clarkston Financial Corporation, Clarkston, Michigan, and thereby indirectly acquire additional voting shares of Clarkston State Bank, Clarkston, Michigan.

Comments on this application must be received by August 30, 2000.

Board of Governors of the Federal Reserve System, August 16, 2000.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 00–21279 Filed 8–21–00; 8:45 am]

BILLING CODE 6210–01–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 September 5, 2000.

A. Federal Reserve Bank of Atlanta (Cynthia C. Goodwin, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303–2713:

1. James E. Sharber, Bainbridge, Georgia; to acquire additional voting shares of, and Tabitha Gail Sharber; James E. Sharber III; Jerry Sharber; Sandra Lynn Sharber; Patricia Ann Sharber; Elysia Jy Sharber; James E. Sharber, Jr.; Gail Sharber; Lisa Ann Sharber; Martha Clement; Harold Clement, all of Bainbridge, Georgia; and Pete Sharber, Hazelhurst, Georgia, to retain voting shares of, Port City Holding Company, Bainbridge, Georgia, and thereby indirectly acquire or retain voting shares of First Port City Bank, Bainbridge, Georgia.

Board of Governors of the Federal Reserve System, August 16, 2000.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 00–21282 Filed 8–21–00; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

White House Commission on Complementary and Alternative Medicine Policy; Meeting

Notice is hereby given that the White House Commission on Complementary and Alternative Medicine Policy will convene a Town Hall Meeting. Additional Town Hall meetings are anticipated at future dates and other locations. The purpose of the meeting is to convene the Commission for a public hearing and to begin receiving public testimony from individuals and organizations interested in the subject of federal policy regarding complementary and alternative medicine. Comments received at the meeting will be used by the Commission to identify and frame the issues and develop the agenda for subsequent meetings.

Comments should focus on the four areas that follow. Questions for consideration include, but are not limited to those presented below. For each question, please consider including in your response concerns, possible obstacles, existing programs, and suggested solutions to guide the Commission in their deliberations.

I. Coordinated Research and Development To Increase Knowledge of Complementary and Alternative Medicine Practices and Interventions

(A) What can be done to expand the current research environment so that practices and interventions that lie outside conventional science are adequately and appropriately addressed?

(B) What types of incentives are needed to stimulate the research of CAM practices and interventions by the public and private sectors?

(C) How can we more effectively integrate the CAM and conventional research communities to stimulate and coordinate research?

II. Guidance for Access to, Delivery of, and Reimbursement for Complementary and Alternative Medicine Practices and Interventions

(A) Do you have ready access to CAM practices and interventions?

(B) How can access to safe and effective CAM practices and interventions be improved?

(C) What types of CAM practices and interventions should be reimbursable through federal programs or other health care coverage systems?

III. Training, Education, Certification, Licensure, and Accountability of Health Care Practitioners in Complementary and Alternative Medicine

(A) How can uniform standards of education, training, licensure and certification be applied to all CAM practitioners?

(B) What training and education should be required of all health care providers to assure access to safe and effective CAM practices and interventions?

(C) What sources of funds exist for the education and training of CAM practitioners?

(D) Are performance standards or practice guidelines needed to ensure the public will have access to the full range of safe and effective CAM practices and interventions?

IV. Delivery of Reliable and Useful Information on Complementary and Alternative Medicine to Health Care Professionals and the Public

(A) How can useful, reliable, and updated information about CAM practices and interventions be made more accessible? How would you like to receive such information?

(B) As a consumer, what kinds of information about CAM practices and interventions are most needed and important to you?

(C) As a health care provider, what kinds of information about CAM practices and interventions are most needed and important to you?

The Town Hall Meeting is open to the public and opportunities for oral comments and written statements by the public will be provided.

Name of Committee: The White House Commission on Complementary and Alternative Medicine Policy.

Date and Time: September 8, 2000; 8:30 a.m.–6 p.m.

Place: Holiday Inn Golden Gateway Hotel; 1500 Van Ness Avenue, San Francisco, CA 94109.

Contact Person: Stephen C. Groft, Executive Director, or Michele Chang, MPH, Executive Secretary; 6701 Rockledge Drive; Room 1010, MSC–7707, Bethesda, MD 20817–7707; Phone: (301) 435–7592; Fax (301) 480–1691; E-mail: WHCCAMP@nih.gov.

The President established the White House Commission on Complementary and Alternative Medicine Policy on March 7, 2000 by Executive Order 13147. The mission of the White House Commission on Complementary and Alternative Medicine Policy is to provide a report, through the Secretary of the Department of Health and Human Services, on legislative and administrative recommendations for assuring that public policy maximizes the benefits of complementary and alternative medicine to Americans.

Because of the need to obtain the views of the public on these issues as soon as possible and because of the early deadline for the report required of the Commission, this notice is being provided at the earliest possible time.

Public Participation: The Town Hall meeting is open to the public with attendance limited by the availability of space on a first come, first serve basis. Members of the public who wish to present oral comment may register by calling 1–800–953–3298 or by accessing https://safe2.sba.com/whccamp/index.cfm no later than September 1, 2000.

Oral comments will be limited to five minutes. Individuals who register to speak will be assigned in the order in which they registered. Due to time constraints, only one representative from each organization will be allotted time for oral testimony. The number of speakers and the time allotted may also be limited by the number of registrants. All requests to register should include the name, address, telephone number, and business or professional affiliation of the interested party, and should indicate the area of interest or question (as described above) to be addressed. Individuals interested in attending the meeting to observe the proceedings but not to provide oral testimony should also register.

Any person attending the meeting who has not registered to speak in advance of the meeting will be allowed to make a brief oral statement at the conclusion of the morning and

afternoon sessions, if time permits, and at the chairperson's discretion.

Individuals unable to attend the meeting, or any interested parties, may send written comments by mail, fax, or electronically to the staff office of the Commission for inclusion in the public record. When mailing or faxing written comments provide, if possible, an electronic version on diskette.

Persons needing special assistance, such as sign language interpretation or other special accommodations, should contact the Commission staff at the address or telephone number listed no later than September 1, 2000.

Dated: August 15, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–21360 Filed 8–21–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Notice of a Meeting of the National Bioethics Advisory Commission (NBAC)

SUMMARY: Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is given of a meeting of the National Bioethics Advisory Commission. The Commission will discuss its ongoing projects: (a) ethical issues in international research and (b) ethical and policy issues in the oversight of human subjects research in the United States. Some Commission members may participate by telephone conference. The meeting is open to the public and opportunities for statements by the public will be provided on September 12 from 2:30–3:00 pm.

Dates/Times	Location
September 12, 2000—8:30 am–5:00 pm.	U.S. Chamber of Commerce, Anheuser Busch Briefing Center, 1615 H Street, NW, Washington, DC 20062.
September 13, 2000—8:00 am–12:15 pm.	Same Location as Above.

SUPPLEMENTARY INFORMATION: The President established the National Bioethics Advisory Commission (NBAC) on October 3, 1999 by Executive Order 12975 as amended. The mission of the NBAC is to advise and make recommendations to the National Science and Technology Council, its Chair, the President, and other entities on bioethical issues arising from the research on human biology and behavior, and from the applications of that research.

Public Participation

The meeting is open to the public with attendance limited by the availability of space on a first come, first serve basis. Members of the public who wish to present oral statements should contact Ms. Jody Crank by telephone, fax machine, or mail as shown below as soon as possible, at least 4 days before the meeting. The Chair will reserve time for presentations by persons requesting to speak and asks that oral statements be limited to five minutes. The order of persons wanting to make a statement will be assigned in the order in which requests are received. Individuals unable to make oral presentations can mail or fax their written comments to the NBAC staff office at least five business days prior to the meeting for distribution to the Commission and inclusion in the public record. The Commission also accepts general comments at its website at bioethics.gov. Persons needing special assistance, such as sign language interpretation or other special accommodations, should contact NBAC staff at the address or telephone number listed below as soon as possible.

FOR FURTHER INFORMATION CONTACT: Ms. Jody Crank, National Bioethics Advisory Commission, 6705 Rockledge Drive, Suite 700, Bethesda, Maryland 20892–7979, telephone (301) 402–4242, fax number (301) 480–6900.

Dated: August 16, 2000.

Eric M. Meslin,

Executive Director, National Bioethics Advisory Commission.

[FR Doc. 00–21382 Filed 8–21–00; 8:45 am]

BILLING CODE 4167–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Joint Meeting of the Pediatric Subcommittee of the Anti-Infective Drugs Advisory Committee and the Pediatric Oncology Subcommittee of the Oncologic Drugs Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of public advisory subcommittees of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: The Pediatric Subcommittee of the Anti-Infective Drugs Advisory Committee and the Pediatric Oncology Subcommittee of the Oncologic Drugs Advisory Committee.

General Function of the Committees: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on September 12, 2000, 8 a.m. to 12 noon.

Location: Hyatt Regency, Baccarat/Haverford Rooms, One Bethesda Metro Center, Bethesda, MD.

Contact Person: Jayne E. Peterson or Karen M. Templeton-Somers, Center for Drug Evaluation and Research (HFD–21), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–7001, or e-mail: at PetersonJ@cder.fda.gov or SomersK@cder.fda.gov, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 12530. Please call the Information Line for up-to-date information on this meeting.

Agenda: The subcommittees will meet jointly to discuss the approaches and processes used in pediatric oncology for the development of drugs to treat serious and life threatening diseases with limited patient populations.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the subcommittees. Written submissions may be made to the contact persons by September 6, 2000. Oral presentations from the public will be scheduled between approximately 10 a.m. and 11 a.m. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact persons before September 6, 2000, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation. After the scientific presentations, a 30-minute open public session may be conducted for interested persons who have submitted their request to speak by September 6, 2000, to address issues specific to the topic before the subcommittees.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: August 10, 2000.

Linda A. Suydam,

Senior Associate Commissioner.

[FR Doc. 00–21247 Filed 8–21–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Joint Meeting of the Pediatric Subcommittee of the Anti-Infective Drugs Advisory Committee With the Pregnancy Labeling Subcommittee of the Advisory Committee for Reproductive Health Drugs; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Names of Committees: Joint meeting of the Pediatric Subcommittee of the Anti-Infective Drugs Advisory Committee with the Pregnancy Labeling Subcommittee of the Advisory Committee for Reproductive Health Drugs.

General Function of the Committees: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on September 12, 2000, 1 p.m. to 5:30 p.m.

Location: Hyatt Regency, Baccarat/Haverford Rooms, One Bethesda Metro Center, Bethesda, MD.

Contact Person: Jayne E. Peterson, Center for Drug Evaluation and Research (HFD–21), Food and Drug Administration, 5630 Fishers Lane, Rockville, MD 20857, 301–827–7001, e-mail: PETERSONJ@CDER.FDA.GOV, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 12530. Please call the Information Line for up-to-date information on this meeting.

Agenda: The subcommittees will meet jointly to discuss existing information and needs with respect to prescription drug therapy in nursing mothers.

Procedure: Interested persons may present data, information, or views, orally or in writing on issues pending before the subcommittees. Written submissions may be made to the contact person by September 6, 2000. Oral presentations from the public will be scheduled between approximately 3:15 p.m. and 4:15 p.m. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before September 6, 2000, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: August 10, 2000.

Linda A. Suydam,

Senior Associate Commissioner.

[FR Doc. 00–21248 Filed 8–21–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Pediatric Subcommittee of the Anti-Infective Drugs Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Pediatric Subcommittee of the Anti-Infective Drugs Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on September 11, 2000, 8 a.m. to 5:30 p.m.

Location: Hyatt Regency, Baccarat/Haverford Rooms, One Bethesda Metro Center, Bethesda, MD.

Contact Person: Jayne E. Peterson, Center for Drug Evaluation and Research (HFD–21), Food and Drug Administration, 5630 Fishers Lane, Rockville, MD 20857, 301–827–7001, e-mail: at PETERSONJ@CDER.FDA.GOV, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 12530. Please call the Information Line for up-to-date information on this meeting.

Agenda: On September 11, 2000, beginning at 8 a.m., the subcommittee will discuss ethical considerations in the conduct of placebo-controlled clinical trials in the pediatric population. Beginning at 3 p.m., the subcommittee will discuss the development of psychotropic drugs for use in young children.

Procedure: Interested persons may present data, information, or views, orally or in writing on issues pending before the subcommittee. Written submissions may be made to the contact person by September 5, 2000. On September 11, 2000, oral presentations from the public will be scheduled between approximately 8:15 and 8:45 a.m. and between approximately 3 p.m. and 3:30 p.m. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before September 5, 2000, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: August 10, 2000.

Linda A. Suydam,

Senior Associate Commissioner.

[FR Doc. 00–21250 Filed 8–21–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Circulatory System Devices Panel of the Medical Devices Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Circulatory System Devices Panel of the Medical Devices Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on September 11, 2000, 10 a.m. to 6 p.m.

Location: Marriott Washingtonian Center, Salons C and D, 9751 Washingtonian Blvd., Gaithersburg, MD.

Contact Person: Megan Moynahan, Center for Devices and Radiological Health (HFZ–450), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–443–8517, ext. 171, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 12625. Please call the

Information Line for up-to-date information on this meeting.

Agenda: The committee will discuss, make recommendations, and vote on a premarket approval application for an intravascular radiation device used in the treatment of instent restenosis.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by September 1, 2000. Oral presentations from the public will be scheduled between approximately 10 a.m. and 10:30 a.m. on September 11, 2000. Near the end of committee deliberations, a 30-minute open public session will be conducted for interested persons to address issues specific to the submission before the committee. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before September 1, 2000, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: August 14, 2000.

Linda A. Suydam,

Senior Associate Commissioner.

[FR Doc. 00–21246 Filed 8–21–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Pregnancy Labeling Subcommittee Advisory Committee for Reproductive Health Drugs; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Pregnancy Labeling Subcommittee of the Advisory Committee for Reproductive Health Drugs.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on September 12, 2000, 10 a.m. to 12 noon.

Location: Hyatt Regency, One Bethesda Metro Center, Bethesda, MD.

Contact Person: Jayne E. Peterson, Center for Drug Evaluation and Research (HFD–21), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–7001, or by e-mail: at PETERSONJ@CDER.FDA.GOV, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 12537. Please call the Information Line for up-to-date information on this meeting.

Agenda: The subcommittee will meet to identify and discuss those drug and biologic products for which improved pregnancy labeling is critical for: (1) Effective prescribing during pregnancy, or (2) proper counseling of pregnant women who have been inadvertently exposed.

Procedure: Interested persons may present data, information, or views, orally or in writing on issues pending before the subcommittee. Written submissions may be made to the contact person by September 6, 2000. Oral presentations from the public will be scheduled between approximately 11 a.m. and 12 noon. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before September 6, 2000, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: August 10, 2000.

Linda A. Suydam,

Senior Associate Commissioner.

[FR Doc. 00–21249 Filed 8–21–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Proposed Collection: Comment Request

In compliance with the requirement for opportunity for public comment on proposed data collection projects (section 3506(c)(2)(A) of Title 44, United States Code, as amended by the Paperwork Reduction Act of 1995, Public Law 104–13), the Health Resources and Services Administration (HRSA) publishes periodic summaries of proposed projects being developed for submission to OMB under the Paperwork Reduction Act of 1995. To request more information on the proposed project or to obtain a copy of the data collection plans and draft instruments, call the HRSA Reports Clearance Officer on (301) 443–1129.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Project: The National Health Service Corps (NHSC) Scholarship Program Deferment Request Forms and Associated Reporting Requirements (OMB No. 0915–0179)—Revision

The National Health Service Corps (NHSC) Scholarship Program was established to assure an adequate supply of trained primary care health professionals to the neediest communities in the Health Professional Shortage Areas (HPSAs) of the United States. Under the program, allopathic physicians, osteopathic physicians, dentists, nurse practitioners, nurse midwives, physician assistants, and, if needed by the NHSC program, students of other health professionals are offered the opportunity to enter into a contractual agreement with the Secretary under which the Public Health Service agrees to pay the total school tuition, required fees and a stipend for living expenses. In exchange, the scholarship recipient agrees to provide full-time clinical services at a site in a federally designated HPSA.

Once the scholars have met their academic requirements, the law requires that individuals receiving a degree from a school of medicine, osteopathic medicine or dentistry be allowed to defer their service obligation for a maximum of 3 years to complete approved internship, residency or other advanced clinical training. The Deferment Request Form provides the information necessary for considering the period and type of training for

which deferment of the service obligation will be approved.

The estimated response burden is as follows:

Form	Number of respondents	Responses per respondent	Hours per response	Total hour burden
Deferment Request Forms	600	1	1	600
Letters of Intent and Request	100	1	1	100
Total	700		2	700

Send comments to Susan G. Queen, Ph.D., HRSA Reports Clearance Officer, Room 14–33, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. Written comments should be received within 60 days of this notice.

Dated: August 15, 2000.

James J. Corrigan,

Associate Administrator for Management and Program Support.

[FR Doc. 00–21255 Filed 8–21–00; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Health Resources and Services Administration (HRSA) publishes abstracts of information collection requests under review by the Office of Management and Budget, in compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). To request a copy of the clearance requests submitted to OMB for review, call the HRSA Reports Clearance Office on (301) 443–1129.

The following request has been submitted to the Office of Management and Budget for review under the Paperwork Reduction Act of 1995:

Proposed Project: Drug Pricing Program Reporting Requirements (OMB No. 0915–0176)—Extension—Section 602 of Public Law 102–585, the Veterans Health Care Act of 1992, enacted section 340B of the Public Health Service Act (PHS Act), ''Limitation on Prices of Drugs Purchased by Covered Entities.'' Section 340B provides that a manufacturer who sells covered outpatient drugs to eligible entities must sign a pharmaceutical pricing agreement with the Secretary of Health and Human Services in which the manufacturer agrees to charge a price for covered outpatient drugs that will not exceed an amount determined under a statutory formula.

Covered entities which choose to participate in the section 340B drug discount program must comply with the requirements of section 340B(a)(5) of the PHS Act. Section 340B(a)(5)(A) prohibits a covered entity from accepting a discount for a drug that would also generate a Medicaid rebate. Further, section 340B(a)(5)(B) prohibits a covered entity from reselling or otherwise transferring a discounted drug to a person who is not a patient of the entity.

Because of the potential for disputes involving covered entities and participating drug manufacturers, the HRSA Office of Pharmacy Affairs (OPA) has developed a dispute resolution process for manufacturers and covered entities as well as manufacturer guidelines for audit of covered entities.

Audit guidelines: A manufacturer will be permitted to conduct an audit only when there is reasonable cause to believe a violation of section 340B(a)(5)(A) or (B) has occurred. The manufacturer must notify the covered entity in writing when it believes the covered entity has violated the provisions of section 340B. If the problem cannot be resolved, the manufacturer must then submit an audit work plan describing the audit and evidence in support of the reasonable cause standard to the HRSA OPA for review. The office will review the documentation to determine if reasonable cause exist. Once the audit is completed, the manufacturer will submit copies of the audit report to the HRSA OPA for review and resolution of the findings, as appropriate. The manufacturer will also submit an informational copy of the audit report to the HHS Office of Inspector General.

Dispute resolution guidelines: Because of the potential for disputes involving covered entities and participating drug manufacturers, the HRSA OPA has developed a dispute resolution process which can be used if an entity or manufacturer is believed to be in violation of section 340B. Prior to filing a request for resolution of a dispute with the HRSA OPA, the parties must attempt, in good faith, to resolve the dispute. All parties involved in the dispute must maintain written documentation as evidence of a good faith attempt to resolve the dispute. If the dispute is not resolved and dispute resolution is desired, a party must submit a written request for a review of the dispute to the HRSA OPA. A committee appointed to review the documentation will send a letter to the party alleged to have committed a violation. The party will be asked to provide a response to or a rebuttal of the allegations.

To date, there have been no requests for audits, and no disputes have reached the level where a committee review was needed. As a result, the estimates of annualized hour burden for audits and disputes have been reduced to the level shown in the table below.

Reporting requirement	Number of respondents	Responses per respondent	Total responses	Hours/ response	Total burden hours
Audits					
Audit Notification of Entity [1]	2	1	2	4	8
Audit Workplan [1]	1	1	1	8	8
Audit Report [1]	1	1	1	1	1
Entity Response	0	0	0	0	0

Reporting requirement	Number of respondents	Responses per respondent	Total responses	Hours/ response	Total burden hours
Dispute Resolution					
Mediation Request	5	1	5	8	40
Rebuttal	2	1	2	16	32
Total	9	1	9	37	89

[1] Prepared by the manufacturer.

Recordkeeping requirement	Number of record-keepers	Hours of record-keeping	Total burden
Dispute records	10	.5	5

The total burden is 94 hours.

Written comments and recommendations concerning the proposed information collection should be sent within 30 days of this notice to: John Morrall, Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, D.C. 20503.

Dated: August 15, 2000.

James J. Corrigan,

Associate Administrator for Management and Program Support.

[FR Doc. 00–21256 Filed 8–21–00; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Advisory Council; Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), announcement is made of the following National Advisory body scheduled to meet during the month of September 2000.

Name: Advisory Commission on Childhood Vaccines (ACCV).

Date and Time: September 6, 2000; 9:00 a.m.–5:00 p.m.

Place: Parklawn Building, Conference Rooms G & H, 5600 Fishers Lane, Rockville, Maryland 20857.

The meeting is open to the public.

The full Commission will meet on Wednesday, September 6, from 9:00 a.m. to 5:00 p.m. Agenda items will include, but not be limited to: a presentation on Aluminum in Vaccines, a presentation on recent General Accounting Office Reports on the Vaccine Injury Compensation Program, a report on Vaccination and Autism, updates from the Department of Justice and the National Vaccine Program Office, and routine program reports.

Public comment will be permitted before lunch and at the end of the Commission meeting on September 6, 2000. Oral presentations will be limited to 5 minutes per public speaker. Persons interested in providing an oral presentation should submit a written request, along with a copy of their presentation to: Ms. Shelia Tibbs, Principal Staff Liaison, Division of Vaccine Injury Compensation, Bureau of Health Professions, Health Resources and Services Administration, Room 8A–46, 5600 Fishers Lane, Rockville, MD 20857; Telephone (301) 443–6593. Requests should contain the name, address, telephone number, and any business or professional affiliation of the person desiring to make an oral presentation. Groups having similar interests are requested to combine their comments and present them through a single representative. The allocation of time may be adjusted to accommodate the level of expressed interest. The Division of Vaccine Injury Compensation will notify each presenter by mail or telephone of their assigned presentation time.

Persons who do not file an advance request for a presentation, but desire to make an oral statement, may sign-up in Conference Rooms G and H on September 6, 2000. These persons will be allocated time as time permits.

Anyone requiring information regarding the Commission should contact Ms. Tibbs, Division of Vaccine Injury Compensation, Bureau of Health Professions, Health Resources and Services Administration, Room 8A–46, 5600 Fishers Lane, Rockville, Maryland 20857; Telephone (301) 443–6593.

Agenda items are subject to change as priorities dictate.

Dated: August 15, 2000.

James J. Corrigan,

Associate Administrator for Management and Program Support.

[FR Doc. 00–21253 Filed 8–21–00; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Advisory Councils; Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), announcement is made of the following National Advisory bodies scheduled to meet jointly during the month of September 2000.

Names: Council on Graduate Medical Education (COGME) and National Advisory Council on Nurse Education and Practice (NACNEP).

Date and Time: September 13, 2000; 8:00 a.m.–6:00 p.m. September 14, 2000; 7:30 a.m.–11:30 a.m.

Place: Holiday Inn Capitol, 550 C Street, S.W., Washington, D.C. 20024.

The meeting is open to the public.

Agenda: At the joint Councils meeting, eight invited experts will address the effect of the relationships between physicians and nurses on patient safety; the impact of physician-nurse collaboration on systems established to protect patient safety; educational programs to ensure interdisciplinary collaboration to further patient safety; education to prepare students, practicing physicians, and nurses to apply new technologies to error prevention; and consumers' perspectives on physician-nurse collaboration and its effects on patient safety and communication with patients and their families. Members of the two Councils will then work together to develop recommendations on physician-nurse collaborative education and practice activities leading to enhanced safety in caring for their patients. The meeting presentations and recommendations will be published.

Anyone interested in obtaining rosters of COGME and NACNEP members or other relevant information should write or contact Elaine G. Cohen, MS, RN, Executive Secretary, National Advisory Council on Nurse Education and Practice, Parklawn Building, Room 9–35, 5600 Fishers Lane, Rockville, Maryland 20857; telephone (301) 443–1405.

Following the joint Councils meeting on September 14, COGME will meet independently for two hours to discuss COGME's fifteenth report. The meeting is open to the public. Anyone requiring further information regarding this two-hour meeting should contact Stanford M. Bastacky, D.M.D., M.H.S.A., Executive Secretary, Council on Graduate Medical Education, Division of Medicine, Bureau of Health Professions, Room 9A–27, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, telephone (301) 443–6326.

Dated: August 15, 2000.

James J. Corrigan,

Associate Administrator for Management and Program Support.

[FR Doc. 00–21254 Filed 8–21–00; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Advisory Council; Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), announcement is made of the following National Advisory body scheduled to meet during the month of September 2000.

Name: National Advisory Council on Migrant Health.

Date and Time: September 27–28, 2000; 9:00 a.m.–5:00 p.m.

Place: Sacramento Radisson Hotel, 500 Leisure Lane, Sacramento, California 95815; Phone: 916–922–2020, Fax: 916–920–7312.

The meeting is open to the public.

Agenda: This will be a meeting of the Council. The agenda includes an overview of general Council business activities and priorities. Topics of discussion will include the Year 2000 Recommendations, the health status of farmworkers in California, updates on Council Member activities, and other general business of the Council. Agenda items are subject to change as priorities indicate.

The Council meeting is being held in conjunction with the California Primary Care Association Annual Meeting, which is taking place at the same time in the same hotel. The Council will meet independently on Wednesday, September 27, 2000. Thursday, September 28, 2000, the Council will meet independently from 8:30–10:30 a.m. and from 3:30–5:00 p.m. On September 28, from 10:30 a.m.–3:30 p.m. Council members will participate in workshops being offered through the California Primary Care Association Annual Meeting.

Anyone requiring information regarding the subject Council should contact Judy Rodgers, Migrant Health Program, staff support to the National Advisory Council on Migrant Health, Bureau of Primary Health Care, Health Resources and Services Administration, 4350 East-West Highway, Bethesda, Maryland 20814; Telephone 301–594–4304.

Dated: August 15, 2000.

James J. Corrigan,

Associate Administrator for Management and Program Support.

[FR Doc. 00–21252 Filed 8–21–00; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Proposed Collection; Comment Request; The Atherosclerosis Risk in Communities Study (ARIC)

SUMMARY: In compliance with the requirement of Section 350(c)(2)(A) of the Paperwork Reduction Act of 1995, for opportunity for public comment on proposed data collection projects, the National Heart, Lung, and Blood Institute (NHLBI), the National Institutes of Health (NIH) will publish periodic summaries of proposed projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

Proposed Collection

Title: The Atherosclerosis Risk in Communities Study (ARIC). *Type of Information Collection Request:* Revision of a currently approved collection (OMB NO. 0925–0281). *Need and Use of Information Collection:* This project involves annual follow-up by telephone of participants in the ARIC study, review of their medical records, and interviews with doctors and family to identify disease occurrence. Interviewers will contact doctors and hospitals to ascertain participants' cardiovascular events. Information gathered will be used to further describe the risk factors, occurrence rates, and consequences of cardiovascular disease in middle aged and older men and women. *Frequency of Response:* The participants will be contacted annually. *Affected Public:* Individuals or households; Businesses or other for profit; Small businesses or organizations. *Type of Respondents:* Middle aged and elderly adults; doctors and staff of hospitals and nursing homes. The annual reporting burden is as follows: Estimated Number of Respondents: 15,113; *Estimated Number of Responses per Respondent:* 1.0; *Average Burden Hours per Response:* 0.2479; and *Estimated Total Annual Burden Hours Requested:* 3,746. The annualized cost to respondents is estimated at $37,460, assuming respondents time at the rate of $10 per hour. There are no Capital Costs to report. There are no Operating or Maintenance Costs to report.

ESTIMATE OF ANNUAL HOUR BURDEN

Type of response	Number of respondents	Frequency of response	Average time per response	Annual hour burden
Participant Follow-up	14,488	1.0	0.2500	3,622
Physician, hospital, nursing home staff [1]	245	1.0	0.2500	61
Participant's next-of-kin [1]	380	1.0	0.1667	63
Total	15,113	1.0	0.2479	3,746

[1] Annual Burden is placed on doctors, hospitals, nursing homes, and respondent relatives/informants through requests for information which will help in the compilation of the number and nature of new fatal and nonfatal events.

Request for Comments

Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (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 those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact Dr. A. Richley Sharrett, Project Officer, NIH, NHLBI 6701 Rockledge Drive, MSC 7934, Bethesda, MD 20892–7934, or call non-toll-free number (301) 435–0448 or E-mail your request, including your address to: SharretR@nhlbi.nih.gov.

Comments due Date: Comments regarding this information collection are best assured of having their full effect if received on or before October 23, 2000.

Dated: August 8, 2000.

Peter Savage,

Acting Director, Division of Epidemiology and Clinical Applications, National Heart, Lung, and Blood Institute.

[FR Doc. 00–21366 Filed 8–21–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by agencies of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to the indicated licensing contact at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: 301/496–7057; fax: 301/402–0220. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

Identification of a Novel Renal NADPH Oxidase

Thomas L. Leto, Miklos Geiszt (NIAID)
DHHS Reference No. E–116–00/0
Filed 12 Apr 2000
Licensing Contact: Marlene Shinn; 301/496–7056 ext. 285; e-mail: shinnm@od.nih.gov

The NIH announces the identification of a renal NAD(P)H oxidase termed RenOX, produced by the proximal convoluted tubule cells of the kidney, which is proposed to be an oxygen sensor in the kidney involved in regulation of production of erythropoietin. As a source of superoxide and other reactive oxygen species in the kidney, RenOX is thought to have a direct role in the oxidative down-regulation of erythropoietin and other hypoxia-responsive genes in response to oxygen levels detected in the kidney.

Because the inhibition of RenOX may lead to an increase in the production of erythropoietin, it has been suggested that it can be used as a screening tool for the development of therapies against diseases which currently use recombinant erythropoietin as a treatment. These include anemia associated with chronic renal failure, HIV infection and antiretroviral therapy, cancer, cancer chemotherapy, and chronic inflammatory conditions (rheumatoid arthritis, inflammatory bowel disease). Because recombinant erythropoietin is considered a costly therapy, it may be that an inhibitor of RenOX may prove to be a less expensive alternative.

It is also possible that drugs determined to affect RenOX activity may be used to treat hypertension in patients, since RenOX may also affect proton transport and sodium reabsorption by kidney tubule cells. Because expression of recombinant RenOX was shown to induce cellular senescence, other uses of RenOX, by way of gene therapy, may include limiting the growth of tumors either by inducing tumor cell senescence or inhibiting angiogenesis.

Because RenOX is proposed to be a key component of oxygen sensing in the kidney, the NIH believes it to be a valuable means by which new drugs and therapies can be developed and benefit the public health.

This research has been published in Geiszt *et al.*, ''Identification of RenOX, an NAD(P)H Oxidase in Kidney,'' Proc. Nat. Acad.Sci., U.S.A., vol 97, pp 8010–8014 (July 5, 2000).

Amyloid β Is a Ligand for FPR Class Receptors

Ji Ming Wang et al. (NCI)
Serial No. 60/186,144
Filed 01 Mar 2000
Licensing Contact: Marlene Shinn; 301/496–7056 ext. 285; e-mail: shinnm@od.nih.gov

Alzheimer's disease is the most important dementing illness in the United States because of its high prevalence. 5 to 10% of the United States population 65 years and older are afflicted with the disease. In 1990 there were approximately 4 million individuals with Alzheimer's, and this number is expected to reach 14 million by the year 2050. It is the fourth leading cause of death for adults, resulting in more than 100,000 deaths annually.

Amyloid beta (Aβ) has been identified as playing an important role in the neurodegeneration of Alzheimer's disease. However the mechanism used is unknown and has been postulated to be either direct or indirect through an induction of inflammatory responses.

The NIH announces a new early stage technology, that identifies the 7-transmembrane, G-protein-coupled receptor, FPRL–1, as a functional receptor for Aβ peptides. The Aβ peptides use the FPRL–1 receptor to attract and activate human monocytes, and have been identified as a principal component of the amyloid plaques associated with Alzheimer's disease. In addition, astrocytes stimulated with ligands of FPRL1 produce a proinflammatory cytokine interleukin 6. Because amyloid β peptides interact with the FPRL1 receptor, a direct link is created between Aβ and the inflammation observed during the course of Alzheimer's disease.

This technology provides a target in which to direct the development of preventative or therapeutic agents for Alzheimer's disease. Newly discovered Aβ–FPR class receptor complexes can be used to modulate the Aβ-induced inflammation response by administering polynucleotides, chemical compounds, or polypeptides that interact with either Aβ or the FPR class receptor(s), or inhibit complex formation altogether. Although this technology is in the early stages of drug development, the potential to find new drugs to Alzheimer's and other neurodegenerative diseases is a real possibility, through its use, to those working in this field.

Constitutively Open Voltage-Gated K+ Channels and Methods for Discovering Modulators Thereof

Drs. Kenton J. Swartz, David H. Hackos (NINDS)
DHHS Reference Number E–286–99/0
Filed 10 Feb 2000
Licensing Contact: John Rambosek, Ph.D.; 301/496–7056 ext. 270; e-mail: rambosej@od.nih.gov

This technology relates to materials and methods for developing high throughput strategies for discovery of both inhibitors and activators of voltage-gated potassium channels. Voltage gated potassium channels are important regulators of electrical excitability throughout the nervous system, vascular and cardiac smooth muscle, and various secretory tissues such as the pancreas. Drugs that modulate the activity of these receptors could have applications in a variety of therapeutic areas involving abnormal electrical activity, including epilepsy, stroke, cardiac arrhythmia, hypertension, and diabetes.

The technology described here involves the identification of mutations in voltage-gated potassium channels that effectively lock the pore open at all membrane potentials. Previously, it has not been possible to develop yeast-based high throughput screens using voltage-gated potassium channels because these channels are normally closed at the negative membrane potentials associated with yeast.

In addition, other types of high-throughput screens for K channel inhibitors and activators use voltage-sensitive dyes or indicators as reporters of K channel activity. Mutations that lock voltage-gated K channels open at negative voltages could significantly improved the sensitivity of these voltage-sensitive screens. The strategy employed to lock open voltage-gated potassium channels involves alterations in an area of the protein that is conserved in all voltage-gated potassium channels, and should therefore be applicable to all such potassium channels. This will allow generally for the development of high-throughput screens for activators and inhibitors of all voltage-gated potassium channels.

A Provisional Patent Application Serial Number 60/081,692 has been filed for this technology. It is available for licensing through a DHHS Patent license.

Equilibrium Thermodynamics-Based Ligand Binding Assays for Macromolecules

Dong Xie, John W. Erickson (NCI)
DHHS Reference No. E–076–00/0
Filed 01 Feb 2000
Licensing Contact: J.P. Kim; 301/496–7056 ext. 264; e-mail: kimj@od.nih.gov

High affinity binding is observed in many biological processes and is assayed in the design and development of compounds as therapeutic agents for specific biological targets. The accurate determination of binding affinities for HIV protease inhibitors is important for the determination of the biochemical fitness of drug-resistant HIV variants that contain mutations in the protease gene.

There remains a need for a highly sensitive, accurate, and widely applicable method for determining the binding affinity of a ligand for a folded macromolecule. Accordingly, the present invention provides methods for determining the binding affinity of a ligand for a macromolecule and methods for determining whether or not a compound is a reversible ligand for a macromolecule, *e.g.*, in the development of HIV therapeutics.

Delivery of Proteins Across Polar Epithelial Cell Layers

David Fitzgerald et al. (NCI)
DHHS Reference No. E–277–98/0
Filed 22 Oct 1999
Licensing Contact: Carol Salata; 301/496–7735 ext. 232; e-mail: salatac@od.nih.gov

Many pharmaceutical proteins which need to gain systemic access cannot be administered enterally because the enzymes of the digestive system degrade the proteins before they gain access. Therefore, pharmaceutical proteins generally are administered by injection. Diseases that require repeated administration of a protein over long period of time, such as diabetes, can require daily injection. Of course, frequent injections are not pleasant for the patient and means to deliver proteins without injection would be advantageous.

This invention provides methods for parenteral administration of a protein by transmucosal delivery and without injection. Molecules that bind α2 macroglobulin receptor, when applied to the apical surface of a polarized epithelial cell layer, are able to traverse through the basal side of the cell and released into the sub-epithelial space. This invention takes advantage of that fact by using Pseudomonas exotoxin and derivatives as carriers to deliver proteins and molecules bound to them across the epithelial surface without resorting to injection of the protein.

Nucleic Acid Molecules Encoding Hepatitis C Virus, Chimeric Hepatitis C Virus or Hepatitis C Virus Envelope Two Protein Which Lacks All or Part of Hypervariable Region One of the Envelope Two Protein and Uses Thereof

Xavier Forns, Jens Bukh, Suzanne U. Emerson, Robert H. Purcell (NIAID)
DHHS Reference No. E–287–99/0
Filed 23 Sep 1999
Licensing Contact: Carol Salata; 301/496–7735 ext. 232; e-mail: salatac@od.nih.gov

HCV is an enveloped, single stranded RNA virus, approximately 50 nm in diameter, that has been classified as a separate genus in the Flaviviridae family. The ability of HCV to undergo rapid mutation in a hypervariable region(s) of the genome coding for envelope protein may allow it to escape immune surveillance by the host; thus, most persons infected with HCV develop chronic infection. These chronically infected individuals have a relatively high risk of developing chronic hepatitis, liver cirrhosis and hepatocellular carcinoma.

This invention relates to nucleic acid molecules which encode a hepatitis C virus envelope two protein which lacks all or part of the hypervariable region one (HVR1) of the envelope two (E2) protein. RNA transcripts from a full-length HCV cDNA clone from which the HVR1 was removed were able to replicate when transfected into the liver of a chimpanzee. The fact that the HVR1 is not essential for virus replication is relevant because the partial or complete deletion of this region might change the immune response to a more effective one. Attenuated viruses could be generated and used as vaccine candidates. In addition, DNA constructs or proteins lacking this region could be used as vaccine candidates.

Agonist and Antagonist Peptides of CEA

Jeffrey Schlom, Elena Barzaga, Sam Zaremba (NCI)
Serial No. 60/061,589 filed 10 Oct 1997; PCT/US98/19794 filed 22 Sep 1998; DHHS Reference No. E–099–96/3 filed 06 Apr 2000
Licensing Contact: Elaine White; 301/496–7056 ext. 282; e-mail: gesee@od.nih.gov

The current invention embodies the identification of an enhancer agonist peptide variant of a nine amino acid sequence (designated CAP–1) contained in the human carcinoembryonic antigen (CEA) gene. CEA is an antigen which is overexpressed on a variety of human tumor types including the following carcinomas: colorectal, breast, non-small cell lung, pancreatic and head and neck. Studies have shown that the CAP–1 peptide is an immunodominant epitope of CEA. Moreover, recent studies have shown that the modification of a single amino acid in the CAP–1 sequence results in the generation of a enhancer agonist peptide, designated CAP1–6D. The CAP1–6D peptide is capable of stimulating human T-cells to far greater levels than that of CAP1. These T-cells, moreover, have been shown to lyse human tumor cells expressing native CEA. Thus the CAP1–6D enhancer

agonist peptide represents a potential immunogen for use as therapeutic vaccine against a wide range of human cancers which express CEA and may also have potential use as a vaccine to prevent preneoplastic lesions or cancers expressing CEA.

Dated: August 14, 2000.

Jack Spiegel,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. 00–21367 Filed 8–21–00; 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 contacting Peter A. Soukas, 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. 268; fax: 301/402–0220; e-mail: soukasp@od.nih.gov. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

Cloned Genome of Infectious Hepatitis C Virus of Genotype 2a and Uses Thereof

Jens Bukh, Masayuki Yanagi, Robert H. Purcell, Suzanne U. Emerson (NIAID)
DHHS Reference No. E–100–99/0
Filed 04 Jun 1999

The current invention provides a nucleic acid sequence comprising the genome of infectious hepatitis C viruses (HCV) of genotype 2a. The encoded polyprotein differs from those of the infectious clones of genotypes 1a and 1b (PHS Invention Number E–050–98/0) by approximately thirty (30) percent. It covers the use of this sequence and polypeptides encoded by all or part of the sequence, in the development of vaccines and diagnostic assays for HCV and the development of screening assays for the identification of antiviral agents for HCV. Additional information can be found in Yanagi *et al.* (1999), Virology 262, 250–263.

HCV/BVDV Chimeric Genomes and Uses Thereof

Jae-Hwan Nam, Jens Bukh, Robert H. Purcell, Suzanne U. Emerson (NIAID)

DHHS Reference No. E–102–99/0

Filed 04 June 1999

The current invention provides nucleic acid sequences comprising chimeric viral genome of hepatitis C Virus (HCV) and bovine viral diarrhea viruses (BVDV). The chimeric viruses are produced by replacing the structural region or a structural gene of an infectious BVDV clone with the corresponding region or gene of an infectious HCV. It covers the use of these sequences and polypeptides encoded by all or part of the sequences in the development of vaccines and diagnostic assays for HCV and the development of screening assays for the identification of antiviral agents for HCV.

Infectious cDNA Clone of GB Virus B and Uses Thereof

Jens Bukh, Masayuki Yanagi, Robert H. Purcell, Suzanne U. Emerson (NIAID)

DHHS Reference No. E–173–99/0

Filed 04 Jun 1999

The current invention provides nucleic acid sequences comprising the genomes of infectious GB virus B, the most closely related member of the Flaviviridae to hepatitis C virus (HCV). It also covers chimeric GBVB–HCV sequences and polypeptides for use in the development of vaccines and diagnostic assays for HCV and the development of screening assays for the identification of antiviral agents for HCV. Additional information can be found in Bukh *et al.* (1999), Virology 262, 470–478.

Dated: August 14, 2000.

Jack Spiegel,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. 00–21368 Filed 8–21–00; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; 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 meeting of the National Cancer Advisory Board.

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.

A portion of the meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(6) and 552b(c)(9), title 5 U.S.C., as amended. The discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the review of applications, and information concerning NCI and/or its contractors, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, and the premature disclosure of discussions related to personnel and programmatic issues would be likely to significantly frustrate the subsequent implementation of recommendations.

Name of Committee: National Cancer Advisory Board.

Dates: September 11–13, 2000.

Name of Committee: National Cancer Advisory Board, Subcommittee on Communications, Subcommittee on Clinical Investigations and Subcommittee on Confidentiality.

Open: September 11, 7 pm to 9 pm.

Agenda: To discuss activities related to the implementation of policies relevant to the functional responsibilities of each specific subcommittee.

Place: Bethesda Hyatt Regency, One Bethesda Metro Center, Bethesda, MD 20814, (301) 657–1234.

Name of Committee: National Cancer Advisory Board.

Dates: September 11–13, 2000.

Open: September 12, 9 am to 12 pm.

Agenda: Program reports and presentations; Business of the Board. For detailed agenda: See NCI Homepage/Advisory Board and Groups *http://deainfo.nci.nih.gov/ADVISORY/boards.htm* Tentative agenda available 10 working days prior to meetings; Final agenda available 5 working days prior to meetings.

Name of Committee: National Cancer Advisory Board, Subcommittee on Planning and Budget.

Open: September 12, 12:10 pm to 1:10 pm.
Agenda: To discuss activities related to the Subcommittee on Planning and Budget.
Open: September 12, 1:15 pm to 3:45 pm.
Agenda: Program reports and presentations; Business of the Board. For detailed agenda: See NCI Homepage/ Advisory Board and Groups *http://deainfo.nci.nih.gov/ADVISORY/boards.htm* Tentative agenda available 10 working days prior to meetings; Final agenda available 5 working days prior to meetings.
Closed: September 12, 4 pm to Recess.
Agenda: To review and evaluate grant applications and discuss information of a confidential nature.
Place: Building 31, C Wing, 6 Floor, Conference Room 10, National Institutes of Health, 9000 Rockville Pike, Bethesda, MD 20892.
Open: September 13, 9 am to 12:35 pm.
Agenda: Program reports and presentations; Business of the Board. For detailed agenda: See NCI Homepage/ Advisory Board and Groups *http://deainfo.nci.nih.gov/ADVISORY/boards.htm* Tentative agenda available 10 working days prior to meetings; Final agenda available 5 working days prior to meetings.
Place: Building 31, C Wing, 6 Floor, Conference Room 10, National Institutes of Health, 9000 Rockville Pike, Bethesda, MD 20892.
Contact Person: Marvin R. Kalt, Executive Secretary, National Cancer Institute, National Institutes of Health, 6116 Executive Boulevard, 8th Floor, Room 8022, Bethesda, MD 20892–8327, (301) 496–5147.
This meeting is being published less than 15 days prior to the meeting due to scheduling conflicts.

(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: August 16, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–21350 Filed 8–21–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the National Cancer Institute Director's Consumer Liaison Group.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: National Cancer Institute Director's Consumer Liaison Group.
Date: September 11, 2000.
Time: 11 a.m. to 1 p.m.
Agenda: To discuss the DCLG Team Leaders Report on Clinical Trials Promotion, Advocacy Involvement, Communications Extraordinary Opportunity, NCI Brand, DCLG Operations, NCI Website Quality Cancer Care/Health Disparities and the October 2000 agenda.
Place: Office of Liaison Activities, National Institutes of Health, National Cancer Institute, Federal Building, Room 6C10, Bethesda, MD 20892–3194, (Telephone Conference Call).
Contact Person: Elaine Lee, Acting Executive Secretary, Office of Liaison Activities, National Cancer Institute, National Institutes of Health, Federal Building, Room 6C10, Bethesda, MD 20892–2580, (301) 594–3194.
This meeting is being published less than 15 days prior to the meeting due to scheduling conflicts.

(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: August 15, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–21353 Filed 8–21–00; 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 section 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel, Interdisciplinary Research Teams for Molecular Target Assessment (Angiogenesis Section).
Date: September 28–29, 2000.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn Bethesda, 8120 Wisconsin Ave., Bethesda, MD 20814.
Contact Person: Joyce C. Pegues, PhD., Scientific Review Administrator, Special Review, Referral, and Resources Branch, Division of Extramural Activities, National Cancer Institute, 6116 Executive Boulevard, Room 8084, Bethesda, MD 20892, 301/594–1286.

(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: August 15, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–21363 Filed 8–21–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; 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 Heart, Lung, and Blood Institute Special Emphasis Panel.
Date: October 25, 2000.
Time: 8 am to 5 pm.
Agenda: To review and evaluate grant applications.

Place: Holiday Inn Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Roy L. White, Scientific Review Administrator, Review Branch, DEA, Rockledge 2, MSC 7924, 6701 Rockledge Drive, Suite 7196, Bethesda, MD 20892, 301/435–0291.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel.

Date: October 30, 2000.

Time: 1:30 pm to 3 pm.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, Bethesda, MD 20814.

Contact Person: Joyce A. Hunter, National Heart, Lung, and Blood Inst., NIH, Rockledge Center, II, 6701 Rockledge Drive, Suite 7194, Bethesda, MD 20892–7924, 301–435–0288.

(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: August 15, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–21356 Filed 8–21–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; 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 552(b)(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets of commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel.

Date: September 28–29, 2000.

Time: 7 pm to 5 pm.

Agenda: To review and evaluate grant applications.

Place: Chevy Chase Holiday Inn, 5520 Wisconsin Ave., Chevy Chase, MD 20815.

Contact Person: Diane M. Reid, Scientific Review Administrator, NIH, NHLBI, DEA, Two Rockledge Center, 6701 Rockledge Drive, Room 7182, Bethesda, MD 20892–7924, (301) 435–0277.

(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: August 15, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–21357 Filed 8–21–00; 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 grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel, Review of Applications on Clinical Tuberculosis.

Date: August 25, 2000.

Time: 2 pm to 3 pm

Agenda: To review and evaluate grant applications.

Place: 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Anne P. Clark, NIH, NHLBI, DEA, Review Branch, Rockledge II, 6701 Rockledge Drive, Room 7202, Bethesda, MD 20892–7924, 301/435–0310.

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: August 15, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–21358 Filed 8–21–00; 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; 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 of Allergy and Infectious Diseases Special Emphasis Panel.

Date: September 7, 2000.

Time: 2 pm to 4 pm.

Agenda: To review and evaluate contract proposals.

Place: 6700–B Rockledge Drive, Room 2148, Bethesda, MD 20892–7616 (Telephone Conference Call).

Contact Person: Robert C. Goldman, 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, rg159w@nih.gov

(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: August 11, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–21349 Filed 8–21–00; 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; 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 Child Health and Human Development 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 Advisory Child Health and Human Development Council.

Date: September 18–19, 2000.

Open: September 18, 2000, 8:30 am to 3 pm

Agenda: The agenda includes: Report of the Director, NICHD, a presentation by the Endocrinology, Nutrition and Growth Branch, an update on the Strategic Planning process and other business of the council.

Place: National Institutes of Health, 9000 Rockville Pike, Building 31C, Conference Room 6, Bethesda, MD 20892.

Closed: September 18, 2000, 3 pm to 5 pm

Agenda: To review and evaluate grant applications and/or proposals.

Place: National Institutes of Health, 9000 Rockville Pike, Building 31C, Conference Room 6, Bethesda, MD 20892.

Closed: September 19, 2000, 8:30 am to 1 pm

Agenda: To review and evaluate grant applications and/or proposals.

Place: National Institutes of Health, 9000 Rockville Pike, Building 31C, Conference Room 6, Bethesda, MD 20892.

Contact Person: Mary Plummer, Committee Management Officer, 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.

(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: August 15, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–21351 Filed 8–21–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; 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 meetings of the National Diabetes and Digestive and Kidney Diseases Advisory Council.

The meetings 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 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 Diabetes and Digestive and Kidney Diseases Advisory Council.

Date: September 20–21, 2000.

Open: September 20, 2000, 8:30 a.m. to 12 p.m.

Agenda: Present the Director's Report and other scientific presentations.

Place: National Institutes of Health, 9000 Rockville Pike, Building 31, Conference Room 10, Bethesda, MD 20892.

Closed: September 20, 2000, 2:30 p.m. 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.

Closed: September 21, 2000, 9:45 a.m. to 10:15 a.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 9000 Rockville Pike, Building 31, Conference Room 10, Bethesda, MD 20892.

Open: September 21, 2000, 10:15 a.m. to 12 p.m.

Agenda: To present the Director's Report and other scientific presentation.

Place: National Institutes of Health, 9000 Rockville Pike, Building 31, Conference Room 10, Bethesda, MD 20892.

Contact Person: Walter S. Stolz, Director for Extramural Activities, National Institute of Diabetes and Digestive and Kidney Diseases, National Institutes of Health, PHS, DHHS, Bethesda, MD 20892.

Name of Committee: National Diabetes and Digestive and Kidney Diseases Advisory Council Diabetes, Endocrine and Metabolic Diseases Subcommittee.

Date: September 20–21, 2000.

Open: September 20, 2000, 1:30 p.m. to 2:30 p.m.

Agenda: Review of the Division's scientific and planning activities.

Place: National Institutes of Health, 9000 Rockville Pike, Building 31, Conference Room 10, Bethesda, MD 20892.

Closed: September 20, 2000, 2:30 p.m. 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.

Closed: September 21, 2000, 8 a.m. to 9:30 a.m.

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: Walter S. Stolz, Director for Extramural Activities, National Institute of Diabetes and Digestive and Kidney Diseases, National Institutes of Health, PHS, DHHS, Bethesda, MD 20892.

Name of Committee: National Diabetes and Digestive and Kidney Diseases Advisory Council Digestive Diseases and Nutrition Subcommittee.

Date: September 20–21, 2000.

Open: September 20, 2000, 1:30 pm to 2:30 pm.

Agenda: Review of the Division's scientific and planning activities.

Place: National Institutes of Health, 9000 Rockville Pike, Building 31, Conference Room 2C19, Bethesda, MD 20892.

Closed: September 20, 2000, 2:30 pm to adjournment.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 9000 Rockville Pike, Building 31, Conference Room 2C19, Bethesda, MD 20892.

Closed: September 21, 2000, 8:00 am to 9:30 am.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 9000 Rockville Pike, Building 31, Conference Room 2C19, Bethesda, MD 20892.

Contact Person: Walter S. Stolz, Director for Extramural Activities, National Institute of Diabetes and Digestive and Kidney Diseases, National Institutes of Health, PHS, DHHS, Bethesda, MD 20892.

Name of Committee: National Diabetes and Digestive and Kidney Diseases Advisory Council Kidney, Urologic and Hematologic Diseases Subcommittee.

Date: September 20–21, 2000.

Open: September 20, 2000, 1:30 pm to 2:30 pm.

Agenda: Review of the Division's scientific and planning activities.

Place: National Institutes of Health, 9000 Rockville Pike, Building 31C, Conference Room 9A51, Bethesda, MD 20892.

Closed: September 20, 2000, 2:30 pm to adjournment.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 9000 Rockville Pike, Building 31C, Conference Room 9A51, Bethesda, MD 20892.

Closed: September 21, 2000, 8:00 am to 9:30 am.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 9000 Rockville Pike, Building 31C, Conference Room 9A51, Bethesda, MD 20892.

Contact Person: Walter S. Stolz, Director for Extramural Activities, National Institute of Diabetes and Digestive and Kidney Diseases, National Institutes of Health, PHS, DHHS, Bethesda, MD 20892.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: August 16, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–21354 Filed 8–21–00; 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; 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 of Allergy and Infectious Diseases Special Emphasis Panel.

Date: September 8, 2000.

Time: 2:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate contract proposals.

Place: 6700–B Rockledge Drive, Room 2148, Bethesda, MD 20892–7616 (Telephone Conference Call).

Contact Person: Robert C. Goldman, Scientific Review Administrator, Scientific Review Program, Divisions of Extramural Activities, NIAID, NIH, Room 2217, 6700–B Rockledge Drive, MSC 7610, Bethesda, MD 20892–7610, 301 496–2550, rg159w@nih.gov.

(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: August 16, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–21355 Filed 8–21–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; 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 Council on Aging.

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 Council on Aging.

Date: September 27, 2000.

Closed: 8:00 a.m. to 10:00 a.m.

Agenda: To review and evaluate grant applications.

Place: 9000 Rockville Pike, Building 31C, Conference Room 6, Bethesda, MD 20892.

Open: 10:00 a.m. to 4:00 p.m.

Agenda: Call to Order; Discussion on success Rates and Increased Grant Costs; Report on Working Group on Program; Report on Review of Behavioral and Social Research Program; Speaker from the National Center for Complementary and Alternative Medicine; Program Highlights; and Comments from Retiring Members

Place: 9000 Rockville Pike, Building 31C, Conference Room 6, Bethesda, MD 20892.

Contact Person: Miriam F. Kelty, Director, Office of Extramural Affairs, National Institute on Aging, National Institutes of Health, 7201 Wisconsin Avenue, Suite 2C218, Bethesda, MD 20892, 301–496–9322.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: August 10, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–21361 Filed 8–21–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; 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 on Aging Special Emphasis Panel.

Date: September 13, 2000.

Time: 2:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: 7201 Wisconsin Avenue, Gateway Building Rm 2C212, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Ramesh Vemuri, Office of Scientific Review, National Institute on

Aging, The Bethesda Gateway Building, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20892, (301) 496–9666.

Name of Committee: National Institute on Aging Special Emphasis Panel, Review of Molecular Mechanisms of T cell Aging in mice.

Date: September 25, 2000.

Time: 1:00 p.m. to 3:30 p.m.

Agenda: to review and evaluate grant applications.

Place: 7201 Wisconsin Ave., Bethesda, MD 20891 (Telephone Conference Call).

Contact Person: Arthur D. Schaerdel, Scientific Review Administrator, The Bethesda Gateway Building, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20892, (301) 496–9666.

Name of Committee: National Institute on Aging Special Emphasis Panel, Review on Possible Cell Models for Alzheimer's disease with respect to lipids and related signaling pathways.

Date: October 11, 2000.

Time: 1:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: 7201 Wisconsin Ave., Bethesda, MD 20891 (Telephone Conference Call).

Contact Person: Arthur D. Schaerdel, The Bethesda Gateway Building, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20892, (301) 496–9666.

Name of Committee: National Institute on Aging Special Emphasis Panel, Early Life Conditions, Social Mobility, and Longevity.

Date: November 14, 2000.

Time: 2:30 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: 7201 Wisconsin Ave., Bethesda MD 20891 (Telephone Conference Call).

Contact Person: Mary Ann Ann Guadagno, Scientific Review Administrator, The Bethesda Gateway Building, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20892, (301) 496–9666.

(Catalogue of Federal Domestic Assistance Program Nos. 93.868, Aging Research, National Institutes of Health, HHS)

Dated: August 15, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–21362 Filed 8–21–00; 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 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 meetings of the National Advisory Allergy and Infectious Diseases Council.

The meetings 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 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 Advisory Allergy and Infectious Diseases Council, Allergy, Immunology and Transplantation Subcommittee.

Date: September 25–26, 2000.

Closed: September 25, 2000, 8:30 a.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: Natcher Building, Conference Room F1/F2, 45 Center Drive, Bethesda, MD 20892.

Open: September 26, 2000, 8:30 a.m. to adjournment.

Agenda: Open program advisory discussions and presentations.

Place: Natcher building, Conference room F1/F2, 45 Center Drive, Bethesda, MD 20892.

Contact Person: John J. McGowan, Director, Division of Extramural Activities, NIAID, Room 2142, 6700–B Rockledge Drive, MSC 7610, Rockville, MD 20892–7610, 301–496–7291.

Name of Committee: National Advisory Allergy and Infectious Diseases Council, Microbiology and Infectious Diseases Subcommittee.

Date: September 25–26, 2000.

Closed: September 25, 2000, 8:30 a.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: 9000 Rockville Pike, Building 31C, Conference Room 6, Bethesda, MD 20892.

Open: September 26, 2000, 8:30 a.m. to adjournment.

Agenda: Open program advisory discussions and presentations.

Place: 9000 Rockville Pike, Building 31C, Conference Room 6, Bethesda, MD 20892.

Contact Person: John J. McGowan, Director, Division of Extramural Activities, NIAID, Room 2142, 6700–B Rockledge Drive, MSC 7610, Rockville, MD 20892–7610, 301–496–7291.

Name of Committee: National Advisory Allergy and Infectious Diseases Council, Acquired Immunodeficiency Syndrome Subcommittee.

Date: September 25–26, 2000.

Closed: September 25, 2000, 8:30 a.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: Natcher Building, 45 Center Drive, Conference rooms E1/E2, Bethesda, MD 20892.

Open: September 26, 2000, 8:30 a.m. to adjournment.

Agenda: Open program advisory discussions and presentations.

Place: Natcher Building, 45 Center Drive, Conference rooms E1/E2, Bethesda, MD 20892.

Contact Person: John J. McGowan, Director, Division of Extramural Activities, NIAID, Room 2142, 6700–B Rockledge Drive, MSC 7610, Rockville, MD 20892–7610, 301–496–7291.

Name of Committee: National Advisory Allergy and Infectious Diseases Council.

Date: September 25–26, 2000.

Open: September 25, 2000, 1 p.m. to 3:30 p.m.

Agenda: The meeting of the full Council will be open to the public for general discussion and program presentations.

Place: 9000 Rockville Pike, Building 31C, Conference Room 6, Bethesda, MD 20892.

Closed: September 25, 2000, 3:30 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: 9000 Rockville Pike, Building 31C, Conference Room 6, Bethesda, MD 20892.

Contact Person: John J. McGowan, Director, Division of Extramural Activities, NIAID, Room 2142, 6700–B Rockledge Drive, MSC 7610, Rockville, MD 20892–7610, 301–496–7291.

(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: August 11, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–21365 Filed 8–21–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Library of Medicine; Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the Board of Scientific Counselors, National Library of Medicine.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the National Library of Medicine, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, National Library of Medicine, Board of Scientific Counselors, Lister Hill Center.

Date: October 19–20, 2000.

Open: October 19, 2000, 9:00 a.m. to 1:00 p.m.

Agenda: Review of research and development programs and preparation of reports of the Lister Hill National Center for Biomedical Communication.

Place: National Library of Medicine, 8600 Rockville Pike, Board Room, Bethesda, MD 20894.

Closed: October 19, 2000, 1:00 p.m. to 2:00 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Library of Medicine, 8600 Rockville Pike, Board Room, Bethesda, MD 20894.

Open: October 19, 2000, 2:00 p.m. to 5:00 p.m.

Agenda: Review of research and development programs and preparation of reports of the Lister Hill National Center for Biomedical Communication.

Place: National Library of Medicine, 8600 Rockville Pike, Board Room, Bethesda, MD 20894.

Open: October 20, 2000, 9:00 a.m. to 12:00 p.m.

Agenda: Review of research and development programs and preparation of reports of the Lister Hill National Center for Biomedical Communication.

Place: National Library of Medicine, 8600 Rockville Pike, Board Room, Bethesda, MD 20894.

Contact Person: Jackie Duley, Program Assistant, Lister Hill National Center for Biomedical Communications, National Library of Medicine, Bldg. 38A, RM 7N–705, Bethesda, MD, 301–496–4441.

(Catalogue of Federal Domestic Assistance Program Nos. 93.879, Medical Library Assistance, National Institutes of Health, HHS)

Dated: August 15, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–21352 Filed 8–21–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Library of Medicine; 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 552(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 Library of Medicine Special Emphasis Panel Publication Grants.

Date: October 6, 2000.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites Hotel, The Chevy Chase Pavilion, 4300 Military Road, NW., Wisconsin at Western Avenue, Washington, DC 20015.

Contact Person: Sharee Pepper, PhD, Scientific Review Administrator, Health Scientist Administrator, Office of Extramual Programs, National Library of Medicine, 6705 Rockledge Drive, Suite 301, Bethesda, MD 20817.

(Catalogue of Federal Domestic Assistance Program Nos. 93.879, Medical Library Assistance, National Institutes of Health, HHS)

Dated: August 15, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–21364 Filed 8–21–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of the Director, National Institutes of Health; Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the Recombinant DNA Advisory Committee.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: Recombinant DNA Advisory Committee.

Date: September 25–26, 2000.

Time: 9 a.m. to 5 p.m.

Agenda: Discussions of the report from the ACD Working Group on NIH Oversight of Clinical Gene Transfer Research; review of selected human gene transfer protocols; discussions of NIH policy on serious adverse event reporting; data management activities related to human gene transfer clinical trials, and other matters to be considered by the Committee. Additional information will be posted at *http://www.nih.gov/od/oba/* on the internet.

Place: National Institutes of Health, Building 31, C Wing, Conference Room 10, 9000 Rockville Pike, Bethesda, MD 20892.

Contact Person: Eugene Rosenthal, Biotechnology Program Advisor, Office of Biotechnology Activities, National Institutes of Health, MSC 7010, 6000 Executive Boulevard, Suite 302, Bethesda, MD 20892–7010, Telephone 301–496–9838, Fax 301–496–9839.

OMB's ''Mandatory Information Requirements for Federal Assistance Program Announcements'' (45 FR 39592, June 11, 1980) requires a statement concerning the official government programs contained in the Catalog of Federal Domestic Assistance. Normally NIH lists in its announcements the number and title of affected individual programs for the guidance of the public. Because the guidance in this notice covers virtually every NIH and Federal research program in which DNA recombinant molecule techniques could be used, it has been determined not to be cost effective or in the public interest to attempt to list these programs. Such a list would likely require several additional pages. In addition, NIH could not be certain that every Federal program would be included as many Federal agencies, as well as private organizations, both national and international, have elected to follow the NIH Guidelines. In lieu of the individual program listing, NIH invites readers to direct questions to the information address above about whether individual programs listed in the Catalog of Federal Domestic Assistance are affected.

Dated: August 15, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–21359 Filed 8–21–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4563 N–14]

Notice of Proposed Information Collection for Public Comment; Insurance Information

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* October 23, 2000.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control number and should be sent to: Mildred M. Hamman, Reports Liaison Officer, Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street, SW, Room 4238, Washington, DC 20410–5000.

FOR FURTHER INFORMATION CONTACT: Mildred M. Hamman, (202) 708–3642, extension 4128, for copies of the proposed forms and other available documents. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated collection techniques or other forms of information technology; e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Insurance Information.

OMB Control Number: 2577–0045.

Description of the need for the information and proposed use: The Annual Contributions Contract between HUD and a Public Housing Agency (PHA) requires the PHA to insure their property for an amount sufficient to protect against financial loss. Completion of the HUD–5460 is needed only when a new project is considered. It is used to establish an insurable value at the time the project is built. The amount of insurance can then be increased each year as inflation and increased costs of construction create an upward trend on insurable values.

Agency form number: HUD–5460.

Members of affected public: State or Local government.

Estimation of the total number of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: Based upon historical information, it is estimated that approximately 60 new projects will be constructed each year. Public burden for collection of the information necessary to complete the HUD–5460 is estimated to average one hour per response, including time for reviewing instructions, gathering data needed, and reviewing the collection of information. The annual burden hours per PHA should not exceed one hour, and the total hours for all combined would be approximately sixty.

Status of the proposed information collection: Extension, without change.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: August 16, 2000.

Harold Lucas,

Assistant Secretary for Public and Indian Housing.

BILLING CODE 4210–33–M

Insurance Information

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing

OMB Approval No. 2577-0045 (exp. 9/30/2000)

Project Name	Project Number
Project Location	No. of Dwelling Units
Name & Title of Person submitting this information	Date

1. Fire and Extended Coverage

A. Describe items listed below by thickness & material used in construction.

1. Exterior Walls: ☐ Load bearing ☐ Non-bearing
   Thickness: Material:
2. Interior Partitions: Thickness: Material:
3. Walls Between Units: Thickness: Material:
   a. Are firewalls built from the ground? ☐ Yes ☐ No
   b. Are they built to the underside of roof sheathing? ☐ Yes ☐ No
   c. Number of inches above the roof:
   d. Describe openings, if any:
4. Top Ceiling: Thickness: Material:
5. Flooring System:
   a. First Floor : Thickness Material
   b. Second Floor : Thickness Material
   c. Third Floor : Thickness Material
   d. Fourth Floor : Thickness Material
6. Roof: ☐ Pitched ☐ Flat
   a. Framing: Thickness Material
   b. Sheathing: Thickness Material
   c. Covering: Thickness Material

B. Information for Rating Purposes

1. Give greatest distance of any project building from a fire hydrant:
2. Describe city fire department
   ☐ Volunteer ☐ Part paid & part volunteer
   ☐ Full Time

C. Classify all buildings according to both the arrangement of stories and the number of dwelling units. Enter in column 1 the number of buildings of each of these types. Mark those without basements "X", mark those with group heating plants in basement "H", mark those with a sprinkler system installed "S". In column 2 enter for each type of building listed in column 1 the number of units under each story level. In column 3 enter the number of units between fire walls for each type of building, such as (2-4-2).

Number of Buildings (1)	No. of Units in Building Under Story Level Specified (2)				Number of Units Between Fire Walls (3)
	1 Story	2 Story	3 Story	4 Story	

D. Computation of Insurable Value (See instructions on back)

1. Architect's Fees (include 30% of fees) $
2. Structures and Equipment $
3. Total of 1 and 2 $

Deduct the following:

4. Entire cost of footing excavations and foundations (cost below level of ground, or if basement, estimated cost below lowest basement floor) $
5. Underground Work in Buildings
   a. 25% of cost of plumbing rough-in $
   b. 10% of cost of electrical rough-in $
6. Underground Work outside of Buildings 10% cost of heating if central plant is involved $

Total Deductions $

1/ Insurable Value $

2. Boiler Insurance

A. Type of Heating (check " one)	B. Type of Boiler (check " one)	C. No. of Boilers	D. Pressure	E. Sq. Ft. of heating Surface per Bolier
☐ Central Heating Plant ☐ Group Heating Plants ☐ Space Heaters	☐ Hot Water ☐ Steam			

F. Type of Fuel (check " one) ☐ Coal ☐ Gas ☐ Oil ☐ LPG

G. Approximate value of heating plant (building and equipment). If system is composed of group heating plants, give approximate value of largest plant. If plant is located in basement of building, include value of dwelling area above plant which would be subject to damage by an explosion. $

1/ The insurable value for the first term can be accurately computed upon completion of a project. For subsequent renewals the Field Office will provide assistance in determining the current insurable value. Instructions for computation of Insurable Value are on the back of this form.

form **HUD-5460** (2/93)
ref. Handbook 7401.5

Previous editions are obsolete

Public reporting burden for this collection of information is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not conduct or sponsor, and a person is not required to respond to, a collection information unless that collecton displays a valid OMB control number.

The Annual Contributions Contract (ACC) between HUD and a Public Housing Agency (PHA) or Indian Housing Authority (IHA) requires the PHA or IHA to insure their property for an amount sufficient to protect against financial loss. PHAs/IHAs complete the Form HUD-5460 only when a new project is constructed. It is used to establish an insurable value at the time the project is built. The amount of insurance can then be increased each year as inflation and increased costs of construction create an upward trend on insurable values. Responses to the collection of information are voluntary. The information requested does not lend itself to confidentiality.

Instructions for Computation of Insurable Value (Block 1-D)

1. Architect's Fee (include 30% of fees). From latest Contract Award Budget, form HUD-52484, Account Classification 1430.1, column (f).

2. Structures and Equipment. Total the following items:
   (a) From form HUD-52396,
   (attached to Contract Award Budget):
   Dwelling Structures, Account 1460;
   Dwelling Equipment, Account 1465;
   Nondwelling Structures, Account 1470;
   Nondwelling Equipment, Account 1475.
   (b) From Contract Award Budget, Column 5:
   Dwelling Equipment - Non-expendable, Account 1465.1;
   Nondwelling Equipment, Accounts 1475.1, 1475.2 and 1475.3.
   (c) From Change Order Record Card:
   Changes charged to Dwelling and Nondwelling Units.

3. Total of 1 and 2

Deductions

4. From form HUD-51000, Schedule of Amounts for Contract Payments: Add applicable items of footings and foundations.

5. a. 25% of plumbing rough-in only. Do not include any cost of fixtures, etc.
   b. 10% of cost of electrical rough-in. Do not include any cost of fixtures, etc.

6. 10% of cost of heating if central plant is provided.

[FR Doc. 00–21278 Filed 8–21–00; 8:45 am]

BILLING CODE 4210–33–C

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4561–N–54]

Notice of Submission of Proposed Information Collection to OMB; Housing Opportunities For Persons With AIDS (HOPWA) Program

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: September 21, 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 (2506–0133) and should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports Management Officer, Q, Department of Housing and Urban Development, 451 Seventh Street, Southwest, Washington, DC 20410; e-mail Wayne_Eddins@HUD.gov; telephone (202) 708–2374. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Eddins.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35). The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable, (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the name and telephone number of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

This Notice also lists the following information:

Title of Proposal: Housing Opportunities For Persons With AIDS (HOPWA) Program.

OMB Approval Number: 2506–0133.

Form Numbers: HUD–40110–B, 401101–C.

Description of the Need for the Information and its Proposed Use: The HOPWA application is used in selecting grants by States, local government and non-profits for special projects of national significance and for non-formula areas; grantees will report on program accomplishments with the annual progress report.

Respondents: Not-for-profit institutions, State, Local or Tribal Government.

Frequency of Submission: Annually.

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Reporting Burden	150		2.73		69.84		28,635

Total Estimated Burden Hours: 28,635.

Status: Reinstatement, with change.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: August 16, 2000.

Wayne Eddins,

Departmental Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 00–21275 Filed 8–21–00; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4561–N–55]

Notice of Submission of Proposed Information Collection to OMB; Application and Re-certification Packages for Approval of Non-profit Organizations in FHA Activities

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:* September 21, 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 (2502–0540) and should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports Management Officer, Q, Department of Housing and Urban Development, 451 Seventh Street, Southwest, Washington, DC 20410; e-mail Wayne Eddins@HUD.gov; telephone (202) 708–2374. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Eddins.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35). The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement;

and (10) the name and telephone number of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

This Notice also lists the following information:

Title of Proposal: Application and Re-certification Packages for Approval of Non-profit Organizations in FHA Activities.

OMB Approval Number: 2502–0540.

Form Numbers: None.

Description of the Need for the Information and Its Proposed Use: This information collection is an application and/or re-certification criteria for nonprofit organizations seeking approval to participate as FHA insured mortgagors or provide down payment assistance to home buyers, which can be achieved by secondary financing. This information collection also provides standardized information and procedures to ensure equal treatment of applicants throughout the nation and gives HUD sufficient information to ascertain an organization's management and fiscal abilities.

Respondents: Individual or Households, Business or other for-profit, Not-for-profit institutions, Federal Government, State, Local or Tribal Government.

Frequency of Submission: On occasion.

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Reporting Burden	2,500		6.3		5.14		81,000

Total Estimated Burden Hours: 81,000.

Status: Reinstatement, without change.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: August 16, 2000.

Wayne Eddins,

Departmental Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 00–21276 Filed 8–21–00; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4561–N–56]

Notice of Submission of Proposed Information Collection to OMB; Single Family Acquired Asset Management System (SAMS)

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:* September 21, 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 (2502–0486) 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 collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the name and telephone number of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

This Notice also lists the following information:

Title of Proposal: Single Family Acquired Asset Management System (SAMS).

OMB Approval Number: 2502–00486.

Form Numbers: SAMS–1100, 1101, 1103, 1106, 1106–C, 1108, 1110, 1111, 1111–A, 1117.

Description of the Need for the Information and Its Proposed Use: In managing its program to dispose of acquired single family properties, HUD reimburses contractors and vendors for their services in maintaining marketing, and selling HUD homes, and collects funds from the sales of these properties. Several forms capture the information necessary for HUD to record and process financial transactions in its automated Single Family Acquired Asset Management System.

Respondents: Business or other for-profit, Not-for-profit institutions, State, Local or Tribal Government.

Frequency of Submission: On occasion.

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Reporting Burden	272,950		1		0.24		65,870

Total Estimated Burden Hours: 65,870.

Status: Reinstatement, without change.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: August 16, 2000.

Wayne Eddins,

Departmental Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 00–21277 Filed 8–21–00; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4572–D–08]

Order of Succession

AGENCY: Office of the Assistant Secretary for Administration.

ACTION: Notice of Order of Succession.

SUMMARY: In this notice, the Deputy Secretary for the Department of Housing and Urban Development designates the Order of Succession for the Office of Administration. This Order of Succession supersedes the Order of Succession for the Assistant Secretary for Administration, published at 64 FR 61931 (November 15, 1999).

EFFECTIVE DATE: July 26, 2000.

FOR FURTHER INFORMATION CONTACT: John Opitz, Assistant General Counsel for Procurement and Administrative Law, Department of Housing and Urban Development, room 10180, 451 7th Street, SW, Washington, DC 20410, (202) 708–0622. (This is not a toll-free number.) This number may be accessed via TTY by calling the Federal Information Relay Service at 1–800–877–8339 (toll-free).

SUPPLEMENTARY INFORMATION: The Deputy Secretary of the Department of Housing and Urban Development is issuing this Order of Succession of officials authorized to perform the functions and duties of the Office of the Assistant Secretary for Administration when, by reason of absence, disability, or vacancy in office, the Assistant Secretary is not available to excise the powers or perform the duties of the office. This Order of Succession is subject to the provisions of the Vacancy Reform Act of 1998, 5 U.S.C. 3345–3349d. This publication supersedes the Order of Succession notice on November 15, 1999 at 64 FR 61931.

Accordingly, the Deputy Secretary designates the following Order of Succession:

Section A. Order of Succession

Subject to the provisions of the Vacancy Reform Act of 1998, during any period when, by reason of absence, disability, or vacancy in office, the Assistant Secretary for Administration is not available to exercise the powers or perform the duties of the Office of Assistant Secretary for Administration, the following officials within the Office of Administration are hereby designated to exercise the powers and perform the duties of the Office:

(1) General Deputy Assistant Secretary for Administration;

(2) Associate General Deputy Assistant Secretary for Administration;

(3) Associate Deputy Assistant Secretary for Technical Services;

(4) Deputy Assistant Secretary for Operations;

(5) Associate Deputy Assistant Secretary for Operations;

(6) Deputy Assistant Secretary for Technical Services.

These officials shall perform the functions and duties of the Office in the order specified herein, and no official shall serve unless all the other officials, whose position titles precede his/hers in this order, are unable to act by reason of absence, disability, or vacancy in office.

Section B. Authority Superseded

This Order of Succession supersedes the Order of Succession for the Assistant Secretary of Administration, published at 64 FR 61931 (November 15, 1999).

Authority: Section 7(d), Department of Housing and Urban Development Act, 42 U.S.C. Sec. 3535(d).

Dated: July 26, 2000.

Saul N. Ramirez, Jr.,

Deputy Secretary, Department of Housing and Urban Development.

[FR Doc. 00–21387 Filed 8–21–00; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4572–D–06]

Order of Succession

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice of Order of Succession.

SUMMARY: In this notice, the Assistant Secretary for Community Planning and Development designates the Order of Succession for the office of Community Planning and Development. This Order of Succession supersedes the Order of Succession for the Assistant Secretary for Community Planning and Development, published at 58 FR 28597 (May 14, 1993).

EFFECTIVE DATE: July 24, 2000.

FOR FURTHER INFORMATION CONTACT: Linda S. Grant, Director, Management Division, Office of Technical Assistance and Management, Office of Community Planning and Development, Department of Housing and Urban Development, Room 7230, 451 7th Street, SW, Washington, DC 20410, (202) 708–2087. (This is not a toll-free number.) This number may be accessed via TTY by calling the Federal Information Relay Service at 1–800–877–8339 (toll-free).

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Community Planning and Development is issuing this Order of Succession of officials authorized to perform the functions and duties of the Office of the Assistant Secretary for Community Planning and Development when, by reason of absence, disability, or vacancy in office, the Assistant Secretary is not available to exercise the powers or perform the duties of the office. This Order of Succession is subject to the provisions of the Vacancy Reform Act of 1998, 5 U.S.C. 3345–3349d. This publication supersedes the Order of Succession notice on May 14, 1993 at 58 FR 28597.

Accordingly, the Assistant Secretary for Community Planning and Development designates the following Order of Succession:

Section A. Order of Succession

Subject to the provisions of the Vacancy Reform Act of 1998, during any period when, by reason of absence, disability, or vacancy in office, the Assistant Secretary for Community Planning and Development is not available to exercise the powers or perform the duties of the Office of Assistant Secretary for Community Planning and Development, the following officials within the Office of Community Planning and Development are hereby designates to exercise the powers and perform the duties of the Office:

(1) General Deputy Assistant Secretary;

(2) Deputy Assistant Secretary for Special Needs Programs;

(3) Deputy Assistant Secretary for Economic Development;

(4) Deputy Assistant Secretary for Grants Program;

(5) Deputy Assistant Secretary for Community Empowerment.

These officials shall perform the functions and duties of the Office in the order specified herein, and no official

shall serve unless all the other officials, whose position titles precede his/hers in this order, are unable to act by reason of absence, disability, or vacancy in office.

Section B. Authority Superseded

This Order of Succession supersedes the Order of Succession for the Assistant Secretary for Community Planning and Development, published at 58 FR 28597 (May 14, 1993).

Authority: Section 7(d), Department of Housing and Urban Development Act, 42 U.S.C. Sec. 3535(d).

Dated: July 24, 2000.

Cardell Cooper,

Assistant Secretary, Community Planning and Development.

[FR Doc. 00–21389 Filed 8–21–00; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4572–D–05]

Order of Succession

AGENCY: Office of the Assistant Secretary for Housing, HUD.

ACTION: Notice of Order of Successions

SUMMARY: In this notice, the Assistant Secretary for Housing designates the Order of Succession for the office of Housing. This Order of Succession supersedes the Order of Succession for the Assistant Secretary for Housing, published at 57 FR 53771 (November 12, 1992).

EFFECTIVE DATE: July 26, 2000.

FOR FURTHER INFORMATION CONTACT: Eliot C. Horowitz, Attorney Advisor to the Assistant Secretary for Housing, Department of Housing and Urban Development, Room 9110, 451 7th Street, SW, Washington, DC 20410, (202) 708–3600. (This is not a toll-free number.) This number may be accessed via TTY by calling the Federal Information Relay Service at 1–800–877–8339 (toll-free).

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Housing is issuing this Order of Succession of officials authorized to perform the functions and duties of the Office of the Assistant Secretary for Housing when, by reason of absence, disability, or vacancy in office, the Assistant Secretary is not available to exercise the powers or perform the duties of the office. This Order of Succession is subject to the provisions of the Vacancy Reform Act of 1998, 5 U.S.C. 3345–3349d. This publication supersedes the Order of Succession notice on November 12, 1992 at 57 FR 53771.

Accordingly, the Assistant Secretary for Housing designates the following Order of Succession:

Section A. Order of Succession

Subject to the provisions of the Vacancy Reform Act of 1998, during any period when, by reason of absence, disability, or vacancy in office, the Assistant Secretary for Housing is not available to exercise the powers or perform the duties of the Office of Assistant Secretary for Housing, the following officials within the Office of Housing are hereby designated to exercise the powers and perform the duties of the Office:

(1) General Deputy Assistant Secretary for Housing;

(2) Associate General Deputy Assistant Secretary for Housing;

(3) Deputy Assistant Secretary for Multifamily Housing;

(4) Deputy Assistant Secretary for Single Family Housing;

(5) Deputy Assistant Secretary for Operations;

(6) Housing—FHA Comptroller.

These officials shall perform the functions and duties of the Office in the order specified herein, and no official shall serve unless all the other officials, whose position titles precede his/hers in this order, are unable to act by reason of absence, disability, or vacancy in office.

Section B. Authority Superseded

This Order of Succession supersedes the Order of Succession for the Assistant Secretary for Housing, published at 57 FR 53771 (November 12, 1992).

Authority: Section 7(d), Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: July 26, 2000.

William C. Apgar,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 00–21390 Filed 8–21–00; 8:45 am]

BILLING CODE 4210–27–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4572–D–04]

Order of Succession

AGENCY: Office of the Assistant Secretary for Public and Indian Housing.

ACTION: Notice of Order of Succession.

SUMMARY: In this notice, the Assistant Secretary for Public and Indian Housing designates the Order of Succession for the office of Public and Indian Housing. This Order of Succession supersedes the Order of Succession for the Assistant Secretary for Public and Indian Housing, published at 60 FR 52004 (October 4, 1995) and correction published at 60 FR 53931 (October 18, 1995).

EFFECTIVE DATE: July 24, 2000.

FOR FURTHER INFORMATION CONTACT: John Opitz, Assistant General Counsel for Procurement and Administrative Law, Department of Housing and Urban Development, Room 10180, 451 7th Street, SW, Washington, DC 20410, (202) 708–0622. (This is not a toll-free number.) This number may be accessed via TTY by calling the Federal Information Relay Service at 1–800–877–8339 (toll-free).

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Public and Indian Housing is issuing this Order of Succession of officials authorized to perform the functions and duties of the Office of the Assistant Secretary for Public and Indian Housing when, by reason of absence, disability, or vacancy in office, the Assistant Secretary is not available to exercise the powers or perform the duties of the office. This Order of Succession is subject to the provisions of the Vacancy Reform Act of 1998, 5 U.S.C. 3345–3349d. This publication supersedes the Order of Succession notice on October 4, 1995 at 60 FR 52004, and correction on October 18, 1995 at 60 FR 53931.

Accordingly, the Assistant Secretary for Public and Indian Housing designates the following Order of Succession:

Section A. Order of Succession

Subject to the provisions of the Vacancy Reform Act of 1998, during any period when, by reason of absence, disability, or vacancy in office, the Assistant Secretary for Public and Indian Housing is not available to exercise the powers or perform the duties of the Office of the Assistant Secretary for Public and Indian Housing, the following officials within the Office of Public and Indian Housing are hereby designated to exercise the powers and perform the duties of the Office:

(1) Deputy Assistant Secretary, Office of Distressed and Troubled Housing Recovery;

(2) General Deputy Assistant Secretary;

(3) Director, Office of Assisted Housing.

These officials shall perform the functions and duties of the Office in the

order specified herein, and no official shall serve unless all the other officials, whose position titles precede his/hers in this order, are unable to act by reason of absence, disability, or vacancy in office.

Section B. Authority Superseded

This Order of Succession supersedes the Order of Succession for the Assistant Secretary for Public and Indian Housing, published at 60 FR 52004 (October 4, 1995), and correction published at 60 FR 53931 (October 18, 1995).

Authority: Section 7(d), Department of Housing and Urban Development Act, 42 U.S.C. Sec. 3535(d).

Dated: July 24, 2000.

Harold Lucas,

Assistant Secretary for Public and Indian Housing.

[FR Doc. 00–21391 Filed 8–21–00; 8:45 am]

BILLING CODE 4210–33–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4572–D–07]

Order of Succession

AGENCY: Office of the Chief Financial Officer, HUD.

ACTION: Notice of Order of Succession.

SUMMARY: In this notice, the Deputy Secretary for the Department of Housing and Urban Development designates the Order of Succession for the office of Chief Financial Officer.

EFFECTIVE DATE: July 26, 2000.

FOR FURTHER INFORMATION CONTACT: Erie T. Davis, Jr., Administrative Officer, Office of the Chief Financial Officer, Department of Housing and Urban Development, Room 3128, 451 7th Street, SW, Washington, DC 20410, (202) 708–0313. (This is not a toll-free number.) This number may be accessed via TTY by calling the Federal Information Relay Service at 1–800–877–8339 (toll-free).

SUPPLEMENTARY INFORMATION: The Deputy Secretary for the Department of Housing and Urban Development is issuing this Order of Succession of officials authorized to perform the functions and duties of the Office of the Chief Financial Officer when, by reason of absence, disability, or vacancy in office, the Chief Financial Officer is not available to exercise the powers or perform the duties of the office. This Order of Succession is subject to the provisions of the Vacancy Reform Act of 1998, 5 U.S.C. 3345–3349d.

Accordingly, the Deputy Secretary designate the following Order of Succession:

Section A. Order of Succession

Subject to the provisions of the Vacancy Reform Act of 1998, during any period when, by reason of absence, disability, or vacancy in office, the Chief Financial Officer is not available to exercise the powers or perform the duties of the Chief Financial Officer, the following officials within the Office of the Chief Financial Officer are hereby designated to exercise the powers and perform the duties of the Office:

(1) Deputy Chief Financial Officer,

(2) Assistant Chief Financial Officer for Systems;

(3) Assistant Chief Financial Officer for Accounting;

(4) Assistant Chief Financial Officer for Budget;

(5) Assistant Chief Financial Officer for Financial Management.

These officials shall perform the functions and duties of the Office in the order specified herein, and no official shall serve unless all the other officials, whose position titles precede his/hers in this order, are unable to act by reason of absence, disability, or vacancy in office.

Authority: Section 7(d), Department of Housing and Urban Development Act, 42 U.S.C. Sec. 3535(d).

Dated: July 26, 2000.

Saul N. Ramirez, Jr.,

Deputy Secretary, Department of Housing and Urban Development.

[FR Doc. 00–21388 Filed 8–21–00; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4572–D–09]

Order of Succession

AGENCY: Office of General Counsel, HUD.

ACTION: Notice of order of succession.

SUMMARY: In this notice, the General Counsel for the Department of Housing and Urban Development designates the Order of Succession for the Office of General Counsel for the Department of Housing and Urban Development. This Order of Succession supersedes the Order of Succession for the General Counsel, published at 62 FR 29731 (June 2, 1997).

EFFECTIVE DATE: August 15, 2000.

FOR FURTHER INFORMATION CONTACT: John Opitz, Assistant General Counsel for Procurement and Administrative Law, Department of Housing and Urban Development, 451 7th Street, SW, Washington, DC 20410, (202) 708–0622. (This is not a toll-free number.) This number may be accessed via TTY by calling the Federal Information Relay Service 1–800–877–8339 (toll-free).

SUPPLEMENTARY INFORMATION: The General Counsel for the Department of Housing and Urban Development is issuing this Order of Succession of officials authorized to perform the functions and duties of the Office of the General Counsel when, by reason of absence, disability or vacancy in office, the General Counsel is not available to exercise the powers or perform the duties of the office. This Order of Succession is subject to the provisions of the Vacancy Reform Act of 1998, 5 U.S.C. 3345–3349d. This publication supersedes the Order of Succession notice on June 2, 1997 at 62 FR 29731.

Accordingly, the General Counsel designates the following Order of Succession:

Section A. Order of Succession

Subject to the provisions of the Vacancy Reform Act of 1998, during any period when, by reason of absence, disability, or vacancy in office, the General Counsel for the Department of Housing and Urban Development is not available to exercise the powers or perform the duties of the General Counsel, the following officials within the Office of General Counsel are hereby designated to exercise the powers and perform the duties of the Office:

(1) Deputy General Counsel for Programs and Regulations

(2) Deputy General Counsel for Litigation

(3) Deputy General Counsel for Housing Finance and Operations

(4) Associate General Counsel for Assisted Housing and Community Development

(5) Associate General Counsel for Finance and Regulatory Enforcement

(6) Associate General Counsel for Insured Housing

(7) Associate General Counsel for Litigation

(8) Associate General Counsel for Human Resources Law

(9) Associate General Counsel for Appeals

(10) Associate General Counsel for Fair Housing

These officials shall perform the functions and duties of the Office in the order specified herein, and no official shall serve unless all the other officials, whose position titles precede his/hers in this order, are unable to act by reason of absence, disability, or vacancy in office.

Section B. Authority Superseded

This Order of Succession supersedes the Order of Succession for the General Counsel, published at 62 FR 29731 (June 2, 1997).

Authority: Section 7(d), Department of Housing and Urban Development Act, 42 U.S.C. Sec 3535(d).

Dated: August 15, 2000.

Gail W. Laster,

General Counsel.

[FR Doc. 00–21386 Filed 8–21–00; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WO–230–1030–PB–00–24 1A]

Extension of Approved Information Collection, OMB Number 1004–0001

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Bureau of Land Management (BLM) announces its intention to request renewal of an existing approval to collect certain information from the general public interested in obtaining free vegetal or mineral material from public lands. This information allows BLM to properly manage and accurately track the disposal of material which is not feasible to sell, or disposal is in the best interest of the United States.

DATES: Comments on the proposed information collection must be received by October 23, 2000, to assure consideration of them.

ADDRESSES: Comments may be mailed to: Regulatory Affairs Group (630), Bureau of Land Management, 1849 C Street, NW., Room 401LS, Washington, DC 20240.

Comments may be sent via Internet to: WoComment@bim.gov. Please include ''Attn: 1004–0001'' and your name and return address in your Internet message.

You may hand-deliver comments to the Bureau of Land Management, Administrative Record, Room 401, 1620 L Street, NW., Washington, DC.

BLM will make comments available for public review at the L Street address during regular business hours (7:45 a.m. to 4:15 p.m.), Monday through Friday.

FOR FURTHER INFORMATION CONTACT: John C. Stewart, WO–230, (202) 452–7759, or by e-mail at John_C_Stewart@blm.gov.

SUPPLEMENTARY INFORMATION: In accordance with 5 CFR 1320.12(a), BLM is required to provide 60-day notice in the **Federal Register** concerning a collection of information contained in BLM Form 5510–1, Free Use Application and Permit (43 CFR 5510) to solicit comments on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. BLM will receive and analyze any comments sent in response to this notice and include them with its request for approval from the OMB under 44 U.S.C. 3501 *et seq.*

The Secretary of the Interior has, under the authority of the Act of July 23, 1955, the discretion to permit the free use of vegetative or mineral materials for use other than commercial or industrial purposes or resale. The Secretary of the Interior also has the discretion to permit the free use of vegetative or mineral materials under certain circumstances, to mining claimants.

BLM uses the information provided by the applicant(s) to: maintain an inventory of vegetative and mineral information and to adjudicate your rights to vegetative and mineral resources. If BLM did not collect this information, your application may be rejected, as a permit must be filed before removal (43 CFR 5511.2–3) and the BLM must monitor the authorized uses of public lands.

Based on BLM's experience administering the activities described above, the public reporting burden for the information collected is estimated to average 30 minutes per response. The respondents are the general public. The frequency of response is once per application for a permit. The number of responses per year is estimated to total 450. The estimated total annual burden on new respondents is about 225 hours. BLM is specifically requesting your comments on its estimate of the amount of time that it takes to prepare a response. BLM's estimate is 30 minutes per response, which includes the time for reviewing instructions, gathering and maintaining the data, and completing and reviewing the form.

BLM will summarize all responses to this notice and include them in the request for Office of Management and Budget approval. All comments will also become a matter of public record.

Dated: August 16, 2000.

Shirlean Beshir,

BLM Information Clearance Officer.

[FR Doc. 00–21317 Filed 8–21–00; 8:45 am]

BILLING CODE 4310–84–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WO–220–1020–JH–01–24 1A]

Extension of Approved Information Collection, OMB Number 1004–0019

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Bureau of Land Management (BLM) intends to request renewal of an existing approval to collect certain information from individuals, households, farms or businesses interested in cooperating with the BLM in constructing or maintaining projects on rangelands to aid handling and caring for domestic livestock that are authorized to graze on public land. Form 4120–7 (Range Improvement Permit) is used under authority of Sections 4 and 15 of the Taylor Grazing Act and associated regulations found under 43 CFR 4120.3. It requests information necessary to consider an application and make a decision concerning the proposed rangeland improvement project.

DATES: Comments on the proposed information collection must be received by October 23, 2000, to assure consideration of them.

ADDRESSES: Comments may be mailed to: Regulatory Affairs Group (630), Bureau of Land Management, 1849 C Street NW., Room 401LS, Washington, DC 20240.

Comments may be sent via Internet to: *WOComments@blm.gov.* Please include ''Attn: 1004–0019'' and your name and address in your Internet message.

You may hand deliver comments to the Bureau of Land Management, Administrative Record, Room 401, 1620 L Street, NW., Washington, DC.

BLM will make comments available for public review at the L Street address during regular business hours (7:45 a.m. through 4:15 p.m.), Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Tom Roberts, WO–220, 202–452–7769.

SUPPLEMENTARY INFORMATION: In accordance with 5 CFR 1320.12(a), the BLM is required to provide a 60 day notice in the **Federal Register** concerning a collection of information contained in BLM Form 4120–7 (43 CFR 4120.3) to solicit comments on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of the information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. BLM will analyze any comments received in response to this notice and include them with its request for approval from the OMB under 44 U.S.C. 3501 *et seq*.

The Taylor Grazing Act (TGA) of 1934 (43 U.S.C. 315 *et seq*.), the Federal Land Policy and Management Act (FLPMA) of 1976 (43 U.S.C. 1701 *et seq*.) provide the authority for the BLM to administer the livestock grazing program consistent with land use plans, multiple use objectives, sustained yield, environmental values, economic considerations, and other factors. Sections 4 and 15 of the TGA and Regulations in 43 CFR 4120.3–3 allow permittees the opportunity to construct and maintain rangeland improvements on the public lands. The regulations were on February 21, 1964 (49 FR 6452) and last amended on February 22, 1995 (60 FR 9964). Form 4120–7, Range Improvement Permit is an approved form used to request and approve a rangeland improvement project.

The BLM authorizes rangeland improvement projects to facilitate handling livestock while they are using the public lands as an important and integral part of grazing use administration. The information provided by the permittees and lessees is used by BLM to review requests for privately funded rangeland improvement projects for compatibility with multiple use objectives and land use plans, develop appropriate conditions and specifications, and to approve or reject the applications. The name and address is used to determine if the applicant is a grazing permittee in compliance with 43 CFR 4120.3–3(a). Applicants also specify if they will construct a new improvement or obtain a permit to maintain an existing improvement. A brief purpose or justification is stated to determine the compatibility with multiple use plans. The applicant identifies the specific location to determine land ownership and if needed, a plat is provided on the reverse to delineate linear improvements such as fences or pipelines. An estimate of cost or value is recorded in the event of land ownership changes that require appraisal of private assets for reimbursement of permittees for the present worth of improvements in accordance with 43 CFR 4120.3–6(c). The BLM completes administrative codes for its records systems, prepares special terms and conditions as appropriate, assigns a completion date for construction, signs approval and makes inspection of the completed rangeland improvement. A copy of the approved permit is retained to document in BLM files.

Because of the variations in size and complexity of rangeland improvement projects, BLM estimates the public reporting burden for this information collection at some 60 applications filed once that may take as little as 10 minutes to complete, while others may take as long as 30 minutes with an average of 20 minutes burden for each with an annual burden of 20 hours.

Any interested member of the public may request and obtain a copy of the BLM Form 4120–7 without charge by contacting the person identified under **FOR FURTHER INFORMATION CONTACT**.

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

Dated: August 16, 2000.

Shirlean Beshir,

BLM Information Clearance Officer.

[FR Doc. 00–21318 Filed 8–21–00; 8:45 am]

BILLING CODE 4310–84–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WO–230–1030–PB–01–24–1A]

Extension of Approved Information Collection, OMB Number 1004–0058

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Bureau of Land Management (BLM) announces its intention to request renewal of an existing approval to collect certain information from Federal timber purchasers to allow BLM to determine compliance with timber export restrictions. Federal timber purchasers must keep records of Federal timber volume purchased and private timber volume exported for a period of three years from the date the activity occurred. BLM uses this information to administer export restrictions on BLM timber sales and to determine whether substitution of Federal timber for exported private timber has occurred.

DATES: Comments on the proposed information collection must be received by October 23, 2000 to be assured of consideration.

ADDRESSES: Comments may be mailed to: Regulatory Affairs Group (630), Bureau of Land Management, 1849 C Street NW., Room 401LS, Washington, DC 20240.

Comments may be sent via Internet to: WoComment@blm.gov. Please include ''Attn: 1004–0058'' and your name and return address in your Internet message.

You may hand-deliver comments to the Bureau of Land Management, Administrative Record, Room 401, 1620 L Street, NW., Washington, DC.

BLM will make comments available for public review at the L Street address during regular business hours (7:45 a.m. to 4:15 p.m.), Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Michael J. Haske, WO–230, (202) 452–7758, or by e-mail at Michael_J_Haske@blm.gov.

SUPPLEMENTARY INFORMATION: In accordance with 5 CFR 1320.12(a), BLM is required to provide 60-day notice in the **Federal Register** concerning a collection of information contained in BLM Form 5460–17, Substitution Determination (43 CFR 5400, Sales of Forest Products), to solicit comments on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including

through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. BLM will receive and analyze any comments sent in response to this notice and include them with its request for approval from the OMB under 44 U.S.C. 3501 *et seq*.

BLM manages and sells timber located on the revested Oregon and California Railroad and the reconveyed Coos Bay Wagon Road Grant Lands pursuant to authority of the Act of August 28, 1937 (50 Stat. 875, 43 U.S.C. 1181e). BLM manages and sells timber located on other lands under the jurisdiction of the BLM pursuant to the Act of July 31, 1947, as amended (61 Stat. 681, 30 U.S.C. 601 *et seq*.). The Department of the Interior and Related Agencies Appropriation Acts of 1975 and 1976 contained a requirement for the inclusion of provisions in timber sale contracts that will ensure that un-processed timber sold from public lands under the jurisdiction of the BLM will not be exported or used by the purchasers as a substitute for timber they export or sell for export. The implementing regulations, found at 43 CFR 5400, Sales of Forest Products, General, were issued on June 13, 1970 (35 FR 9783). The regulations were amended on March 26, 1976 (41 FR 12658) to reflect the prohibition against export and substitution, and last amended on March 11, 1991 (56 FR 10175). The Forest Resources Conservation and Shortage Relief Act (FRCSRA) of 1990 (Public Law 101–382, 16 U.S.C. 620 *et seq*.) directs the BLM to publish new regulations and revise existing regulations to continue the prohibition on exporting unprocessed timber harvested from Federal lands west of the 100th Meridian in the contiguous 48 states. The BLM has not yet promulgated such regulations; the FRCSRA directs that regulations in effect before such date of promulgation shall continue to govern the export prohibition, making continued use of this form necessary.

Timber purchasers or their affiliates must provide the information listed at 43 CFR 5424.1(a). BLM collects the purchaser's name, timber contract number, processing facility location, total volume of Federal timber purchased on an annual basis, total volume of private timber exported on an annual basis, and method of measuring the volume using BLM form 5460–17, Substitution Determination. The regulations at 43 CFR 5424.1(b) require that the purchasers or affiliates retain a record of Federal timber acquisitions and private timber exports for three years from the date the activity occurred. BLM uses this information to determine if there was a substitution of Federal timber for exported private timber in violation of 43 CFR 5400.0–3(c). If BLM did not collect this information, it could not protect against export and substitution.

Based on BLM's experience administering timber contracts, the public reporting burden for the information collected is estimated to average one hour per response. The respondents are Federal timber purchasers who have exported private timber within one year preceding the purchase date of Federal timber and/or affiliates of a timber purchaser who exported private timber within one year before the acquisition of Federal timber from the purchaser. The frequency of response for substitution determination is annually. The number of responses per year is estimated to be about 100. The estimated total annual burden on new respondents is about 100 hours.

Any interested member of the public may request and obtain, without charge, a copy of Form 5460–17 by contacting the person identified under **FOR FURTHER INFORMATION CONTACT.**

BLM will summarize all responses to this notice and include them in the request for Office of Management and Budget approval. All comments will also become a matter of public record.

Dated: August 16, 2000.

Shirlean Beshir,

BLM Information Clearance Officer.

[FR Doc. 00–21319 Filed 8–21–00; 8:45 am]

BILLING CODE 4310–84–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WO–310–1310–PB–01–24 1 A]

Extension of Approved Information Collection, OMB Number 1004–0134

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Bureau of Land Management (BLM) announces its intention to request renewal of an existing approval to collect certain information from operators and operating rights owners of Federal and Indian (except Osage) oil and gas leases. The information to be collected will be used to determine whether proposed operations may be approved to begin or alter operations or to allow operations to continue, or enables the monitoring of compliance with granted approvals. Granted approvals include drilling plans, prevention of waste, protection of resources, development of a lease, measurement, production verification, and protection of public health and safety.

DATES: Comments on the proposed information collection must be received by October 23, 2000, to assure consideration of them.

ADDRESSES: Comments may be mailed to: Regulatory Affairs Group (630), Bureau of Land Management, 1849 C Street NW., Room 401LS, Washington, DC 20240.

Comments may be sent via Internet to: WOComment@blm.gov. Please include ''Attn: 1004–0134'' and your name and return address in your Internet message.

You may hand-deliver comments to the Bureau of Land Management, Administrative Record, Room 401, 1620 L Street, NW, Washington, DC 20240.

BLM will make comments available for public review at the L Street address during regular business hours (7:45 a.m. to 4:15 p.m.), Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Barbara Gamble, Fluid Minerals Group, (202) 452–0338.

SUPPLEMENTARY INFORMATION: In accordance with 5 CFR 1320.12(a), the BLM is required to provide 60-day notice in the **Federal Register** concerning a collection of information contained in published current rules to solicit comments on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. BLM will receive and analyze any comments sent in response to this notice and include them with its request for approval from the OMB under 44 U.S.C. 3501 *et seq*.

In accordance with the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 *et seq*.); the Mineral Leasing Act of 1920, as amended (30 U.S.C. 181 *et seq*.); the

Mineral Leasing Act for Acquired Lands of 1947, as amended (30 U.S.C. 351–359); the various Indian leasing acts; and the National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*), BLM's implementing regulations at 43 CFR part 3160 require affected Federal and Indian (except Osage) oil and gas operators and operating rights owners to maintain records or provide information by means other than the submission of forms.

The recordkeeping and nonform information collection items required under various provisions of 43 CFR part 3160 pertain to data submitted by the operator or operating rights owner. The information either provides data so that proposed operations may be approved or enables the monitoring of compliance with granted approval and is used to grant approval to begin or alter operations or to allow operations to continue. The specific requirements are listed by regulation section.

The information required under 43 CFR part 3160 covers a broad range of possible operations, and rarely will any specific operator be required to obtain or provide each item. Many of the requirements are one-time filings used to gain approval to conduct a variety of oil and gas operations. Others are routine data submissions that are used to monitor production and ensure compliance with lease terms, regulations, Orders, Notices to Lessees, and conditions of approval. Production information from each producing lease is used to verify volumes and disposition of oil and gas produced on Federal and Indian lands. All recordkeeping burdens are associated with nonform items requested.

Based on its experience managing the activities required by these regulations, BLM estimates the average public reporting burden of each provision for the information collection, including recordkeeping, ranges from about 10 minutes to 16 hours per response, depending on which information is required. The respondents are operators and operating rights owners of Federal and Indian (except Osage) oil and gas leases. The frequency of response varies from one-time-only to occasionally to routine, depending on activities conducted on oil and gas leases and on operational circumstances. The number of responses per year is estimated to total 193,855. The estimated total annual burden on new respondents is about 96,885. BLM is specifically requesting your comments on its estimate of the amount of time that it takes to prepare a response. The table below summarizes our estimates.

Information collection (43 CFR)	Requirement	Hours per response	Burden hours	Respondents
3162.3–1(a)	Well-Spacing Program	.5	75	150
3162.3–1(e)	Drilling Plans	8	23,000	2,875
3162.6	Well Markers	.5	150	300
3162.5–2(b)	Direction Drilling	1	165	[1] 165
3162.4–2(a)	Drilling Tests, Logs, Surveys	1	330	[1] 330
3162.3–4(a)	Plug and Abandon for Water Injection	1.5	1,800	1,200
3162.3–4(b)	Plug and Abandon for Water Source	1.5	1,800	1,200
3162.7–1(d)	Additional Gas Flaring	1	400	400
3162.5–1(c)	Report of Spills, Discharges, or Other Undesirable Events	2	400	200
3162.5–1(b)	Disposal of Produced Water	2	3,000	1,500
3162.5–1(d)	Contingency Plan	16	800	50
3162.4–1(a) and 3162.7–5(d)(1).	Schematic/Facility Diagrams	4	9,400	2,350
3162.7–1(b)	Approval and Reporting of Oil in Pits	.5	260	520
3164.1 (Order No. 3)	Prepare Run Tickets	.2	18,000	90,000
3162.7–5(b)	Records on Seals	.2	18,000	90,000
3165.1(a)	Application for Suspension	8	800	100
3165.3(b)	State Director Review	16	1,600	100
3162.7–5(c)	Site Security	7	16,905	2,415
Totals			96,885	193,855

[1] Or 5% of wells.

The respondents already maintain the types of information collected for their own recordkeeping purposes and need only submit the required information. All information collections in the regulations at 43 CFR part 3160 that do not require a form are covered by this notice. BLM intends to submit these information collections collectively for approval by the Office of Management and Budget.

BLM will summarize all responses to this notice and include them in the request for Office of Management and Budget approval. All comments will also become a matter of public record.

Dated: August 16, 2000.

Shirlean Besir,

BLM Information Clearance Officer.

[FR Doc. 00–21320 Filed 8–21–00; 8:45 am]

BILLING CODE 4310–84–M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Minerals Management Service (MMS) Outer Continental Shelf (OCS), Gulf of Mexico (GOM) Region, Proposed Use of Floating Production, Storage and Offloading Systems on the Central and Western GOM OCS

AGENCY: Minerals Management Service, Interior.

ACTION: Correction to the Notice of Availability of the Draft Environmental Impact Statement (EIS) and locations and dates of public hearings for the EIS on the proposed use of floating production, storage and offloading

(FPSO) systems on the Central and Western GOM OCS.

On August 15, 2000, the MMS in the **Federal Register** (65 FR 49829) a Notice of Availability of the Draft EIS and Locations and Dates of Public Hearings for the EIS on the Proposed Use of FPSO Systems on the Central and Western GOM OCS. The Notice identified the dates and locations of public hearings to be held at four locations along the GOM coast. The dates of those public hearings are incorrect. The correct dates are:

- Monday, September 18, Adam's Mark Hotel, 64 South Water Street, Mobile, Alabama;
- Tuesday, September 19, Radisson Inn New Orleans International Airport, 2150 Veterans Boulevard, Kenner, Louisiana;
- Wednesday, September 20, Radisson Hotel and Conference Center, Hobby Airport Houston, 9100 Gulf Freeway, Houston, Texas;
- Thursday, September 21, Best Western Richmond Suites, 2600 Moeling Street, Lake Charles, Louisiana.

All other items in the August 15, 2000, Notice of Availability remain as stated.

Dated: August 17, 2000.

Richard Wildermann,

Acting Chief, Environmental Division.

[FR Doc. 00–21339 Filed 8–21–00; 8:45 am]

BILLING CODE 4310–MR–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

Notice of Proposed Information Collection

AGENCY: Office of Surface Mining Reclamation and Enforcement.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Office of Surface Mining Reclamation and Enforcement (OSM) is announcing its intention to request approval for the collection of information for its technical training program nomination form and request for payment of travel and per diem form.

DATES: Comments on the proposed information collection must be received by October 23, 2000, to be assured of consideration.

ADDRESSES: Comments may be mailed to John A. Trelease, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave, NW, Room 210—SIB, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: To request a copy of the information collection request, explanatory information and related forms, contact John A. Trelease, at (202) 208–2783.

SUPPLEMENTARY INFORMATION: The Office of Management and Budget (OMB) regulations at 5 CFR 1320, which implement provisions of the paperwork Reduction act of 1995 (Pub. L. 104–13), require that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8(d)). This notice identifies information collection that OSM will be submitting to OMB for approval.

OSM will request a 3-year term of approval for the information collection activity.

Comments are invited on: (1) The need for the collection of information for the performance of the functions of the agency; (2) the accuracy of the agency's burden estimates; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the information collection burden on respondents, such as use of automated means of collection of the information. A summary of the public comments will be included in OSM's submissions of the information collection requests to OMB.

The following information is provided for the information collection: (1) Title of the information collection; (2) OMB control number; (3) summary of the information collection activity; and 94) frequency of collection, description of the respondents, estimated total annual responses, and the total annual reporting and recordkeeping burden for the collection of information.

Title: Technical Training Program Non-Federal Nomination Form and Request for Payment of Travel and Per Diem Form.

OMB Control Number: None.

Summary: The information is used to identify and evaluate the training courses requested by students to enhance their job performance, to calculate the number of classes and instructors needed to complete OSM's technical training mission, and to estimate costs to the training program.

Bureau Form Numbers: OSM 105, OSM 140.

Frequency of Collection: Once.

Description of Respondents: State and Tribal regulatory and reclamation employees and industry personnel.

Total Annual Responses: 1,600.

Total Annual Burden Hours: 134 hours.

Dated: August 17, 2000.

Richarad G. Bryson,

Chief, Division of Regulatory Support.

[FR Doc. 00–21315 Filed 8–21–00; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF JUSTICE

Notice of Public Meeting; Concerning Heavy Duty Diesel Engine Consent Decrees

The Department of Justice and the Environmental Protection Agency announce a public meeting to be held on September 13, 2000 at 10 a.m. at 1425 New York Ave., N.W., 13th Floor Conference Room, Washington, DC. The subject of the meeting will be implementation of the provisions of seven consent decrees signed by the United States and diesel engine manufacturers and entered by the United States District Court for the District of Columbia on July 1, 1999 (*United States* v. *Caterpillar,* Case No. 1:98CV02544; *United States* v. *Cummins Engine Company,* Case No. 1:98CV02546; *United States* v. *Detroit Diesel Corporation,* Case No. 1:98CV02548; *United States* v. *Volvo Truck Corporation,* Case No. 1:98CV02547; *United States* v. *Mack Trucks, Inc.,* Case No. 1:98CV01495; and *United States* v. *Renault Vehicules Industries, S.A.,* Case No. 1:98CV02543). In supporting entry by the Court of the decrees, the United States committed to meet with states, industry groups, environmental groups, and concerned citizens to discuss consent decree implementation issues. This will be the fifth of a series of public meetings to be held quarterly during the first year of implementation of the consent decrees and at least annually thereafter. Future meetings will be announced in the **Federal Register** and/or on EPA's Diesel Engine Settlement web page at: *www.epa.gov/oeca/ore/aed/diesel.*

For further information, please contact: Anne Wick, EPA Diesel Engine Consent Decree Coordinator, U.S. Environmental Protection Agency (Mail Code 2242A), EPA Headquarters, Washington, DC 20460, e-mail: WICK.ANNE@EPA.GOV.

Bruce S. Gelber,

Acting Chief, Environmental Section, Environment and Natural Resources Division.

[FR Doc. 00–21283 Filed 8–21–00; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act (''CERCLA'')

In accordance with Departmental policy, 28 CFR 50.7 and 42 U.S.C. 9622(d)(2), notice is hereby given that on August 10, 2000, a proposed Consent Decree for the Rocker Operable Unit (the ''Rocker Consent Decree'') in *United States* v. *Atlantic Richfield Company*, Civil Action No. 89–39–BU–PGH, was lodged with the United States District Court for the District of Montana.

In this action, the United States sought, pursuant to Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (''CERCLA''), 42 U.S.C. 9607, the recovery of past response costs and a declaratory judgment of liability for future response costs incurred at or in connection with the Original Portion of the Silver Bow Creek/Butte Area National Priorities List (NPL) Site, the Milltown Reservoir Sediments NPL Site (now referred to as the Milltown Reservoir/Clark Fork River NPL Site, and the Anaconda Smelter NPL Site. The claims asserted by the United States include claims for: (1) Reimbursement of past response costs incurred by EPA and the Department of Justice for response actions at the Rocker Timber Framing and Treating Plant operable unit, together with accrued interest; and (2) a declaratory judgment regarding liability of future response costs incurred at the Rocker Site. In this same action, ARCO filed counterclaims against the United States, seeking cost recovery, contribution, contractual indemnity, equitable indemnification, recoupment, and declaratory relief.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Rocker Consent Decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, P.O. Box 7611 Ben Franklin Station, NW., Washington, DC 20044–7611, and should refer to *United States* v. *Atlantic Richfield Company*, D.J. Ref. 90–11–2–430. Commenters may also request an opportunity for a public meeting in the affected area, in accordance with Section 7003(d) of the Resource Conservation and Recovery Act, 42 U.S.C. 6973(d).

The Rocker Consent Decree may be examined at the Office of the United States Attorney, 2929 Third Avenue North, Suite 400, Billings, Montana 59101, and at U.S. EPA Region VIII Montana Office, Federal Building, 301 South Park, Helena, Montana 59626–0096. A copy of the Rocker Consent Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611. In requesting a copy, please enclose a check in the amount of $182.00 (25 cents per page reproduction cost) payable to the Consent Decree Library. In requesting a copy exclusive of exhibits and defendants' signatures, please enclose a check in the amount of $24.50 (25 cents per page reproduction cost) payable to the Consent Decree Library.

Bruce S. Gelber,

Acting Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 00–21288 Filed 8–21–00; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Clean Water Act

In accordance with Departmental Policy, 28 CFR 50.7, notice is hereby given that a consent decree in *United States of America* v. *HS Resources, Inc., and South Tech Exploration, L.L.C.,* Civil Action No. CV00–1850 (W.D. La.), was lodged with the United States District Court for the Western District of Louisiana on August 9, 2000.

This is a civil action commenced under Sections 309(b) and (d) and 404 of the Clean Water Act (''CWA''), 33 U.S.C. 1319(b) and (d), 1344, to obtain injunctive relief and civil penalties against HS Resources, Inc., and SouthTech Exploration, L.L.C. (''Defendants'') for the discharge of pollutants into waters of the United States at ten oil well sites in Beauregard, Acadia, Jefferson Davis, Calcasieu and Allen Parishes, Louisiana (''the Sites''), without authorization by the United States Department of the Army under CWA section 404(a), 33 U.S.C. 134(a), all in violation of CWA section 301(a), 33 U.S.C. 1311(a).

The proposed Consent Decree would resolve these violations and, among other provisions, would require Defendants (1) to pay civil penalties totaling $700,000, (2) spent an additional $500,000 to acquire one or more wetlands tracts in Louisiana and convey the property to The Nature Conservancy for preservation; (3) apply to the U.S. Army Corps of Engineers (''Corps'') for an after-the-fact permit for the unauthorized discharges; and (4) to comply with all terms and conditions of any permit that is issued. The proposed Consent Decree further provides that if the Corps denies the after-the-fact permit, the United States reserves, and the Consent Decree does not affect, the right to issue an administrative order or orders to remove all or part of the fill placed at the Sites, and/or to require mitigation with respect to the unauthorized fill at the Sites.

The Department of Justice will accept written comments relating to the proposed Consent Decree for thirty (30) days from the date of publication of this notice. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, U.S. Department of Justice, Atention: Brian H. Lynk, Environmental Defense Section, P.O. Box 23986, Washington, DC 20026–3986, and must refer to *United States of America* v. *HS Resources, Inc., and SouthTech Exploration, L.L.C.,* DJ Reference No. 90–5–1–1–05767.

The proposed consent decree is on file at the Clerk's Office, United States District Court, Western District of Louisiana, Lake Charles Division, 611 Broad Street, Lake Charles, Louisiana 70601, and may be examined there to the extent allowed by the rules of the Clerk's Office. In addition, written requests for a copy of the consent decree may be mailed to Brian H. Lynk, Environmental Defense Section, U.S. Department of Justice, P.O. Box 23986, Washington, DC 20026–3986, and should refer to *United States of America* v. *HS Resources, Inc., and SouthTech Exploration, L.L.C.,* DJ Reference No. 90–5–1–1–05767. All written requests for a copy of the Consent Decree must include the full mailing address to which the Consent Decree should be sent.

Letitia J. Grishaw,

Chief, Environmental Defense Section, Environment and Natural Resources Division, U.S. Department of Justice.

[FR Doc. 00–21287 Filed 8–21–00; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Federal Water Pollution Control Act (''CWA'')

Notice is hereby given that a proposed Consent Decree (''Decree'') in *United States* v. *Jayhawk Pipeline, L.L.C.*, Civil Action No. 99–20009–GTV, was lodged on August 8th, 2000, with the United States District Court for the District of Kansas.

The Complaint filed in the above-referenced matter alleges that Defendant Jayhawk Pipeline, L.L.C. (''Jayhawk'') violated Sections 311(b)(3) and 309(b) of the Federal Water Pollution Control Act, commonly known as the Clean Water Act (''CWA''), 33 U.S.C. 1321(b)(3) and 1319(b). The Complaint, which was filed on January 11, 1999, sought civil penalties and injunctive relief for 16 discharges of oil from Jayhawk's inland oil gathering lines to navigable waters of the United States or adjoining shorelines within the State of Kansas.

Under the proposed Decree, Jayhawk shall pay the United States $352,500 in civil penalties for the 16 discharges alleged in the Complaint, and 12 additional discharges itemized in Appendix D to the proposed Decree. Additionally, the proposed Decree requires Jayhawk to:

(A) Purge and permanently remove from service the Eastern, Central and Western portions of its gathering line system in accordance with an agreed upon schedule. *See* Consent Decree at ¶¶ 11–13.

(B) Install a cathodic protection system on all gathering lines which remain in service in accordance with specified industry standards. The system will include periodic close interval and pipe-to-soil surveys and a commitment to perform corrective measures. *See* Consent Decree at ¶¶ 16–20.

(C) Perform periodic on the ground surveys of all remaining gathering lines in order to identify ''Covered Water Bodies'' within 500 feet of Jayhawk's remaining lines, and to ensure that the gathering lines meet specified standards for sufficiency of cover. Jayhawk will perform required corrective measures. *See* Consent Decree at ¶¶ 21–22.

(D) Hydrostatically test all remaining gathering lines located within 500 feet of a Covered Water Body, in order to ensure that the gathering line meets industry standards for structural integrity. *See* Consent Decree at ¶ 24.

(E) Company with an operation and maintenance manual for its gathering system which complies with federal standards set for trunk lines. Similarly, Jayhawk shall comply with federal standards for employee training set for trunk lines on its gathering system. *See* Consent Decree at ¶¶ 27–28.

In exchange, the United States is granting Jayhawk a covenant not to sue for civil penalties pursuant to Section 311(b) of the CWA arising from the twenty-eight discharges specified in Appendix D. The United States is also granting Jayhawk a covenant not to sue for injunctive relief under Section 309(b) or 311(e) of the CWA for the work performed pursuant to the Decree.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044, and should refer to *United States* v. *Jayhawk Pipeline, L.L.C.*, DOJ Ref. #90–5–1–1–4460.

The proposed Decree may be examined at the Office of the United States Attorney, District of Kansas, 500 State Avenue, Suite 360, Kansas City, KS 66101, 913–551–6730; and the Region VII Office of the Environmental Protection Agency, 901 N. 5th Street, Kansas City, KS 66101, 913–551–7714. A copy of the proposed Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, Washington, DC 20044. In requesting a copy of the Consent Decree, please refer to the referenced case and enclose a check in the amount of $42.00 for the Decree and all attachments, or $10.75 for the Decree without attachments (25 cents per page reproduction costs), payable to the Consent Decree Library.

Bruce Gelber,

Deputy Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 00–21284 Filed 8–21–00; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (''CERCLA'')

Notice is hereby given that a proposed Consent Decree (''Decree'') in *United States* v. *Jabbar Malik*, Civil Action No. 1:00CV00084FRB, was lodged July 28, 2000, with the United States District Court for the Eastern District of Missouri.

The Complaint filed in the above-referenced matter alleges that M.A. Jabbar Malik (''Defendant'') is liable under Section 107(a) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, (''CERCLA''), 42 U.S.C. 9607(a), for costs incurred by EPA as a result of the release or threatened release of hazardous substances at or in connection with the MRM Industries, Inc. Superfund Site (''Site'') in Sikeston, Missouri. The Complaint, which was filed simultaneously on July 28, 2000 with the Decree, sought response costs incurred by the United States in connection with the Site, plus prejudgment interest.

Under the proposed Decree, Defendant shall pay to the EPA Hazardous Substance Superfund $5,000 in reimbursement of response costs. In exchange, the United States is granting Defendant a covenant not to sue or take administrative action against Defendant pursuant to Section 107(a) of CERCLA, 42 U.S.C. 9607(a) for recovery of response costs. This covenant not to sue extends only to Settling Defendant and does not extend to any other persons. This covenant not to sue is also conditioned upon the satisfactory performance by Settling Defendant of his obligations under the Decree.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, P.O. Box 7611, Washington, DC 20044–7611, and should refer to *United States* v. *M.A. Jabbar Malik*, DOJ Ref. #90–11–3–1459/1.

The proposed Decree may be examined at the office of the United States Environmental Protection Agency, Region VII, 901 North 5th Street, Kansas City, Kansas 66101. A copy of the proposed Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, Washington, DC 20044. In requesting a copy of the Consent Decree, please refer to the referenced case and enclose a check in the amount of $5.75, payable to the Consent Decree Library.

Bruce Gelber,

Deputy Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 00–21286 Filed 8–21–00; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decrees Under the Comprehensive Environmental Response, Compensation, and Liability Act

Notice is hereby given that on August 8, 2000 a proposed consent decree in *United States* v. *Zacharias Brothers, a Virginia Partnership, et al.*, Civil Action No. 3:00CV521, was lodged with the United States District Court for the Eastern District of Virginia.

In this action, the United States sought recovery under Section 107 of CERCLA of in excess of $2.7 million in response costs incurred by the United States in response to the release or threatened release of hazardous substances at the C&R Battery Company, Inc. Superfund Site (''Site''), located in Chesterfield, Virginia. The Consent Decree will resolve the claims against five defendants, Zacharias Brothers, a Virginia Partnership, Edward A. Zacharias, Mary D. Zacharias, William K. Zacharias and Carol K. Zacharias, for the payment, in aggregate, of $160,377.72 to the United States. The Consent Decree contains a covenant not to sue by the United States under Section 107 of CERCLA.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Zacharias Brothers, a Virginia Partnership, et el.,* DOJ Ref. #90–11–2–692/4.

The proposed consent decree may be examined at the Office of the United States Attorney, Eastern Division of Virginia, Richmond Division, 600 E. Main Street, Suite 1800, Richmond, VA 23219; and at U.S. EPA Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103–2029. A copy of the proposed consent decree may be obtained by mail from the Consent Decree Library, United States Department of Justice, P.O. Box 7611, Washington, DC 20044–7611. In requesting a copy, please enclose a check in the amount of $7.00 (25 cents per page reproduction cost) payable to the Consent Decree Library.

Walker Smith,

Acting Chief, Environmental Enforcement Section, Environmental and Natural Resources Division.

[FR Doc. 00–21285 Filed 8–21–00; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Antitrust Division

L'Oreal USA, Inc. et al.; Competitive Impact Statements and Proposed Consent Judgments

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h), that a proposed Final Judgment, Hold Separate Stipulation and Order, and Competitive Impact Statement have been filed with the United States District Court for the District of Columbia, in *United States* v. *L'Oreal USA, Inc., L'Ordeal S.A., and Carson, Inc.,* Civ. Action No. 1:00CV01848 (Lamberth, J.).

On July 31, 2000, the United States filed a Complaint alleging that the proposed acquisition by L'Oreal USA, Inc. of Carson, Inc. would violate Section 7 of the Clayton Act, as amended, 15 U.S.C. 18, by substantially lessening competition in the development, production, and sale of adult women's hair relaxer kits through retail channels in the United States.

The proposed Final Judgment, also filed on July 31, 2000, requires Defendants to divest two brands, Gentle Treatment and Ultra Sheen, of ethnic hair care products, including adult women's hair relaxer kits, and certain other tangible and intangible assets.

Copies of the Complaint, proposed Final Judgment, Hold Separate Stipulation and Order, and Competitive Impact Statement are available for inspection at the U.S. Department of Justice, Antitrust Division, Suite 215 North, 325 7th Street, NW., Washington, DC 20004 (telephone: (202) 514–2692), and at the Clerk's office of the U.S. District Court for the District of Columbia.

Public comment is invited within the statutory 60-day comment period. Such comments and responses thereto will be published in the **Federal Register** and filed with the Court. Comments should be directed to J. Robert Kramer II, Chief, Litigation II Section, Antitrust Division, U.S. Department of Justice, 1401 H Street, NW., Suite 3000, Washington, DC 20530 (telephone: (202) 307–0924).

Constance K. Robinson,

Director of Operation and Merger Enforcement.

Hold Separate Stipulation and Order

It Is Hereby Stipulated and Agreed by and between the undersigned parties, subject to approval and entry by this Court, that:

I. Definitions

As used in this Hold Separate Stipulation and Order:

A. ''Acquirer'' means the entity to whom Defendants or the trustee divest the Hair Care Assets or to whom the trustee divests the Divestiture Assets.

''L'Oreal'' means Defendant L'Oreal S.A., a French corporation headquartered in Paris, France, and Defendant L'Oreal USA, Inc., a Delaware corporation headquartered in New York, New York, and includes all successors and assigns, and all parents, subsidiaries, divisions (including Soft Sheen Products, Inc.), groups, affiliates, partnerships and joint ventures, and their directors, officers, managers, agents, and employees.

C. ''Carson'' means Defendant Carson, Inc., a Delaware corporation with its headquarters in Savannah, Georgia, and includes its successors and assigns, and its parents, subsidiaries, divisions, groups, affiliates, partnerships and joint ventures, and their directors, officers, managers, agents, and employees.

D. ''Hair Care Assets'' means:

(1)(a) All tangible assets used primarily in the research, development, marketing, servicing or sale of any product that Carson sold, sells, or has plans to sell under the Relevant Brand Names, including, but not limited to: materials, supplies, and other tangible property and all assets used primarily with such products, and

(b) All tangible assets relating to any product that Carson sold, sells or has plans to sell under the Relevant Brand Names, including, but not limited to, all licenses, permits and authorizations issued by any governmental organization; all contracts, teaming arrangements, agreements, commitments, certifications, and understandings, including supply agreements; all customer lists, contracts, accounts, and credit records; all agreements with retailers, wholesalers, or any other person regarding the sale, promotion, marketing, advertising or placement of such products; product inventory, packaging and artwork relating to such packaging; molds and silk screens; and all performance records and all other records.

(2) All intangible assets used in the research, development, production, marketing, servicing or sale of any product that Carson sold, sells, or has plans to sell under the Relevant Brand Names, including, but not limited to: all legal rights, including intellectual property rights, associated with the products, including trademarks, trade names, service names, service marks, designs, trade dress, patents, copyrights and all licenses and sublicenses to such intellectual property; all legal rights to use the names ''Johnson Products Co., Inc.'' and ''JP,'' and any derivation thereof; all trade secrets; all technical information, computer software and related documentation, and know-how, including, but not limited to, recipes and formulas, and information relating to plans for, improvements to, or line extensions of, the products; all research, packaging, sales, marketing, advertising and distribution know-how and documentation, including plan-o-grams, marketing and sales data, packaging designs, quality assurance and control procedures; all manuals and technical information Carson provided to their own employees, customers, suppliers, agents or licensees; all specifications for materials, and safety procedures for the handling of materials and substances; all research information and data concerning historic and current research and development efforts, including, but not limited to, designs of experiments and the results of successful and unsuccessful designs and experiments.

(3) With respect to any identifiable and specific trade secrets, recipes, formulas or know-how that, prior to the merger, were being used in the production or development of products sold under the Relevant Brand Names and any product not being divested, the Acquirer shall provide to Defendants a non-exclusive, transferable, royalty-free right to use any such trade secrets, recipes, formulas or know-how in the production or development of any non-divested product.

E. ''Plant Assets'' means all of the following assets: Carson's facility and property located at 8522 South Lafayette Avenue, Chicago, Illinois, and with respect to such facility, all manufacturing, research and development equipment, tooling and fixed assets, personal property, real property, titles, interests, leases, input inventory, office furniture, materials, supplies, drawings, blueprints, designs, design protocols, specifications for parts and devices, and safety procedures for the handling of plant equipment and substances, and all other tangible property.

F. ''Divestiture Assets'' means the Hair Care Assets and the Plant Assets.

G. ''Relevant Brand Names'' mean:

(1) Gentle Treatment;

(2) Ultra Sheen; and

(3) Any other name that uses, incorporates, or references either the Ultra Sheen or Gentle Treatment name, including, but not limited to, Ultra Sheen Supreme, Ultra Sheen Supreme Valu-Pak, Ultra Sheen Gro Natural, Ultra Sheen Extra Dry, Ultra Sheen Soft Touch, Ultra Sheen Hair Food, Ultra Sheen Anti-Itch, and Ultra Sheen Creme Satin Press, but not including the names Precise and Perfect Performance. With respect to the Precise name, Perfect Performance name or any other brand name or product, Defendants shall not use, incorporate or reference the names JP or Johnson Products, Co., Inc. (or any derivation thereof), or the names Gentle Treatment or Ultra Sheen.

II. Objectives

The Final Judgment filed in this civil action is meant to ensure prompt divestitures for the purpose of establishing a viable competitor in the ethnic hair care industry in order to remedy the effects that the United States alleges would otherwise result from L'Oreal's acquisition of Carson. The Hold Separate Stipulation and Order ensure, prior to such divestitures, that the Hair Care Assets remain economically viable as part of an ongoing business that will remain independently managed by the Designated Personnel (as defined in Section V(I) below) and not influenced by L'Oreal, and that competition is maintained during the pendency of the ordered divestitures.

III. Jurisdiction and Venue

This Court has jurisdiction over the subject matter of this action and over each of the parties hereto, and venue of this action is proper in the United States District Court for the District of Columbia.

IV. Compliance With and Entry of Final Judgment

A. The parties stipulate that a Final Judgment in the form attached hereto as Exhibit A may be filed with and entered by this Court, upon the motion of any party or upon this Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. 16), and without further notice to any party or other proceedings, provided that the United States has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on Defendants and by filing that notice with this Court.

B. Defendants shall abide by and comply with the provisions of the proposed Final Judgment, pending the Judgment's entry by this Court, or until expiration of time for all appeals of any court ruling declining entry of the proposed Final Judgment. Defendants, from the date of the signing of this Stipulation by the parties, shall comply with all the terms and provisions of the proposed Final Judgment as though the same were in full force and effect as an order of this Court.

C. Defendants shall not consummate the transaction sought to be enjoined by the Complaint filed in this action until after this Court has signed and entered this Hold Separate Stipulation and Order.

D. This Stipulation shall apply with equal force and effect to any amended proposed Final Judgment agreed upon in writing by the parties and submitted to this Court.

E. In the event that (1) the proposed Final Judgment is not entered pursuant to this Stipulation, the time has expired for all appeals of any court ruling declining entry of the proposed Final Judgment, and this Court has not otherwise ordered continued compliance with the terms and provisions of the proposed Final Judgment, or (2) the United States has withdrawn its consent, as provided in Section IV(A) above, then the parties are released from all further obligations under this Stipulation, and the making of this Stipulation shall be without evidentiary prejudice to any party in this or any other proceeding.

F. Defendants represent that the divestitures ordered in the proposed Final Judgment can and will be made, and that Defendants will later raise no claim of mistake, hardship or difficulty of compliance as grounds for asking this Court to modify any of the provisions contained therein.

V. Hold Separate Provisions

Until the divestitures required by the Final Judgment have been accomplished:

A. Defendants shall preserve, maintain, and continue to operate the products sold under the Relevant Brand Names as an economically viable part of an ongoing competitive business, with management, research, development, promotions, marketing, and terms of sale of such products held entirely separate, distinct and apart from those of L'Oreal's other operations. L'Oreal shall not coordinate its management, research, development, promotions, marketing, or terms of sale with any products sold under any of the Relevant Brand Names. Within twenty (20) calendar days after either the filing of the Complaint or the entry of the Hold Separate Stipulation and Order, whichever is earlier, each Defendant shall deliver to the United States an affidavit that describes in reasonable detail all actions Defendant has taken and all steps Defendant has implemented on an ongoing basis to comply with this Hold Separate Stipulation and Order.

B. Defendants shall take all steps necessary to ensure that: (1) The products sold under the Relevant Brand Names will be maintained and operated as independent, ongoing, economically viable and active competitive products in the ethnic hair care industry, including the adult women's hair relaxer kit market; (2) management of the Hair Care Assets will be conducted by the Designated Personnel and not be influenced by L'Oreal (or Carson); and (3) the books, records, competitively sensitive sales, marketing, promotion and pricing information, and decision-making concerning research, development, production, distribution, marketing, promotion or sales of products under any of the Relevant Brand Names will be kept separate and apart from Defendants' other operations.

C. Defendants shall use all reasonable efforts to maintain the research, development, sales, revenues, marketing, promotion, shelf-space, advertising, and distribution of the products sold under the Relevant Brand Names, and shall maintain at fiscal year 2000 or previously approved levels for fiscal year 2001, whichever are higher, all research, development, product improvement, promotional, advertising,

sales, distribution, technical assistance, marketing and merchandising support for those products. Defendants shall also ensure that all plans and efforts to improve current products sold, or to introduce new products under, the Relevant Brand Names are continued.

D. Defendants shall provide sufficient working capital and lines and sources of credit to continue to maintain the products sold under the Relevant Brand Names as economically viable and competitive, ongoing products, consistent with the requirements of Sections V (A) and (B) above.

E. Defendants shall take all steps necessary to ensure that the Divestiture Assets are fully maintained in operable condition at no less than current capacity and sales, and shall maintain and adhere to normal repair, product improvement and upgrade, and maintenance schedules for the Divestiture Assets.

F. Defendants shall not, except as part of a divestiture approved by the United States in accordance with the terms of the proposed Final Judgment, remove, sell, lease, assign, transfer, pledge or otherwise dispose of any of the Divestiture Assets.

G. Defendants shall maintain, in accordance with sound accounting principles, separate, accurate and complete financial ledgers, books and records that report on a periodic basis, such as the last business day of every month, consistent with past practices, the assets, liabilities, expenses, revenues and income of the Divestiture Assets.

H. Carson's employees with primary responsibility for the research, development, marketing, promotion, production, operation, distribution, or sale of the products sold under the Relevant Brand Names, shall not be terminated, transferred or reassigned to other areas within Carson or L'Oreal except for transfer bids initiated by employees pursuant to Defendants' regular, established job posting policy. Defendants shall provide the United States with ten (10) calendar days notice of such transfer. The Designated Personnel shall not be terminated, transferred or reassigned prior to a divestiture pursuant to the terms of the Final Judgment.

I. Until such time as the Hair Care Assets are divested pursuant to the terms of the Final Judgment, the Hair Care Assets shall be managed by Donald N. Riley and Curdedra N. Andrews (collectively ''Designated Personnel''). The Designated Personnel shall have complete managerial responsibility for the Hair Care Assets, subject to the provisions of this Order and the proposed Final Judgment, and will be responsible for Defendants' compliance with this Section. In the event that the Designated Personnel are unable to perform their duties, Defendants shall appoint, subject to the approval of the United States, a replacement within ten (10) working days. Should Defendants fail to appoint a replacement acceptable to the United States within ten (10) working days, the United States shall appoint a replacement. Defendants shall take no action that would interfere with the ability of the Designated Personnel or any later appointed persons to oversee the Hair Care Assets.

J. Defendants shall take no action that would interfere with the ability of any trustee appointed pursuant to the Final Judgment to complete the divestitures pursuant to the Final Judgment to an Acquirer acceptable to the United States.

K. This Hold Separate Stipulation and Order shall remain in effect until consummation of the divestitures required by the proposed Final Judgment or until further order of this Court.

Dated: 31 July 2000, Washington, D.C.

Respectfully submitted,

For Defendant L'Oreal USA Inc.:

John Sullivan, Esq.,
Senior Vice-President & General Counsel, L'Oreal USA, Inc., 575 Fifth Avenue, New York, N.Y. 10017, Phone: (212) 818–1500.

Peter D. Standish, Esq.,
Partner, Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, N.Y. 10153, Phone: 212–310–8000.

For Defendant L'Oreal S.A.:

John Sullivan, Esq.,
Senior Vice-President & General Counsel, L'Oreal USA, Inc., 575 Fifth Avenue, New York, N.Y. 10017, Phone: (212) 818–1500.

For Defendant Carson, Inc.:

Charles Westland, Esq.,
Senior Attorney, Milbank, Tweed, Hadley & McCloy LLP, 1 Chase Manhattan Plaza, New York, N.Y. 10005, Phone: 212–530–5000.

For Plaintiff United States of America:

Anne Purcell,
Assistant Chief, Litigation II Section, U.S. Department of Justice, Antitrust Division, 1401 H Street, N.W., Suite 3000, Washington, D.C. 20530, Phone: 202–514–5803.

Order

It Is So Ordered by this Court, this day of , 2000.

United States District Judge

Appendix A

Proposed Final Judgment

Whereas, Plaintiff, United States of America, filed its Complaint on 31 July 2000, Plaintiff and Defendant L'Oreal S.A., Defendant L'Oreal USA, Inc. and Defendant Carson, Inc., by their respective attorneys, have consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law, and without this Final Judgment constituting any evidence against or admission by any party regarding any issue of fact or law;

And Whereas, Defendants agree to be bound by the provisions of this Final Judgment pending its approval by this Court;

And Whereas, the essence of this Final Judgment is the prompt and certain divestiture of certain rights or assets by the Defendants to ensure that competition is not substantially lessened;

And Whereas, the United States requires Defendants to make certain divestitures for the purpose of remedying the loss of competition alleged in the Complaint;

And Whereas, Defendants have represented to the United States that the divestitures required below can and will be made and that Defendants will later raise no claim of hardship or difficulty as grounds for asking this Court to modify any of the divestiture provisions contained below;

Now Therefore, before any testimony is taken, without trial or adjudication of any issue of fact or law, and upon consent of the parties, it is *Ordered, Adjudged and Decreed:*

I. Jurisdiction

This Court has jurisdiction over the subject matter of and each of the parties to this action. The Complaint states a claim upon which relief may be granted against Defendants under Section 7 of the Clayton Act, as amended (15 U.S.C. § 18).

II. Definitions

As used in this Final Judgment:

A. ''L'Oreal'' means Defendant L'Oreal S.A., a French corporation headquartered in Paris, France, and Defendant L'Oreal USA, Inc., a Delaware corporation headquartered in New York, New York, and includes all successors and assigns, and all parents, subsidiaries, divisions (including Soft Sheen Products, Inc.), groups, affiliates, partnerships and joint ventures, and their directors, officers, managers, agents, and employees.

B. ''Carson'' means Defendant Carson, Inc., a Delaware corporation headquartered in Savannah, Georgia, and includes its successors and assigns, and its parents, subsidiaries, divisions, groups, affiliates, partnerships and joint ventures, and their directors, officers, managers, agents, and employees.

C. ''Acquirer'' means the entity to whom Defendants or the trustee divest the Hair Care Assets or to whom the trustee divests the Divestiture Assets.

D. ''Hair Care Assets'' mean:

(1)(a) All tangible assets used primarily in the research, development, marketing, servicing or sale of any product that Carson sold, sells or has plans to sell under the Relevant Brand Names, including, but not limited to: materials, supplies, and other tangible property and all assets used primarily with such products; and

(b) All tangible assets relating to any product that Carson sold, sells or has plans to sell under the Relevant Brand Names, including, but not limited to, all licenses, permits and authorizations issued by any governmental organization; all contracts, teaming arrangements, agreements, commitments, certifications, and understandings, including supply agreements; all customer lists, contracts, accounts and credit records; all agreements with retailers, wholesalers, or any other person regarding the sale, promotion, marketing, advertising or placement of such products; product inventory, packaging and artwork relating to such packaging; molds and silk screens; and all performance records and all other records.

(2) All intangible assets used in the research, development, production, marketing, servicing or sale of any product that Carson sold, sells, or has plans to sell under the Relevant Brand Names, including, but not limited to: all legal rights, including intellectual property rights, associated with the products, including trademarks, trade names, service names, service marks, designs, trade dress, patents, copyrights and all licenses and sublicenses to such intellectual property; all legal rights to use the names ''Johnson Products Co., Inc.'' and ''JP.'' and any derivation thereof; all trade secrets; all technical information, computer software and related documentation, and know-how, including, but not limited to: recipes and formulas, and information relating to plans for, improvements to, or line extensions of, the products; all research, packaging, sales, marketing, advertising and distribution know-how and documentation, including plan-o-grams, marketing and sales data, packaging designs, quality assurance and control procedures; all manuals and technical information Carson provided to their own employees, customers, suppliers, agents or licensees; all specifications for materials, and safety procedures for the handling of materials and substances; all research information and data concerning historic and current research and development efforts, including, but not limited to: designs of experiments and the results of successful and unsuccessful designs and experiments.

(3) With respect to any identifiable and specific trade secrets, recipes, formulas or know-how that, prior to the merger, were being used in the production or development of products sold under the Relevant Brand Names and any product not being divested, the Acquirer shall provide to Defendants a non-exclusive, transferable, royalty-free right to use any such trade secrets, recipes, formulas or know-how in the production or development of any non-divested product.

E. ''Plant Assets'' means all or any of the following assets that the United States, in its sole discretion, determines are reasonably necessary for an Acquirer to compete effectively and viably in the sale of ethnic hair care products, including adult women's hair relaxer kits: Carson's facility and property located at 8522 South Lafayette Avenue, Chicago, Illinois, and with respect to such facility, all manufacturing, research and development equipment, tooling and fixed assets, personal property, real property, titles, interests, leases, input inventory, office furniture, materials, supplies, drawings, blueprints, designs, design protocols, specifications for parts and devices, and safety procedures for the handling of plant equipment and substances, and other tangible property.

F. ''Divestiture Assets'' mean the Hair Care Assets and the Plant Assets.

G. ''Plan'' or ''Plans'' means tentative and preliminary proposals, recommendations, or considerations, whether or not finalized or authorized, as well as those that have been adopted.

H. ''Relevant Brand Names'' mean:

(1) Gentle Treatment;

(2) Ultra Sheen; and

(3) Any other name that uses, incorporates, or references either the Ultra Sheen or Gentle Treatment name, including, but not limited to, Ultra Sheen Supreme, Ultra Sheen Supreme Valu-Pak, Ultra Sheen Gro Natural, Ultra Sheen Extra Dry, Ultra Sheen Soft Touch, Ultra Sheen Hair Food, Ultra Sheen Anti-Itch, and Ultra Sheen Creme Satin Press, but not including the names Precise and Perfect Performance. With respect to the Precise name, Perfect Performance name or any other brand name or product, Defendants shall not use, incorporate or reference the names JP or Johnson Products Co., Inc. (or any derivation thereof), or the names Gentle Treatment or Ultra Sheen.

III. Applicability

A. This Final Judgment applies to L'Oreal and Carson, as defined above, and all other persons in active concert or participation with any of them who receive actual notice of this Final Judgment by personal service or otherwise.

B. Defendants shall require, as a condition of the sale or other disposition of all or substantially all of their assets or of lesser business units that include the Hair Care Assets (and Plant Assets if offered for divestiture under Section V of this Final Judgment), that the Acquirer agrees to be bound by the provisions of this Final Judgment.

IV. Divestitures

A. Defendants are ordered and directed, within ninety (90) calendar days after the filing of the Complaint in this matter, or five (5) days after notice of the entry of this Final Judgment by this Court, whichever is later, to divest the Hair Care Assets in a manner consistent with this Final Judgment to an Acquirer acceptable to the United States in its sole discretion.

B. Defendants agree to use their best efforts to divest the Hair Care Assets as expeditiously as possible. The United States, in its sole discretion, may extend the time period for any such divestiture of the Hair Care Assets two additional periods of time, not to exceed thirty (30) calendar days each, and shall notify this Court in such circumstances.

C. In accomplishing the divestiture of the Hair Care Assets ordered by this Final Judgment, Defendants promptly shall make known, by usual and customary means, the availability of such assets. Defendants shall inform any person making inquiry regarding a possible purchase of the Hair Care Assets that they are being divested pursuant to this Final Judgment and provide that person with a copy of this Final Judgment. Defendants shall offer to furnish to all prospective Acquirers, subject to customary confidentiality assurances, all information and documents relating to the Hair Care Assets (and Plant Assets if offered for divestiture under Section V of this Final Judgment) customarily provided in a due diligence process except such information or documents subject to the attorney-client or attorney work-product privileges. Defendants shall make available such information to the United States at the same time that such information is made available to any other person.

D. Defendants shall provide the Acquirer and the United States information relating to the personnel involved in the research, production, operation, development, marketing and sale of the Hair Care Assets (and Plant Assets if offered for divestiture under Section V of this Final Judgment) to enable the Acquirer to make offers of employment. Defendants will not interfere with any negotiations by the Acquirer to employ any Carson employee whose primary responsibility is the research, production, operation, development, marketing or sale of the Hair Care Assets (and Plant Assets if offered for divestiture under Section V of this Final Judgment).

E. Defendants shall permit prospective Acquirers of the Hair Care Assets (and Plant Assets if offered for

divestiture under Section V of this Final Judgment) to have reasonable access to personnel and to make inspections of the physical facilities of the Hair Care Assets (and Plant Assets if offered for divestiture under Section V of this Final Judgment); access to any and all environmental, zoning, and other permit documents and information; and access to any and all financial, sales, marketing, operational, or other documents and information customarily provided as part of a due diligence process.

F. Defendants shall warrant that each of the Hair Care Assets and those Plant Assets required to be divested under Section V of this Final Judgment will be operational on the date of sale.

G. Defendants shall not take any action that will impede in any way the permitting, operation, or divestiture of the Divestiture Assets.

H. Defendants shall warrant to the Acquirer of the Hair Care Assets (and those Plant Assets required to be divested under Section V of this Final Judgment) that there are no material defects in the environmental, zoning or other permits pertaining to the sale or operation of each asset, and that following the sale of the Hair Care Assets or Divestiture Assets, Defendants will not undertake, directly or indirectly, any challenges to the environmental, zoning, or other permits relating to the sale or operation of the Hair Care Assets or Divestiture Assets.

I. Unless the United States otherwise consents in writing, the divestiture pursuant to Section IV, or by a trustee appointed pursuant to Section V, of this Final Judgment, shall include the entire Hair Care Assets (and those Plant Assets required to be divested under Section V of this Final Judgment), and shall be accomplished in such a way as to satisfy the United States, in its sole discretion, that the assets being divested can and will be used by the Acquirer as part of a viable, ongoing ethnic hair care products business, including the sale of adult women's hair relaxer kits. The divestiture pursuant to Section IV, or by a trustee appointed pursuant Section V, of this Final Judgment may only be made to an Acquirer, if it is demonstrated to the sole satisfaction of the United States that the assets being divested will remain viable and the divestiture of such assets will remedy the competitive harm alleged in the Complaint. The divestitures, whether pursuant to Section IV or Section V of this Final Judgment.

(1) shall be made to an Acquirer that, in the United States's sole judgment, has the intent and capability (including the necessary managerial, operational, technical and financial capability) of competing effectively in the business of adult women's hair relaxer kits; and

(2) shall be accomplished so as to satisfy the United States, in its sole discretion, that none of the terms of any agreement among the Acquirer, L'Oreal and Carson give Defendants the ability unreasonably to raise the Acquirer's costs, to lower the Acquirer's efficiency, or otherwise to interfere in the ability of the Acquirer to compete effectively.

V. Appointment of Trustee

A. If Defendants have not divested the Hair Care Assets within the time period specified in Section IV(A) of this Final Judgment, Defendants shall promptly notify the United States of that fact in writing. Upon application of the United States, this Court shall appoint a trustee selected solely by the United States and approved by this Court to effect the divestiture of the Hair Care Assets.

B. After the appointment of a trustee becomes effective, only the trustee shall have the right to sell the Hair Care Assets. The trustee shall also have the right, upon notice to Defendants and sole approved by the United States, to sell the Plant Assets in addition to the Hair Care Assets. In the event that the Plant Assets are required to be divested to an Acquirer under this Section, the Acquirer shall, at L'Oreal's option, offer to L'Oreal a short-term, transitional agreement, not to exceed eighteen (18) months in length, pursuant to which the Acquirer shall manufacture and deliver to L'Oreal those undivested products that Carson had manufactured at the Plant Assets prior to Carson's acquisition by L'Oreal and on such terms and conditions as are agreeable to the Acquirer and L'Oreal and to the United States in its sole discretion. Pursuant to this mutually agreed upon agreement, L'Oreal, for the undivested Carson products, shall be entitled to final authority over product specifications, an assurance that the manufacture will conform to ''cosmetic good manufacturing practices'' as that term is understood throughout the industry, and, at L'Oreal's expense, on-site quality supervision. In the event that the Plant Assets are required to be divested to an Acquirer under this Section, Defendants shall, at the Acquirer's option and by sole approval of the United States, provide the Acquirer with reasonable access to the technical, service, production, or administrative employees of the Defendants involved in the operation of the Plant Assets.

C. The trustee shall have the power and authority to accomplish the divestiture of the Divestiture Assets to an Acquirer acceptable to the United States at such price and on such terms as are then obtainable upon reasonable effort by the trustee, subject to the provisions of Sections IV, V and VI of this Final Judgment, and shall have such other powers as this Court deems appropriate. Subject to Section V(E) of this Final Judgment, the trustee may hire at the cost and expense of Defendants any investment bankers, attorneys, or other agents, who shall be solely accountable to the trustee, reasonably necessary in the trustee's judgment to assist in the divestiture.

D. Defendants shall not object to a sale by the trustee on any ground other than the trustee's malfeasance. Any such objections by Defendants must be conveyed in writing to the United States and the trustee within ten (10) calendar days after the trustee has provided the notice required under Section VI of this Final Judgment.

E. The trustee shall serve at the cost and expense of Defendants, on such terms and conditions as the Plaintiff approves, and shall account for all monies derived from the sale of the assets sold by the trustee and all costs and expenses so incurred. After approval by this Court of the trustee's accounting, including fees for its services and those of any professionals and agents retained by the trustee, all remaining money shall be paid to Defendants and the trust shall then be terminated. The compensation of the trustee and any professionals and agents retained by the trustee shall be reasonable in light of the value of the Divestiture Assets and based on a fee arrangement providing the trustee with an incentive based on the price and terms of the divestiture and the speed with which it is accomplished, but timeliness is paramount.

F. Defendants shall use their best efforts to assist the trustee in accomplishing the required divestiture. The trustee and any consultants, accountants, attorneys, and other persons retained by the trustee shall have full and complete access to the personnel, books, records, and facilities of the business to be divested, and Defendants shall develop financial and other information relevant to such business as the trustee may reasonably request, subject to reasonable protection for trade secrets or other confidential research, development, or commercial information. Defendants shall take no action to interfere with or to impede the trustee's accomplishment of the divestiture.

G. After its appointment, the trustee shall file monthly reports simultaneously with the United States and this Court setting forth the trustee's

efforts to accomplish the divestiture ordered under this Final Judgment. To the extent such reports contain information that the trustee deems confidential, such reports shall not be filed in the public docket of this Court. Such reports shall include the name, address, and telephone number of each person who, during the preceding month, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about acquiring, any interest in the Divestiture Assets, and shall describe in detail each contact with any such person. The trustee shall maintain full records of all efforts made to divest the Divestiture Assets.

H. If the trustee has not accomplished such divestiture within six (6) months after its appointment, the trustee shall promptly file with this Court a report setting forth: (1) The trustee's efforts to accomplish the required divestiture, (2) the reasons, in the trustee's judgment, why the required divestiture has not been accomplished, and (3) the trustee's recommendations. To the extent such reports contain information that the trustee deems confidential, such reports shall not be filed in the public docket of this Court. The trustee at the same time shall furnish such report to the United States. The United States and the Defendants shall have the right to make additional recommendations consistent with the purpose of the Final Judgment. This Court thereafter shall enter such orders as it shall deem appropriate to carry out the purpose of the Final Judgment, which may, if necessary, include extending the trust and the term of the trustee's appointment by a period requested by the United States.

VI. Notice of Proposed Divestiture

A. Within two (2) business days following execution of a definitive divestiture agreement, Defendants or the trustee, whichever is then responsible for effecting the divestiture required herein, shall notify the United States of any proposed divestiture required by Section IV or Section V of this Final Judgment. If the trustee is responsible, it shall similarly notify Defendants. The notice shall set forth the details of the proposed divestiture and list the name, address, and telephone number of each person not previously identified who offered or expressed an interest in or desire to acquire any ownership interest in the Hair Care Assets or for divestitures under Section V of this Final Judgment, the Divestiture Assets, together with full details of the same.

B. Within fifteen (15) calendar days of receipt by the United States of such notice, the United States may request from Defendants, the proposed Acquirer, any other third party, or, if applicable, the trustee additional information concerning the proposed divestiture, the proposed Acquirer, and any other potential Acquirer. Defendants and the trustee shall furnish any additional information requested within fifteen (15) calendar days of the receipt of the request, unless the parties shall otherwise agree.

C. Within thirty (30) calendar days after receipt of the notice or within twenty (20) calendar days after the United States has been provided the additional information requested from Defendants, the proposed Acquirer, any third party, and the trustee, whichever is later, the United States shall provide written notice to Defendants and the trustee, if there is one, stating whether or not it objects to the proposed divestiture. If the United States provides written notice that it does not object, the divestiture may be consummated, subject only to Defendants' limited right to object to the sale under Section V(D) of this Final Judgment. Absent written notice that the United States does not object to the proposed Acquirer or upon objection by the United States, a divestiture proposed under Section IV or Section V of this Final Judgment shall not be consummated. Upon objection by Defendants under Section V(D), a divestiture proposed under Section V shall not be consummated unless approved by this Court.

VII. Financing

Defendants shall not finance all or any part of any purchase made pursuant to Section IV or Section V of this Final Judgment.

VIII. Hold Separate

Until the divestiture required by this Final Judgment has been accomplished, Defendants shall take all steps necessary to comply with the Hold Separate Stipulation and Order entered by this Court. Defendants shall take no action that would jeopardize the divestiture ordered by this Court.

IX. Affidavits

A. Within twenty (20) calendar days of the filing of the Complaint in this matter, and every thirty (30) days thereafter until the divestiture has been completed under Section IV or Section V, each Defendant shall deliver to the United States an affidavit as to the fact and manner of its compliance with Section IV or Section V of this Final Judgment. Each such affidavit shall include the name, address, and telephone number of each person who, during the preceding thirty days, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about acquiring, any interest in the Hair Care Assets or Divestiture Assets, and shall describe in detail each contact with any such person during that period. Each such affidavit shall also include a description of the efforts Defendants have taken to solicit buyers for the Hair Care Assets or Divestiture Assets, and to provide required information to prospective purchasers, including the limitations, if any, on such information. Assuming the information set forth in the affidavit is true and complete, any objection by the United States to information provided by Defendants, including limitation on information, shall be made within fourteen (14) calendar days of receipt of such affidavit.

B. Within twenty (20) calendar days of the filing of the Complaint in this matter, each Defendant shall deliver to the United States an affidavit that describes in reasonable detail all actions Defendant has taken and all steps Defendant has implemented on an ongoing basis to comply with Section VIII of this Final Judgment. Defendants shall deliver to the United States an affidavit describing any changes to the efforts and actions outlined in Defendants' earlier affidavits filed pursuant to this section within fifteen (15) calendar days after the change is implemented.

C. Defendants shall keep all records of all efforts made to preserve and divest the Divestiture Assets until one year after such divestiture has been completed.

X. Compliance Inspection

A. For the purposes of determining or securing compliance with this Final Judgment, or of determining whether the Final Judgment should be modified or vacated, and subject to any legally recognized privilege, from time to time duly authorized representatives of the United States Department of Justice, including consultants and other persons retained by the United States, shall, upon written request of a duly authorized representative of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to Defendants, be permitted:

(1) Access during Defendants' office hours to inspect and copy, or at Plaintiff's option require Defendants to provide copies of, all books, ledgers, accounts, records and documents in the possession, custody or control of Defendants, relating to any matters contained in this Final Judgment; and

(2) To either interview informally or depose on the record, Defendants' officers, employees, or agents, who may have their individual counsel present, regarding such matters. The interviews or depositions shall be subject to the interviewee's reasonable convenience and without restraint or interference by Defendants.

B. Upon the written request of a duly authorized representative of the Assistant Attorney General in charge of the Antitrust Division, Defendants shall submit written reports, under oath if requested, relating to any of the matters contained in the Final Judgment as may be requested.

C. No information or documents obtained by the means provided in this Section shall be divulged by the United States to any person other than an authorized representative of the executive branch of the United States, except in the course of legal proceedings to which the United States is a party (including grand jury proceedings), or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

D. If at the time Defendants, the Acquirer, or any third party furnish information or documents to the United States under this Final Judgment, including, but not limited to, this Section and Sections IV and IX, they represent and identify in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and if Defendants, the Acquirer, or any third party mark each pertinent page of such material, ''Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure,'' then the United States shall give Defendants, the Acquirer, or any third party ten (10) calendar days notice prior to divulging such material in any legal proceeding (other than a grand jury proceeding).

XI. No Reacquisition

Defendants may not reacquire any part of the assets divested during the term of this Final Judgment.

XII. Retention of Jurisdiction

The Court retains jurisdiction to enable any party to this Final Judgment to apply to this Court at any time for further orders and directions as may be necessary or appropriate to carry out or construe this Final Judgment, to modify any of its provisions, to enforce compliance, and to punish violations of its provisions.

XIII. Expiration of Final Judgment

Unless this Court grants an extension, this Final Judgment shall expire ten (10) years from the date of its entry.

XIV. Public Interest Determination

Entry of this Final Judgment is in the public interest.

Dated:

Washington, D.C.

Court approval subject to procedures of Antitrust Procedures and Penalties Act, 15 U.S.C. 16.

United States District Judge

Competitive Impact Statement

The United States, pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act, (''APPA'') 15 U.S.C. 16(b)–(h), files this Competitive Impact Statement relating to the Proposed Final Judgment submitted for entry in this civil antitrust proceeding.

I. Nature and Purpose of the Proceeding

On July 31, 2000, the United States filed a Complaint alleging that the acquisition of Carson, Inc. (''Carson'') by L'Oreal USA, Inc. (''L'Oreal'') would substantially lessen competition in violation of Section 7 of the Clayton Act, as amended, 15 U.S.C. 18. The Complaint alleges that Carson and L'Oreal are, respectively, the Nation's largest and third largest suppliers of adult women's hair relaxer kits sold in the United States. The proposed acquisition by Carson by L'Oreal will result in L'Oreal's controlling three of the top five selling brands and approximately 50 percent of adult women's hair relaxer kits sold through retail channels in the United States. As alleged in the Complaint, the elimination of Carson as a significant competitor substantially increases the likelihood that L'Oreal will raise prices of adult women's hair relaxer kits post-acquisition, thereby harming consumers. Accordingly, the prayer for relief in the Complaint seeks among other things: (1) A judgment that the proposed acquisition would violate Section 7 of the Clayton Act; and (2) permanent injunctive relief that would prevent Defendants from carrying out the acquisition or otherwise combining their businesses or assets.

At the same time the Complaint was filed, the United States also filed a proposed settlement that would permit L'Oreal S.A. to complete their acquisition of Carson provided that certain assets are divested to preserve competition. The settlement consists of a Proposed Final Judgment and a Hold Separate Stipulation and Order.

The Proposed Final Judgment orders Defendants to divest the Gentle Treatment® and Ultra Sheen® brands and associated assets to an acquirer approved by the United States. Defendants must complete these divestitures within ninety (90) calendar days after the filing of the Complaint, or five days after the notice of the entry of the Final Judgment, whichever is later. If Defendants do not complete the divestitures within the prescribed time, then, under the terms of the proposed Final Judgment, this Court will appoint a trustee to sell the brands and associated assets. In the event a trustee is appointed, the Proposed Judgment provides that the trustee shall have the right, upon approval by the United States, to divest Carson's manufacturing facility in Chicago, Illinois.

The Hold Separate Stipulation and Order, which this Court entered on July 31, 2000, and the Proposed Final Judgment require Defendants to maintain the products sold under the Gentle Treatment® and Ultra Sheen® brands as an economically viable part of an ongoing competitive business, with competitively sensitive business information and decision-making relating to the products sold under the two brands kept separate from L'Oreal's other businesses. Defendants have designated two Carson employees to monitor and ensure their compliance with these requirements.

The United States and Defendants have stipulated that the Proposed Final Judgment may be entered after compliance with the APPA. Entry of the Proposed Final Judgment would terminate this action, except that this Court would retain jurisdiction to construe, modify or enforce the provisions of the Proposed Final Judgment and to punish violations thereof.

II. Description of the Events Giving Rise to the Alleged Violation of the Antitrust Laws

A. The Defendants

1. L'Oreal S.A. and L'Oreal USA, Inc.

L'Oreal S.A., a French corporation based in Paris, France, is the world's largest hair care and cosmetics company, with operations in over 150 countries and over 42,000 employees. Last year, L'Oreal S.A. reported over $10 billion in worldwide annual sales and $11 billion in total assets. Among L'Oreal S.A.'s wholly owned subsidiaries is L'Oreal USA, Inc. (''L'Oreal''), a Delaware corporation headquartered in New York, New York. Both L'Oreal S.A. and L'Oreal manufacture and market such well

known brands as L'Oreal®, Lancome®, Maybelline®, Laboratiries Garnier®, Redken 5th Ave NYC®, Ralph Lauren Fragrances®, Giorgio Armani Parfums®, Biotherm® and Helena Rubinstein®. Soft Sheen Products, Inc. (''Soft Sheen''), based in Chicago, Illinois, is a wholly owned subsidiary of L'Oreal. L'Oreal acquired Soft Sheen in 1998. Soft Sheen makes and sells ethnic hair care products, which are products primarily formulated for, and marketed to, African-American consumers. These products include hair relaxer kits, hair color kits, hair dressings, shampoos and conditioners. Soft Sheen's brands include Optimum Care®, the top-selling retail brand of adult women's hair relaxer kits in the United States. It also sells retail adult women's hair relaxer kits under the Alternatives® and Frizz Free® brands.

2. Carson, Inc.

Carson is a Delaware corporation headquartered in Savannah, Georgia. Founded in 1901, Carson is a global leader in products specifically formulated to address the physiological characteristics of hair of consumers of African descent. Carson makes and sells a complete line of ethnic hair care products, including hair relaxers, shampoos, conditioners, hair oils, hair colors, and shaving cremes. It is the Nation's leading manufacturer of adult women's hair relaxer kits, which are sold through retail channels under the brands Dark & Lovely®, Gentle Treatment®, and Ultra Sheen®. Carson reported worldwide sales for 1999 of approximately $169 million.

B. The Proposed Acquisition

On or about February 25, 2000, L'Oreal entered into an agreement with Carson to purchase for $5.20 per share the common stock of Carson. The value of the cash tender offer is approximately $79 million. This proposed combination, which would substantially lessen competition in the sale of adult women's hair relaxer kits in the United States, precipitated the United States's antitrust suit.

C. The Hair Relaxer Industry and the Competitive Effects of the Acquisition

1. The Relevant Market Is Adult Women's Hair Relaxer Kits Sold Through Retail Channels in the United States

The Complaint alleges that the development, production and sale of adult women's hair relaxer kits through retail outlets is a relevant product market under Section 7 of the Clayton Act. Hair relaxers are chemicals used primarily by African-American women to straighten their naturally curly hair prior to styling. Unless an African-American women with naturally curly hair relaxes her hair, any hair style she adopts, aside from a totally natural look, will be short-lived. By relaxing her hair, an African-American woman has more styling options. Between 65 and 80 percent of adult African-American women routinely relax their hair, spending in excess of $200 million annually on hair relaxers and associated products.

Adult women's hair relaxer kits are marketed specifically to African-American women for home use. Each relaxer kit typically contains everything needed to relax hair, including: (i) A complete set of instructions; (ii) gloves; (iii) two bottles of chemicals (the activator and relaxer base) that, when mixed, form the chemical that relaxes the hair (invariably the active chemical in relaxer kits is ''no-lye'' calcium hydroxide); (iv) a bottle of a neutralizing shampoo to deactivate the relaxer: (v) conditioners to repair split ends and make the hair appear thicker or fuller; and in some kits, (vi) a gel to protect against scalp injury.

There are no good substitutes for adult women's hair relaxer kits. The unique qualities and characteristics of these hair relaxer kits distinguish them from products such as hot combs and professional hair relaxers sold in bulk to beauticians. Because of the unique qualities and characteristics of adult women's hair relaxer kits, a small but significant increase in the price of women's hair relaxer kits would not cause a sufficient number of purchasers to switch to other products so as to make such a price increase unprofitable. Thus, the Complaint alleges that a relevant product market in which to assess the competitive effects of this acquisition is the development, production and sale of adult women's hair relaxer kits through retail outlets.

The Complaint further alleges that the United States constitutes a relevant geographic market within the meaning of Section 7 of the Clayton Act. L'Oreal's and Carson's adult women's hair relaxer kits are manufactured in, and sold and compete throughout, the United States. Virtually no adult women's hair relaxer kits are imported into the United States. A small but significant increase in the price of adult women's hair relaxer kits would not cause a sufficient number of purchasers to switch to hair relaxer kits manufactured outside the United States to make the price increase unprofitable.

2. Anticompetitive Consequences of the Acquisition

The Complaint alleges that L'Oreal's acquisition of Carson will likely have the following anticompetitive effects: (i) Competition generally in the development, production and sale of adult women's hair relaxer kits would be substantially lessened; (ii) the actual and potential competition between L'Oreal and Carson would be eliminated; and (iii) prices for adult women's hair relaxer kits would likely increase. Specifically, the Complaint alleges that Carson and L'Oreal are respectively the nation's largest and third largest suppliers of adult women's hair relaxer kits, and together own three of the top five selling brands. L'Oreal's Optimum Care®, Alternatives®, and Frizz Free® brands and Carson's Dark & Lovely®, Gentle Treatment®, and Ultra Sheen® brands of adult women's hair relaxer kits operate as significant competitive constraints on each firm's prices for its brands. If L'Oreal is permitted to acquire Carson, the substantial competition between the two companies would be eliminated, and L'Oreal would have the power to profitably increase prices unilaterally for one or more of its brands of retail adult women's hair relaxer kits to the detriment of consumers.

This acquisition would increase concentration significantly. The market for adult women's hair relaxer kits is highly concentrated under a standard measure of market concentration employed by economists, called the Herfindahl-Hirschman Index (''HHI''). In this highly concentrated market, with a HHI of approximately 2,100 L'Oreal has a share of about 17 percent and Carson has a share of about 33.5 percent of total dollar sales of adult women's hair relaxer kits through retail channels. After acquiring Carson, L'Oreal would dominate the market with approximately a 50.5 percent share, making it nearly twice the size of its next largest competitor. Following the acquisition, the HHI would increase by over 1100 points from approximately 2100 to over 3200, well in excess of levels that raise significant antitrust concerns.

The Complaint alleges that entry is unlikely to be timely, likely or sufficient to restore the competition lost through this transaction. Barriers to entering this market include: (1) The substantial time and expense required to build a brand reputation to overcome existing consumer preferences; (ii) the substantial sunk costs for promotional and advertising activity to secure the distribution and placement of a new

entrant's kit in retail outlets; (iii) the inability of a new entrant to recoup quickly its substantial and largely sunk costs [1] in promoting its brand; and (iv) the difficulty of securing shelf-space in retail outlets. Most hair relaxer kits introduced in recent years have been unable to gain significant sales within several years after entering. This is due in part to the degree of consumer loyalty and brand recognition for long-established, well-regarded brands such as Carson's Dark & Lovely®, Gentle Treatment® and Ultra Sheen® and L'Oreal's Optimum Care®. To succeed, an entrant must gain consumer confidence and trust, as hair relaxers contain powerful chemicals that may pose significant health risks, such as burning one's scalp and hair. Developing a reputation for quality, reliability, and performance of one's hair relaxer kit generally takes many years of effort. In short, new entry into the development, production and sale of adult women's hair relaxer kits through retail channels in the United States is time-consuming, expensive and difficult, and thus is unlikely to deter Defendants from exercising market power in the reasonable foreseeable future.

III. Explanation of the Proposed Final Judgment

The Proposed Final Judgment requires significant divestitures that will preserve competition in the sale of adult women's hair relaxer kits through retail channels in the United States. Within ninety (90) calendar days after July 31, 2000, the date the Complaint was filed, or five days after notice of entry of the Final Judgment, whichever is later, Defendants must divest the Gentle Treatment® and Ultra Sheen® brands and associated assets (including the ''Johnson Products Co., Inc.'' and ''JP'' names) to an acquirer that, in the United States's sole judgment, has the intent and capability (including the necessary managerial, operational, technical and financial capability) of competing effectively in the business of adult women's hair relaxer kits. [2] This relief has been tailored to ensure that the ordered divestitures restore competition that would have been eliminated as a result of the acquisition, and prevent L'Oreal from exercising market power in the adult women's hair relaxer kit market after the acquisition.

Defendants must use their best efforts to divest these assets as expeditiously as possible. The Proposed Final Judgment provides that the assets must be divested in such a way as to satisfy the United States, in its sole discretion, that the acquirer can and will use the assets as part of a viable, ongoing business engaged in the sale of adult women's hair relaxer kit through retail channels in the United States. Until the ordered divestitures take place, Defendants must cooperate with any prospective purchasers.

If Defendants do not accomplish the ordered divestitures within the prescribed time period, then Section V of the Proposed Final Judgment provides that this Court will appoint a trustee, selected by the United States, to complete the divestitures. Section V of the Proposed Final Judgment also empowers the trustee to sell, if necessary, certain additional production assets to effect the divestitures. These additional assets entail all the assets at Carson's Chicago, Illinois facility that the United States determines are reasonable necessary for an acquirer to compete effectively and viably in the ethnic hair care industry.

If a trustee is appointed, the Proposed Final Judgment provides that Defendants must cooperate fully with the trustee and pay all of the trustee's costs and expenses. The trustee's compensation will be structured to provide an incentive for the trustee based on the price and terms of the divestiture and the speed with which it is accomplished. After the trustee's appointment becomes effective, the trustee will file monthly reports with the United States and this Court setting forth the trustee's efforts to accomplish the required divestiture. If at the end of six months after that appointment, the divestiture has not been accomplished, then the trustee, the United States, and Defendants will make recommendations to this Court, which shall enter such orders as appropriate to carry out the purpose of the Final Judgment.

IV. Remedies Available to Potential Private Litigants

Section 4 of the Clayton Act, 15 U.S.C. 15, provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in federal district court to recover three times the damages the person has suffered, as well as the costs of bringing a lawsuit and reasonable attorneys' fees. Entry of the Proposed Final Judgment will neither impair nor assist the bringing of any private antitrust damage action. Under the provisions of Section 5(a) of the Clayton Act, 15 U.S.C. 16(a), the Proposed Final Judgment has no effect as *prima facie* evidence in any subsequent private lawsuit that may be brought against Defendants.

V. Procedures Available for Modification of the Proposed Final Judgment

The parties have stipulated that the Proposed Final Judgment may be entered by this Court after compliance with the provisions of the APPA, provided that the United States has not withdrawn its consent. The APPA conditions entry of the decree upon this Court's determination that the Proposed Final Judgment is in the public interest.

The APPA provides a period of at least sixty (60) days preceding the effective date of the Proposed Final Judgment within which any person may submit to the United States written comments regarding the proposed Final Judgment. Any person who wishes to comment should do so within sixty (60) days of the date of publication of this Competitive Impact Statement in the **Federal Register**. The United States will evaluate and respond to the comments. All comments will be given due consideration by the Department of Justice, which remains free to withdraw its consent to the Proposed Final Judgment at any time prior to entry. The comments and the response of the United States will be filed with this Court and published in the **Federal Register**. Written comments should be submitted to: J. Robert Kramer II, Chief, Litigation II Section, Antitrust Division, United States Department of Justice, 1401 H Street, NW., Suite 3000, Washington, DC 20530.

The Proposed Final Judgment provides that this Court retains jurisdiction over this action, and the parties may apply to this Court for any order necessary or appropriate for the modification, interpretation, or enforcement of the Final Judgment.

VI. Alternatives to the Proposed Final Judgment

The United States considered, as an alternative to the proposed Final Judgment, a full trial on the merits against Defendants. The United States is

[1] The term ''sunk costs'' as used in this context includes the costs of acquiring tangible and intangible assets that cannot be recovered through the redeployment of these assets outside the relevant market—in other words, costs uniquely incurred to enter the adult women's hair relaxer kits market, and which cannot be recovered when a firm leaves the market or enters another market.

[2] The assets to be divested are defined and described in the Proposed Final Judgment as the ''Hair Care Assets.'' *See* Section II(D) of the proposed Final Judgment. These assets also include other products (in addition to hair relaxer kits) sold under the Gentle Treatment® and *Ultra Sheen*® brands, but exclude the *Precise*® and *Perfect Performance*® brands. *See* Section II(H) of the Proposed Final Judgment. The divestiture of other ethnic hair care products sold under the *Gentle Treatment*® and *Ultra Sheen*® brands will enhance the acquirer's ability to compete post-divestiture.

satisfied, however, that the divestiture of the Gentle Treatment® and Ultra Sheen® brands, associated assets, and other relief contained in the Proposed Final Judgment will establish, preserve and ensure a viable competitor in the relevant market identified by the United States. Thus, the United States is convinced that the Proposed Final Judgment, once implemented by the Court, will prevent L'Oreal's acquisition of Carson from having adverse competitive effects.

VII. Standard of Review Under the APPA for Proposed Final Judgment

The APPA requires that proposed consent judgments in antitrust cases brought by the United States be subject to a sixty (60) day comment period, after which the court shall determine whether entry of the Proposed Final Judgment is ''in the public interest.'' In making that determination, the court may consider—

(1) The competitive impact of such judgment, including termination of alleged violations, provisions for enforcement and modification, duration or relief sought, anticipated effects of alternative remedies actually considered, and any other considerations bearing upon the adequacy of such judgment;

(2) The impact of entry of such judgment upon the public generally and individuals alleging specific injury from the violations set forth in the complaint including consideration of the public benefit, if any, to be derived from a determination of the issues at trial.

15 U.S.C. 16(e) (emphasis added). As the Court of Appeals for the District of Columbia has held, the APPA permits a court to consider, among other things, the relationship between the remedy secured and the specific allegations set forth in the government's complaint, whether the decree is sufficiently clear, whether enforcement mechanisms are sufficient, and whether the decree may positively harm third parties. See *United States* v. *Microsoft Corp.*, 56 F.3d 1448, 1458–62 (D.C. Cir. 1995).

In conducting this inquiry, ''the Court is nowhere compelled to go to trial or to engage in extended proceedings which might have the effect of vitiating the benefits of prompt and less costly settlement through the consent decree process.'' [3] Rather,

absent a showing of corrupt failure of the government to discharge its duty, the Court, in making its public interest finding, should * * * carefully consider the explanations of the government in the competitive impact statement and its responses to comments in order to determine whether those explanations are reasonable under the circumstances.[4]

Accordingly, with respect to the adequacy of the relief secured by the decree, a court may not ''engage in an unrestricted evaluation of what relief would best serve the public.'' *United States* v. *BNS. Inc.*, 858 F.2d 456, 462 (9th Cir. 1988), quoting *United States* v. *Bechtel Corp.*, 648 F.2d 660, 666 (9th Cir.), cert. denied, 454 U.S. 1083 (1981); see also Microsoft, 56 F.3d at 1458. Precedent requires that

the balancing of competing social and political interests affected by a proposed antitrust consent decree must be left, in the first instance, to the discretion of the Attorney General. The court's role in protecting the public interest is one of insuring that the government has not breached its duty to the public in consenting to the decree. The court is required to determine not whether a particular decree is the one that will best serve society, but whether the settlement is *''within the reaches of the public interest.''* More elaborate requirements might undermine the effectiveness of antitrust enforcement by consent decree.[5]

The proposed Final Judgment, therefore, should not be reviewed under a standard of whether it is certain to eliminate every anticompetitive effect of a particular practice or whether it mandates certainty of free competition in the future. Court approval of a final judgment requires a standard more flexible and less strict than the standard required for a finding of liability. A ''proposed decree must be approved even if it falls short of the remedy the court would impose on its own, as long as it falls within the range of acceptability or is 'within the reaches of public interest.' '' [6]

Moreover, the court's role under the APPA is limited to reviewing the remedy in relationship to the violations that the United States has alleged in its complaint, and does not authorize the court to ''construct [its] own hypothetical case and then evaluate the decree against that case.'' Microsoft, 56 F.3d at 1459. Since the ''court's authority to review the decree depends entirely on the government's exercising its prosecutorial discretion by bringing a case in the first place,'' it follows that the court ''is only authorized to review the decree itself,'' and not to ''effectively redraft the complaint'' to inquire into other matters that the United States might have but did not pursue. *Id.*

VIII. Determinative Documents

There are no determinative materials or documents within the meaning of the APPA that were considered by the United States in formulating the proposed Final Judgment.

Dated: August 8, 2000. Washington, D.C.

Respectfully submitted,

Maurice E. Stucke,
U.S. Department of Justice, Antitrust Division, Litigation II Section, 1401 H Street, N.W., Suite 4000, Washington, D.C. 20530, 202–305–1489.

Certificate of Service

I hereby certify that I served a copy of the foregoing Competitive Impact Statement via First Class United States Mail, this 8th day of August, 2000, on:

Peter D Standish, Esquire,
Weil, Gotshal & Manges, LLP, 767 Fifth Avenue, New York, NY 10153–0119, Counsel for Defendants L'Oreal USA, Inc. and L'Oreal S.A.

Charles Westland, Esquire,
Milbank, Tweed, Hadley & McCloy, LLP, One Chase Manhattan Plaza, New York, NY 10005, Counsel for Defendant Carson, Inc.

Damian G. Didden,
Trial Attorney, U.S. Department of Justice, Antitrust Division, 1401 H Street, N.W., Suite 3000, Washington, D.C. 20530, (202) 307–0935.

[FR Doc. 00–21289 Filed 8–21–00; 8:45 am]

BILLING CODE 4410–11–M

[3] 119 Cong. Rec. 24,598 (1973). See *United States* v. *Gillette Co.*, 406 F. Supp. 713, 715 (D. Mass. 1975). A ''public interest'' determination can be made properly on the basis of the Competitive Impact Statement and Response to Comments filed pursuant to the APPA. Although the APPA authorizes the use of additional procedures, 15 U.S.C. § 16(f), those procedures are discretionary. A court need not invoke any of them unless it believes that the comments have raised significant issues and that further proceedings would aid the court in resolving those issues. See H.R. Rep. No. 93–1463, 93rd Cong. 2d Sess. 8–9 (1974), reprinted in 1974 U.S.C.C.A.N. 6535, 6538.

[4] *United States* v. *Mid-America Dairymen, Inc.*, 1977–1 Trade Cas. (CCH) ¶ 61,508, at 71,980 (W.D. Mo. 1977); see also *United States* v. *Loew's Inc.*, 783 F. Supp. 211, 214 (S.D.N.Y. 1992); *United States* v. *Columbia Artists Mgmt., Inc.*, 662 F. Supp. 865, 870 (S.D.N.Y. 1987).

[5] *United States* v. *Bechtel Corp.*, 648 F.2d at 666 (citations omitted) (emphasis added); see *United States* v. *BNS, Inc.*, 858 F.2d at 463; *United States* v. *National Broadcasting Co.*, 449 F. Supp. 1127, 1143 (C.D. Cal. 1978); *United States* v. *Gillette Co.*, 406 F. Supp. at 716. See also *United States* v. *American Cyanamid Co.*, 719 F.2d 558, 565 (2d Cir. 1983), cert. denied, 465 U.S. 1101 (1984).

[6] *United States* v. *American Tel. & Tel. Co*, 552 F. Supp. 131, 151 (D.D.C. 1982) (quoting *Gillette*, 406 F. Supp. at 716), *aff'd sub nom. Maryland* v. *United States*, 460 U.S. 1001 (1983); *United States* v. *Alcan Aluminum, Ltd.*, 605 F. Supp. 619, 622 (W.D. Ky. 1985); *United States* v. *Carrols Dev. Corp.*, 454 F. Supp. 1215, 1222 (N.D.N.Y. 1978).

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

August 14, 2000.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of each individual ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation for BLS, ETA, PWBA, and OASAM contact Karin Kurz ((202) 219–5096 ext. 159 or by E-mail to Kurz-Karin@dol.gov). To obtain documentation for ESA, MSHA, OSHA, and VETS contact Darrin King ((202) 219–5096 ext. 151 or by E-Mail to King-Darrin@dol.gov).

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for BLS, DM, ESA, ETA, MSHA, OSHA, PWBA, or VETS, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395–7316), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Type of Review: Reinstatement, with change, of a previously approved collection for which approval has expired.

Agency: Employment and Training Administration.

Title: Job Corps Health Questionnaire.

OMB Number: 1205–0033.

Affected Public: Individuals or households; business or other for-profit; not-for-profit institutions; State, Local, or Tribal Government; Federal Government.

Form Number: ETA 6–53.

Frequency: Once per applicant.

Number of Respondents: 93,000.

Total Annual Responses: 93,000.

Estimated Time Per respondent: 5 Minutes.

Total Burden: 7,750 Hours.

Total annualized capital/startup costs: $0.

Total annual costs (operating/maintaining systems or purchasing services): $0.

Description: The Job Corps health questionnaire is used to obtain information on previous and present health needs of the applicant. The information is obtained in an interview by the admissions counselor and helps determine the health and accommodation/modification needs of the Job Corps applicant.

Type of Review: Extension of a previously approved collection.

Agency: Employment and Training Administration.

Title: Occupational Code Request.

OMB Number: 1205–0137.

Affected Public: State, Local, or Tribal government; Federal Government.

Form Number: ETA 741.

Frequency: On Occasion.

Number of Respondents: 95.

Total Annual Responses: 95.

Estimated Time Per respondent: 30 minutes.

Total Burden: 47 Hours.

Total annualized capital/startup costs: $0.

Total annual costs (operating/maintaining systems or purchasing services): $0.

Description: The form ETA–741, Occupational Code Request (OCR), is provided as a public service to the States to obtain occupational codes and titles for job not included in the *Dictionary of Occupational Titles.*

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. 00–21329 Filed 8–21–00; 8:45 am]

BILLING CODE 4510–22–M

DEPARTMENT OF LABOR

Employment and Training Administration

Proposed Collection; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Employment and Training Administration is soliciting comments concerning the proposed revised collection of the data contained on the Welfare to Work Formula (ETA 9068) and Competitive (ETA 9068–1) Cumulative Quarterly Status Reports.

A copy of the proposed information collection request (ICR) can be obtained by contacting the office listed below in the addresses section of this notice.

DATES: Written comments must be submitted to the office listed in the addresses section below on or before October 23, 2000.

ADDRESSES: Isabel Danley, Division of Financial Grants Management Policy and Review, Office of Grants and Contract Management, United States Department of Labor, Employment and Training Administration, 200 Constitution Ave. NW., Rm. N–4720, Washington, DC 20210, (202–219–5731 x115—not a toll free number) and, Internet address; IDanley@DOLETA.GOV and/or FAX: (202–208–1551).

SUPPLEMENTARY INFORMATION:

I. Background

Pursuant to Title IV, Part A of the Social Security Act, as amended by the enactment of the Balanced Budget Act of 1997, the Welfare to Work program was designed to assist States in providing transitional employment assistance to move hard-to-employ recipients of Temporary Assistance for Needy Families, with significant job placement and job retention barriers, into unsubsidized jobs. On Tuesday, November 18, 1997, the Department of Labor, Employment and Training Administration issued an Interim Final Rule, 20 CFR Part 645, implementing the grant provisions of the Social Security Act Amendments. The reporting requirements set forth at 20 CFR 645.240 directed the Department to issue detailed reporting instructions. In accordance with the Paperwork

Reduction Act of 1995, the reporting formats (ETA 9068 and 9068–1) and corresponding instructions were submitted to the Office of Management and Budget for review, clearance, and subsequent approval.

Passage of the TITLE VIIID WELFARE-TO-WORK AND CHILD SUPPORT AMENDMENTS OF 1999, Section 804. SIMPLIFICATION AND COORDINATION OF REPORTING REQUIREMENTS, necessitated revisions to currently approved reporting requirements, including the provision for collection of participant information. Upon approval by OMB, the revised reporting formats will be provided electronically to the States and competitive grant recipients, replacing the formats in place at the present time. The currently assigned Passwords and Personal Identification Numbers will continue to be used in accessing the formats and for data certification.

II. Review Focus

The Department of Labor is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

III. Current Actions

The revised collection of information must be approved so that DOL can effectively manage and evaluate the WtW program in compliance with the requirements set forth in the Social Security Act Amendments, as further amended by the TITLE VIII WELFARE-TO-WORK AND CHILD SUPPORT AMENDMENTS OF 1999.

Type of Review: Revision of a currently approved collection.

Agency: Employment and Training Administration.

Title: Welfare to Work Formula (ETA 9068) and Competitive (ETA 9068–1) Cumulative Quarterly Status Reports.

OMB Number: 1205–0385.

Agency Numbers: ETA 9068 and ETA 9068–1.

Frequency: Quarterly.

Affected Public: (1) WtW Formula Grants: States, local governments, and Private Industry Councils; and, (2) WtW Competitive Grants: Eligible applicants from business and/or other for profit and non-profit institutions.

Reporting Burden: See the following Reporting Burden Tables for WtW Formula Grants (Revised ETA 9068) and WtW Competitive Grants (Revised ETA 9068–1).

DOL–ETA REPORTING BURDEN FOR WTW FORMULA AND TRIBAL GRANTS FINANCIAL AND PARTICIPANT DATA COLLECTION

[Revised ETA 9068]

Requirements	FY 1998	FY 1999	FY 2000	FY 2001
Number of Reports Per Entity Per Quarter	1	2	2	1
Total Number of Reports Per Entity Per Year	2	8	8	4
Number of Hours Required for Reporting Hours Per Quarter Per Report	1	1	2	2
Total Number of Hours Required for Reporting Hours Per Entity Per Year	2	8	16	8
Number of Entities Reporting	55	55	55	55
Total Number of Hours Required for Reporting Burden Per Year	110	440	880	440
Total Burden Cost @ $23.45 per hour	$2,580	$10,318	$20,636	$10,318

Note: (1) The number of reports per entity per year is impacted by the 3 year life of both FY 1998 and FY 1999 funds.

(2) In FY 1998, reporting was not effective until the second half of the FY.

(3) In FY 2000 and FY 2001, the number of hours required per quarter per report is increased based upon the additional participant reporting requirements.

(4) The burden cost is estimated based on a GS 12/01 position.

DOL–ETA REPORTING BURDEN FOR WTW COMPETITIVE GRANTS FINANCIAL AND PARTICIPANT DATA COLLECTION

[Revised ETA 9068–1]

Requirements	FY 1998	FY 1999	FY 2000
Number of Reports Per Entity Per Quarter	1	1	1
Total Number of Reports Per Entity Per Year	2	4	4
Number of Hours Required for Reporting Per Quarter Per Report	1.5	1.5	2.5
Total Number of Hours Required for Reporting (Hours Per Entity Per Year)	3	6	10
Estimated Number of Entities Reporting	126	191	65
Total Number of Hours Required for Reporting Burden Per Year	378	1146	650
Total Burden Cost @ $23.45 per hour	$8,864	$26,873	$15,242

Note: (1) Competitive grants have a 2 year life. FY 1998 grants must be reported in FY 1998 (2 quarters) and in FY 1999. FY 1999 grants must be reported in FY 1999 and FY 2000.

(2) Approximately 126 entities reported in FY 1998 (continuing to be reported in FY 1999; with an additional 65 entities reporting in FY 1999 (which will continue to report in FY 2000).

(3) The number of hours required per report increased in FY 2000, due to the additional participant reporting requirements.

(4) The burden cost is based upon the salary of a GS 12/01.

Comments submitted in response to this comment request will be summarized and/or included in the request for Office of Management and

Budget approval of the information collection request; they will also become a matter of public record.

Dated: August 16, 2000.

Dennis Lieberman,

Director, Office of Welfare to Work.

[FR Doc. 00–21327 Filed 8–21–00; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Proposed Collection; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Employment and Training Administration is soliciting comments concerning the proposed continuing collection of the data contained on the Workforce Investment Act Cumulative Quarterly Financial Reports (ETA 9076 A–F). A copy of the proposed information collection request (ICR) can be obtained by contacting the office listed below in the addressees section of this notice.

DATES: Written comments must be submitted to the office listed in the addressees section below on or before October 23, 2000.

ADDRESSES: Isabel Danley, Division of Financial Grants Management Policy and Review, Office of Grants and Contract Management, United States Department of Labor, Employment and Training Administration, 200 Constitution Ave. NW, Rm. N–4720, Washington, D.C. 20210, (202–219–5731 x115—not a toll free number) and, Internet address: IDanley@DOLETA.GOV and/or FAX: (202–208–1551).

SUPPLEMENTARY INFORMATION:

I. Background

Pursuant to Public Law 105–220, dated August 7, 1998 and 20 CFR 652, et al., Workforce Investment Act (WIA) Interim Final Rule, dated April 15, 1999; and in accordance with the Paperwork Reduction Act of 1995, the Department of Labor, Employment and Training Administration, requested Office of Management and Budget approval of financial data information formats for use in quarterly electronic collection of required financial data from the States. An OMB Notice of Action No. 1205–0408, dated May 23, 2000, provided authority for the Department to issue WIA prototype reporting formats and corresponding instructions to the States via Training and Employment Guidance Letter (TEGL) No. 16–99, dated June 23, 2000. The data elements contained on the prototype formats have subsequently been incorporated into software which has been provided electronically to the States to enable direct Internet reporting. This proposed collection notice is requesting a three year extension of the currently approved WIA financial reporting requirements which expire on November 30, 2000.

II. Review Focus

The Department of Labor is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology *e.g.,* permitting electronic submissions of response.

III. Current Actions

The continuing collection of information must be approved so that the Department can effectively manage and evaluate the WIA program in compliance with the requirements set forth in Public Law 105–220 and 20 CFR 652 et al., Workforce Investment Act; Final Rules, dated August 11, 2000.

Type of Review: Extension.

Agency: Employment and Training Administration.

Title: Workforce Investment Act (WIA), Employment and Training Administration, Financial Reporting Requirements.

OMB Number: 1205–0408.

Agency Numbers: ETA 9076 A–F.

Frequency: Quarterly.

Affected Public: States, local governments, Private industry Councils and/or other for profit and non-profit institutions.

Reporting Burden: See the following Reporting Burden Table for States to report requested WIA financial data electronically on formats ETA 9076 A–F.

DOL–ETA REPORTING BURDEN FOR WIA TITLE I–B STATES*

Requirements	PY 1999	PY 2000	PY 2001	PY 2002
Number of reports per entity per quarter	3	3	3	3
Total number of reports per entity per year	12	12	12	12
Number of hours required per report	1	1	1	1
Total number of hours required for reporting per entity per year	12	12	12	12
Number of entities reporting	16	56	56	56
Total number of hours required for reporting burden per year	192	672	672	672
Total burden cost @ $23.45 per hour	$4,502	$15,758	$15,758	$15,758

*Revised July 2, 1999.

Note: Number of reports required peer entity per quarter/per year is impacted by the 3 year life of each year of appropriated funds, i.e., PY 1997 and 1998 funds are available for expenditure in PY 1999, thus 3 reports reflect 3 available funding years. DOL estimates 16

entities reporting for PY 1999. Beginning in PY 2000, all entities (56) are required to report under WIA.

Comment submitted in response to this comment request will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: August 16, 2000.

Bryan T. Keilty,

Director, Office of Financial and Administrative Management.

[FR Doc. 00–21328 Filed 8–21–00; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

Proposed Extension of Information Collection; Comment Request; Prohibited Transaction Exemption 88–59

ACTION: Notice.

SUMMARY: The Department of Labor (Department), as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA 95) (44 U.S.C. 3506(c)(2)(A)). This helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed.

Currently, the Pension and Welfare Benefits Administration is soliciting comments concerning the proposed extension of the information collection provisions of Prohibited Transaction Class Exemption 88–59. A copy of the Information Collection Request (ICR) may be obtained by contacting the office listed in the **ADDRESSES** section of this notice.

DATES: Written comments must be submitted to the office shown in the **ADDRESSES** section below on or before October 23, 2000.

ADDRESSES: Gerald B. Lindrew, Office of Policy and Research, U.S. Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue, NW., Room N–5647, Washington, DC 20210. Telephone: (202) 219–4782; Fax: (202) 219–4745. These are not toll-free numbers.

SUPPLEMENTARY INFORMATION:

I. Background

Prohibited Transaction Class Exemption 88–59 provides an exemption from the prohibited transaction provisions of the Employment Retirement Income Security Act of 1974 (ERISA) and from certain taxes imposed by the Internal Revenue Code of 1986 (Code). The exemption permits, under certain conditions, an employee benefit plan to provide mortgage financing to purchasers of residential dwelling units. The mortgage financing may be either by making or participating in loans directly to purchasers or by purchasing mortgage loans or participation interests in mortgage loans originated by a third party. Plan investments in real estate mortgage loans typically involve a continuing relationship between the seller of the mortgage loan and the plan for purposes of servicing the mortgage loan investment. This provision of services by the seller creates a party in interest relationship between such servicer and the investing plan. Accordingly, any subsequent purchase of mortgage loans from such an existing party in interest service provider, absent exemptive relief, results in a prohibited transaction. The exemption affects participants and beneficiaries of the plans that are involved in such transactions as well as the seller of the mortgage loan.

II. Desired Focus of Comments

The Department is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

III. Current Action

This existing information collection should be continued because without this exemption, plans would be unable to participate in the mortgage financing of residential dwelling units. For the Department to grant an exemption, however, it must ensure the participants and beneficiaries are protected. It, therefore, included certain recordkeeping requirements. This class exemption requires the plan to maintain for six years from the date of the transaction the records necessary to enable interested parties, including the Department, to determine whether the conditions of the exemption have been met. The exemption also requires that those records be made available to certain persons on request. The Department and other interested parties need the records to enforce the terms of exemption and to insure user compliance in order to protect participants and beneficiaries.

Type of Review: Extension of a currently approved collection of information.

Agency: Pension and Welfare Benefits Administration, Department of Labor.

Titles: Prohibited Transaction Class Exemption 88–59 Residential Mortgage Financing Arrangements.

OMB Number: 1210–0095.

Affected Public: Individuals or households; business or other for-profit; not-for-profit institutions.

Respondents: 185.

Frequency of Response: On occasion.

Responses: 185.

Average Time per Response: 5 minutes.

Estimated Total Burden Hours: 15.

Total Burden Cost (Capital/Startup): $0.00.

Total Burden Cost (Operating and Maintenance): $0.00.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of the information collection request; they will also become a matter of public record.

Dated: August 15, 2000.

Gerald B. Lindrew,

Deputy Director, Office of Policy and Research, Pension and Welfare Benefits Administration.

[FR Doc. 00–21330 Filed 8–21–00; 8:45 am]

BILLING CODE 4510–29–M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

Proposed Extension of Information Collection; Comment Request; Prohibited Transaction Exemption 80–83

ACTION: Notice.

SUMMARY: The Department of Labor (Department), as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA 95) (44 U.S.C. 3506(c)(2)(A)). This helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed.

Currently, the Pension and Welfare Benefits Administration is soliciting comments concerning the proposed extension of the information collection provisions of Prohibited Transaction Class Exemption 80–83. A copy of the Information Collection Request (ICR) may be obtained by contacting the office listed in the **ADDRESSES** section of this notice.

DATES: Written comments must be submitted to the office shown in the addresses section below on or before October 23, 2000.

ADDRESSES: Gerald B. Lindrew, Office of Policy and Research, U.S. Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue, NW, Room N–5647, Washington, D.C. 20210. Telephone: (202) 219–4782; Fax: (202) 219–4745. These are not toll-free numbers.

SUPPLEMENTARY INFORMATION:

I. Background

Prohibited Transaction Class Exemption 80–83 provides an exemption from the prohibited transaction provisions of the Employment Retirement Income Security Act of 1974 (ERISA) and from certain taxes imposed by the Internal Revenue Code of 1986 (Code). The exemption permits, under certain conditions, an employee benefit plan to purchase securities when the proceeds from the sale of the securities may be used to reduce or retire indebtedness to a party in interest with respect to such plans. The exemption affects participants and beneficiaries of the plans that are involved in such transactions as well as the party in interest.

II. Desired Focus of Comments

The Department is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

III. Current Action

This existing information collection should be continued because without this exemption, plans would be unable to purchase securities that may be used by the issuer to reduce or retire indebtedness to persons who are parties in interest with respect to such plans. For the Department to grant an exemption, however, it must ensure that participants and beneficiaries are protected. It, therefore, included certain recordkeeping requirements. This class exemption requires the plan to maintain for six years from the date of the transaction the records necessary to enable interested parties, including the Department, to determine whether the conditions of the exemption have been met. The exemption also requires that those records be made available to certain persons on request. The Department and other interested persons need the records to enforce the terms of the exemption and to insure user compliance in order to protect participants and beneficiaries.

Type of Review: Extension of a currently approved collection of information.

Agency: Pension and Welfare Benefits Administration, Department of Labor.

Title: Prohibited Transaction Class Exemption 80–83.

OMB Number: 1210–0064.

Affected Public: Individuals or households; Business or other for-profit; Not-for-profit institutions.

Respondents: 25.

Frequency of Response: On occasion.

Responses: 25.

Average Time per Response: 5 minutes.

Estimated Total Burden Hours: 2.

Total Burden Cost (Capital/Startup): $0.00.

Total Burden Cost (Operating and Maintenance): $0.00.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of the information collection request; they will also become a matter of public record.

Dated: August 15, 2000.

Gerald B. Lindrew,

Deputy Director, Office of Policy and Research, Pension and Welfare Benefits Administration.

[FR Doc. 00–21331 Filed 8–21–00; 8:45 am]

BILLING CODE 4510–29–M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

Proposed Extension of Information Collection; Comment Request; Prohibited Transaction Exemption 75–1

ACTION: Notice.

SUMMARY: The Department of Labor (Department), as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA 95) (44 U.S.C. 3506(c)(2)(A)). This helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed.

Currently, the Pension and Welfare Benefits Administration is soliciting comments concerning the proposed extension of the information collection provisions of Prohibited Transaction Class Exemption 75–1. A copy of the Information Collection Request (ICR) may be obtained by contacting the office listed in the **ADDRESSES** section of this notice.

DATES: Written comments must be submitted to the office shown in the **ADDRESSES** section below on or before October 23, 2000.

ADDRESSES: Gerald B. Lindrew, Office of Policy and Research, U.S. Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue, NW, Room N–5647, Washington, DC 20210. Telephone: (202) 219–4782; Fax: (202) 219–4745. These are not toll-free numbers.

SUPPLEMENTARY INFOMATION:

I. Background

Prohibited Transaction Class Exemption 75–1 provides an exemption from the prohibited transaction provisions of the Employment Retirement Income Security Act of 1974 (ERISA). The exemption permits, under certain conditions, an employee benefit plan to purchase securities from broker-dealers' personal inventories of stocks, from an underwriting syndicate in which a plan fiduciary is a member, and from a market-maker even if the market-maker is a plan fiduciary. The exemption also permits, under certain conditions, a plan to accept an extension of credit from a broker-dealer for the purpose facilitating settlement of a securities transaction. The exemption affects participants and beneficiaries of the plans that are involved in such transactions as well as broker-dealers, underwriting syndicates, and market-makers.

II. Desired Focus of Comments

The Department is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

III. Current Action

This existing information collection should be continued because without this exemption, plans would be unable to purchase securities from a broker-dealer's personal inventory, from an underwriting syndicate in which a plan fiduciary is a member, or from a market-maker who is also a fiduciary. In addition, plans would be unable to receive credit to purchase securities from a broker-dealer. For the Department to grant an exemption, however, it must ensure the participants and beneficiaries are protected. Therefore, it included certain recordkeeping requirements. This class exemption requires the plan to maintain for six years from the date of the transaction the records necessary to enable interested parties, including the Department, to determine whether the conditions of the exemption have been met. The exemption also requires that those records be made available to certain persons on request. The Department and other interested parties need the records to enforce the terms of the exemption and to insure user compliance in order to protect participants and beneficiaries.

Type of Review: Extension of a currently approved collection of information.

Agency: Pension and Welfare Benefits Administration, Department of Labor.

Titles: Prohibited Transaction Class Exemption 75–1.

OMB Number: 1210–0092.

Affected Public: Individuals or households; Business or other for-profit; Not-for-profit institutions.

Respondents: 750.

Frequency of Response: On occasion.

Responses: 750.

Average Time per Response: 5 minutes.

Estimated Total Burden Hours: 62.

Total Burden Cost (Capital/Startup): $0.00.

Total Burden Cost (Operating and Maintenance): $0.00.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of the information collection request; they will also become a matter of public record.

Dated: August 15, 2000.

Gerald B. Lindrew,

Deputy Director, Office of Policy and Research, Pension and Welfare Benefits Administration.

[FR Doc. 00–21332 Filed 8–21–00; 8:45 am]

BILLING CODE 4510–29–M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Prohibited Transaction Exemption 2000–41; Exemption Application No. D–10898, et al.]

Grant of Individual Exemptions; First Tennessee National Corporation

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Grant of individual exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Notices were published in the **Federal Register** of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, D.C. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of proposed exemption were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978, 5 U.S.C. App. 1 (1996), transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990) and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

First Tennessee National Corporation Located in Memphis, Tennessee

[Prohibited Transaction Exemption 2000–41; Exemption Application No. D–10898]

Exemption

I. Transactions

A. The restrictions of sections 406(a) and 407(a) of the Act and the taxes imposed by section 4975(a) and (b) of the Code by reason of section 4975(c)(1)(A) through (D) of the Code shall not apply to the following transactions involving trusts and certificates evidencing interests therein:

(1) The direct or indirect sale, exchange or transfer of certificates in the initial issuance of certificates between the sponsor or underwriter and an employee benefit plan when the sponsor, servicer, trustee or insurer of a trust, the underwriter of the certificates representing an interest in the trust, or an obligor is a party in interest with respect to such plan;

(2) The direct or indirect acquisition or disposition of certificates by a plan in the secondary market for such certificates; and

(3) The continued holding of certificates acquired by a plan pursuant to subsection I.A.(1) or (2).

Notwithstanding the foregoing, section I.A. does not provide an exemption from the restrictions of sections 406(a)(1)(E), 406(a)(2) and 407 for the acquisition or holding of a certificate on behalf of an Excluded Plan by any person who has discretionary authority or renders investment advice with respect to the assets of that Excluded Plan.[1]

B. The restrictions of sections 406(b)(1) and 406(b)(2) of the Act, and the taxes imposed by section 4975(a) and (b) of the Code by reason of section 4975(c)(1)(E) of the Code, shall not apply to:

(1) The direct or indirect sale, exchange or transfer of certificates in the initial issuance of certificates between the sponsor or underwriter and a plan when the person who has discretionary authority or renders investment advice with respect to the investment of plan assets in the certificates is (a) an obligor with respect to 5 percent or less of the fair market value of obligations or receivables contained in the trust, or (b) an affiliate of a person described in (a); if:

(i) The plan is not an Excluded Plan;

(ii) Solely in the case of an acquisition of certificates in connection with the initial issuance of the certificates, at least 50 percent of each class of certificates in which plans have invested is acquired by persons independent of the members of the Restricted Group and at least 50 percent of the aggregate interest in the trust is acquired by persons independent of the Restricted Group;

(iii) A plan's investment in each class of certificates does not exceed 25 percent of all of the certificates of that class outstanding at the time of the acquisition; and

(iv) Immediately after the acquisition of the certificates, no more than 25 percent of the assets of a plan with respect to which the person has discretionary authority or renders investment advice are invested in certificates representing an interest in a trust containing assets sold or serviced by the same entity.[2] For purposes of this paragraph B.(1)(iv) only, an entity will not be considered to service assets contained in a trust if it is merely a subservicer of that trust;

(2) The direct or indirect acquisition or disposition of certificates by a plan in the secondary market for such certificates, provided that the conditions set forth in paragraphs B.(1)(i), (iii) and (iv) are met; and

(3) The continued holding of certificates acquired by a plan pursuant to subsection I.B.(1) or (2).

C. The restrictions of sections 406(a), 406(b) and 407(a) of the Act, and the taxes imposed by section 4975(a) and (b) of the Code by reason of section 4975(c) of the Code, shall not apply to transactions in connection with the servicing, management and operation of a trust, provided:

(1) Such transactions are carried out in accordance with the terms of a binding pooling and servicing arrangement; and

(2) The pooling and servicing agreement is provided to, or described in all material respects in, the prospectus or private placement memorandum provided to investing plans before they purchase certificates issued by the trust.[3]

Notwithstanding the foregoing, section I.C. does not provide an exemption from the restrictions of section 406(b) of the Act, or from the taxes imposed by reason of section 4975(c) of the Code, for the receipt of a fee by a servicer of the trust from a person other than the trustee or sponsor, unless such fee constitutes a ''qualified administrative fee'' as defined in section III.S.

D. The restrictions of sections 406(a) and 407(a) of the Act, and the taxes imposed by sections 4975(a) and (b) of the Code by reason of sections 4975(c)(1)(A) through (D) of the Code, shall not apply to any transactions to which those restrictions or taxes would otherwise apply merely because a person is deemed to be a party in interest or disqualified person (including a fiduciary) with respect to a plan by virtue of providing services to the plan (or by virtue of having a relationship to such service provider described in section 3(14)(F), (G), (H) or (I) of the Act or section 4975(e)(2)(F), (G), (H) or (I) of the Code), solely because of the plan's ownership of certificates.

II. General Conditions

A. The relief provided under Part I is available only if the following conditions are met:

(1) The acquisition of certificates by a plan is on terms (including the certificate price) that are at least as favorable to the plan as they would be in an arm's-length transaction with an unrelated party;

(2) The rights and interests evidenced by the certificates are not subordinated to the rights and interests evidenced by other certificates of the same trust;

(3) The certificates acquired by the plan have received a rating from a rating agency (as defined in section III.W.) at the time of such acquisition that is in one of the three highest generic rating categories;

(4) The trustee is not an affiliate of any other member of the Restricted Group. However, the trustee shall not be considered to be an affiliate of a servicer solely because the trustee has succeeded to the rights and responsibilities of the

[1] Section I.A. provides no relief from sections 406(a)(1)(E), 406(a)(2) and 407 for any person rendering investment advice to an Excluded Plan within the meaning of section 3(21)(A)(ii) and regulation 29 CFR 2510.3–21(c).

[2] For purposes of this exemption, each plan participating in a commingled fund (such as a bank collective trust fund or insurance company pooled separate account) shall be considered to own the same proportionate undivided interest in each asset of the commingled fund as its proportionate interest in the total assets of the commingled fund as calculated on the most recent preceding valuation date of the fund.

[3] In the case of a private placement memorandum, such memorandum must contain substantially the same information that would be disclosed in a prospectus if the offering of the certificates were made in a registered public offering under the Securities Act of 1933. In the Department's view, the private placement memorandum must contain sufficient information to permit plan fiduciaries to make informed investment decisions.

servicer pursuant to the terms of a pooling and servicing agreement providing for such succession upon the occurrence of one or more events of default by the servicer;

(5) The sum of all payments made to and retained by the underwriters in connection with the distribution or placement of certificates represents not more than reasonable compensation for underwriting or placing the certificates; the sum of all payments made to and retained by the sponsor pursuant to the assignment of obligations (or interests therein) to the trust represents not more than the fair market value of such obligations (or interests); and the sum of all payments made to and retained by the servicer represents not more than reasonable compensation for the servicer's services under the pooling and servicing agreement and reimbursement of the servicer's reasonable expenses in connection therewith;

(6) The plan investing in such certificates is an ''accredited investor'' as defined in Rule 501(a)(1) of Regulation D of the Securities and Exchange Commission under the Securities Act of 1933; and

(7) In the event that the obligations used to fund a trust have not all been transferred to the trust on the closing date, additional obligations as specified in subsection III.B.(1) may be transferred to the trust during the pre-funding period (as defined in section III.BB.) in exchange for amounts credited to the pre-funding account (as defined in section III.Z.), provided that:

(a) The pre-funding limit (as defined in section III.AA.) is not exceeded;

(b) All such additional obligations meet the same terms and conditions for eligibility as those of the original obligations used to create the trust corpus (as described in the prospectus or private placement memorandum and/or pooling and servicing agreement for such certificates), which terms and conditions have been approved by a rating agency. Notwithstanding the foregoing, the terms and conditions for determining the eligibility of an obligation may be changed if such changes receive prior approval either by a majority of the outstanding certificate holders or by a rating agency;

(c) The transfer of such additional obligations to the trust during the pre-funding period does not result in the certificates receiving a lower credit rating from a rating agency upon termination of the pre-funding period than the rating that was obtained at the time of the initial issuance of the certificates by the trust;

(d) The weighted average annual percentage interest rate (the average interest rate) for all of the obligations in the trust at the end of the pre-funding period will not be more than 100 basis points lower than the average interest rate for the obligations which were transferred to the trust on the closing date;

(e) In order to ensure that the characteristics of the receivables actually acquired during the pre-funding period are substantially similar to those which were acquired as of the closing date, the characteristics of the additional obligations will be either monitored by a credit support provider or other insurance provider which is independent of the sponsor, or an independent accountant retained by the sponsor will provide the sponsor with a letter (with copies provided to the rating agency, the underwriter and the trustees) stating whether or not the characteristics of the additional obligations conform to the characteristics of such obligations described in the prospectus, private placement memorandum and/or pooling and servicing agreement. In preparing such letter, the independent accountant will use the same type of procedures as were applicable to the obligations which were transferred as of the closing date;

(f) The pre-funding period shall be described in the prospectus or private placement memorandum provided to investing plans; and

(g) The trustee of the trust (or any agent with which the trustee contracts to provide trust services) will be a substantial financial institution or trust company experienced in trust activities and familiar with its duties, responsibilities and liabilities as a fiduciary under the Act. The trustee, as the legal owner of the obligations in the trust, will enforce all the rights created in favor of certificateholders of such trust, including employee benefit plans subject to the Act.

B. Neither any underwriter, sponsor, trustee, servicer, insurer, nor any obligor, unless it or any of its affiliates has discretionary authority or renders investment advice with respect to the plan assets used by a plan to acquire certificates, shall be denied the relief provided under Part I, if the provision of subsection II.A.(6) above is not satisfied with respect to acquisition or holding by a plan of such certificates, provided that (1) such condition is disclosed in the prospectus or private placement memorandum; and (2) in the case of a private placement of certificates, the trustee obtains a representation from each initial purchaser which is a plan that it is in compliance with such condition, and obtains a covenant from each initial purchaser to the effect that, so long as such initial purchaser (or any transferee of such initial purchaser's certificates) is required to obtain from its transferee a representation regarding compliance with the Securities Act of 1933, any such transferees will be required to make a written representation regarding compliance with the condition set forth in subsection II.A.(6) above.

III. Definitions

For purposes of this exemption:

A. ''Certificate'' means:

(1) A certificate—

(a) that represents a beneficial ownership interest in the assets of a trust; and

(b) That entitles the holder to pass-through payments of principal, interest, and/or other payments made with respect to the assets of such trust; or

(2) A certificate denominated as a debt instrument—

(a) That represents an interest in a Real Estate Mortgage Investment Conduit (REMIC) or a Financial Asset Securitization Investment Trust (FASIT) within the meaning of section 860D(a) or section 860L, respectively, of the Internal Revenue Code of 1986; and

(b) That is issued by, and is an obligation of, a trust; with respect to certificates defined in (1) and (2) above for which FTNC or any of its affiliates is either (i) the sole underwriter or the manager or co-manager of the underwriting syndicate, or (ii) a selling or placement agent.

For purposes of this exemption, references to ''certificates representing an interest in a trust'' include certificates denominated as debt which are issued by a trust.

B. ''Trust'' means an investment pool, the corpus of which is held in trust and consists solely of:

(1) (a) Secured consumer receivables that bear interest or are purchased at a discount (including, but not limited to, home equity loans and obligations secured by shares issued by a cooperative housing association); and/or

(b) Secured credit instruments that bear interest or are purchased at a discount in transactions by or between business entities (including, but not limited to, qualified equipment notes secured by leases, as defined in section III.T); and/or

(c) Obligations that bear interest or are purchased at a discount and which are secured by single-family residential, multi-family residential and commercial real property (including obligations secured by leasehold interests on commercial real property); and/or

(d) Obligations that bear interest or are purchased at a discount and which are secured by motor vehicles or equipment, or qualified motor vehicle leases (as defined in section III.U); and/or

(e) ''Guaranteed governmental mortgage pool certificates,'' as defined in 29 CFR 2510.3–101(i)(2); and/or

(f) Fractional undivided interests in any of the obligations described in clauses (a)-(e) of this section B.(1);

(2) Property which had secured any of the obligations described in subsection B.(1);

(3)(a) Undistributed cash or temporary investments made therewith maturing no later than the next date on which distributions are to made to certificateholders; and/or

(b) Cash or investments made therewith which are credited to an account to provide payments to certificateholders pursuant to any yield supplement agreement or similar yield maintenance arrangement to supplement the interest rates otherwise payable on obligations described in subsection III.B.(1) held in the trust, provided that such arrangements do not involve swap agreements or other notional principal contracts; and/or

(c) Cash transferred to the trust on the closing date and permitted investments made therewith which:

(i) Are credited to a pre-funding account established to purchase additional obligations with respect to which the conditions set forth in clauses (a)-(g) of subsection II.A.(7) are met and/or;

(ii) Are credited to a capitalized interest account (as defined in section III.X.); and

(iii) Are held in the trust for a period ending no later than the first distribution date to certificateholders occurring after the end of the pre-funding period.

For purposes of this clause (c) of subsection III.B.(3), the term ''permitted investments'' means investments which are either: (i) Direct obligations of, or obligations fully guaranteed as to timely payment of principal and interest by the United States, or any agency or instrumentality thereof, provided that such obligations are backed by the full faith and credit of the United States or (ii) have been rated (or the obligor has been rated) in one of the three highest generic rating categories by a rating agency; are described in the pooling and servicing agreement; and are permitted by the rating agency; and

(4) Rights of the trustee under the pooling and servicing agreement, and rights under any insurance policies, third-party guarantees, contracts of suretyship, yield supplement agreements described in clause (b) of subsection III.B.(3) and other credit support arrangements with respect to any obligations described in subsection III.B.(1).

Notwithstanding the foregoing, the term ''trust'' does not include any investment pool unless: (i) The investment pool consists only of assets of the type described in clauses (a) through (f) of subsection III.B.(1) which have been included in other investment pools, (ii) certificates evidencing interests in such other investment pools have been rated in one of the three highest generic rating categories by a rating agency for at least one year prior to the plan's acquisition of certificates pursuant to this exemption, and (iii) certificates evidencing interests in such other investment pools have been purchased by investors other than plans for at least one year prior to the plan's acquisition of certificates pursuant to this exemption.

C. ''Underwriter'' means:

(1) First Tennessee National Bank (the Bank) or First Tennessee Securities Corporation (FTSC);

(2) Any person directly or indirectly, through one or more intermediaries, controlling, controlled by or under common control with FTNC; or

(3) Any member of an underwriting syndicate or selling group of which FTNC or a person described in (2) is a manager or co-manager with respect to the certificates.

D. ''Sponsor'' means the entity that organizes a trust by depositing obligations therein in exchange for certificates.

E. ''Master Servicer'' means the entity that is a party to the pooling and servicing agreement relating to trust assets and is fully responsible for servicing, directly or through subservicers, the assets of the trust.

F. ''Subservicer'' means an entity which, under the supervision of and on behalf of the master servicer, services obligations contained in the trust, but is not a party to the pooling and servicing agreement.

G. ''Servicer'' means any entity which services obligations contained in the trust, including the master servicer and any subservicer.

H. ''Trustee'' means the trustee of the trust, and in the case of certificates which are denominated as debt instruments, also means the trustee of the indenture trust.

I. ''Insurer'' means the insurer or guarantor of, or provider of other credit support for, a trust. Notwithstanding the foregoing, a person is not an insurer solely because it holds securities representing an interest in a trust which are of a class subordinated to certificates representing an interest in the same trust.

J. ''Obligor'' means any person, other than the insurer, that is obligated to make payments with respect to any obligation or receivable included in the trust. Where a trust contains qualified motor vehicle leases or qualified equipment notes secured by leases, ''obligor'' shall also include any owner of property subject to any lease included in the trust, or subject to any lease securing an obligation included in the trust.

K. ''Excluded Plan'' means any plan with respect to which any member of the Restricted Group is a ''plan sponsor'' within the meaning of section 3(16)(B) of the Act.

L. ''Restricted Group'' with respect to a class of certificates means:

(1) Each underwriter;

(2) Each insurer;

(3) The sponsor;

(4) The trustee;

(5) Each servicer;

(6) Any obligor with respect to obligations or receivables included in the trust constituting more than 5 percent of the aggregate unamortized principal balance of the assets in the trust, determined on the date of the initial issuance of certificates by the trust; or

(7) Any affiliate of a person described in (1)–(6) above.

M. ''Affiliate'' of another person includes:

(1) Any person directly or indirectly, through one or more intermediaries, controlling, controlled by, or under common control with such other person;

(2) Any officer, director, partner, employee, relative (as defined in section 3(15) of the Act), a brother, a sister, or a spouse of a brother or sister of such other person; and

(3) Any corporation or partnership of which such other person is an officer, director or partner.

N. ''Control'' means the power to exercise a controlling influence over the management or policies of a person other than an individual.

O. A person will be ''independent'' of another person only if:

(1) Such person is not an affiliate of that other person; and

(2) The other person, or an affiliate thereof, is not a fiduciary who has investment management authority or renders investment advice with respect to any assets of such person.

P. ''Sale'' includes the entrance into a forward delivery commitment (as defined in section Q below), provided:

(1) The terms of the forward delivery commitment (including any fee paid to the investing plan) are no less favorable to the plan than they would be in an arm's-length transaction with an unrelated party;

(2) The prospectus or private placement memorandum is provided to an investing plan prior to the time the plan enters into the forward delivery commitment; and

(3) At the time of the delivery, all conditions of this exemption applicable to sales are met.

Q. ''Forward delivery commitment'' means a contract for the purchase or sale of one or more certificates to be delivered at an agreed future settlement date. The term includes both mandatory contracts (which contemplate obligatory delivery and acceptance of the certificates) and optional contracts (which give one party the right but not the obligation to deliver certificates to, or demand delivery of certificates from, the other party).

R. ''Reasonable compensation'' has the same meaning as that term is defined in 29 CFR 2550.408c–2.

S. ''Qualified Administrative Fee'' means a fee which meets the following criteria:

(1) The fee is triggered by an act or failure to act by the obligor other than the normal timely payment of amounts owing in respect of the obligations;

(2) The servicer may not charge the fee absent the act or failure to act referred to in (1);

(3) The ability to charge the fee, the circumstances in which the fee may be charged, and an explanation of how the fee is calculated are set forth in the pooling and servicing agreement; and

(4) The amount paid to investors in the trust will not be reduced by the amount of any such fee waived by the servicer.

T. ''Qualified Equipment Note Secured By A Lease'' means an equipment note:

(1) Which is secured by equipment which is leased;

(2) Which is secured by the obligation of the lessee to pay rent under the equipment lease; and

(3) With respect to which the trust's security interest in the equipment is at least as protective of the rights of the trust as would be the case if the equipment note were secured only by the equipment and not the lease.

U. ''Qualified Motor Vehicle Lease'' means a lease of a motor vehicle where:

(1) The trust owns or holds a security interest in the lease;

(2) The trust owns or holds a security interest in the leased motor vehicle; and

(3) The trust's security interest in the leased motor vehicle is at least as protective of the trust's rights as would be the case if the trust consisted of motor vehicle installment loan contracts.

V. ''Pooling and Servicing Agreement'' means the agreement or agreements among a sponsor, a servicer and the trustee establishing a trust. In the case of certificates which are denominated as debt instruments, ''Pooling and Servicing Agreement'' also includes the indenture entered into by the trustee of the trust issuing such certificates and the indenture trustee.

W. ''Rating Agency'' means Standard & Poor's Structured Rating Group, Moody's Investors Service, Inc., Duff & Phelps Credit Rating Co., or Fitch IBCA, Inc., or their successors.

X. ''Capitalized Interest Account'' means a trust account: (i) which is established to compensate certificateholders for shortfalls, if any, between investment earnings on the pre-funding account and the pass-through rate payable under the certificates; and (ii) which meets the requirements of clause (c) of subsection III.B.(3).

Y. ''Closing Date'' means the date the trust is formed, the certificates are first issued and the trust's assets (other than those additional obligations which are to be funded from the pre-funding account pursuant to subsection II.A.(7)) are transferred to the trust.

Z. ''Pre-Funding Account'' means a trust account: (i) which is established to purchase additional obligations, which obligations meet the conditions set forth in clauses (a)–(g) of subsection II.A.(7); and (ii) which meets the requirements of clause (c) of subsection III.B.(3).

AA. ''Pre-Funding Limit'' means a percentage or ratio of the amount allocated to the pre-funding account, as compared to the total principal amount of the certificates being offered which is less than or equal to 25 percent.

BB. ''Pre-Funding Period'' means the period commencing on the closing date and ending no later than the earliest to occur of: (i) the date the amount on deposit in the pre-funding account is less than the minimum dollar amount specified in the pooling and servicing agreement; (ii) the date on which an event of default occurs under the pooling and servicing agreement; or (iii) the date which is the later of three months or 90 days after the closing date.

CC. ''FTNC'' means First Tennessee National Corporation, a Tennessee corporation, and its affiliates.

The Department notes that this exemption is included within the meaning of the term ''Underwriter Exemption'' as it is defined in section V(h) of Prohibited Transaction Exemption 95–60 (60 FR 35925, July 12, 1995), the Class Exemption for Certain Transactions Involving Insurance Company General Accounts (see 60 FR at 35932).

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to notice of proposed exemption published on July 7, 2000 at 65 FR 42259.

FOR FURTHER INFORMATION CONTACT: Mr. J. Martin Jara of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

Pension Plan for Employees of Southco, Inc. (the Pension Plan); and Southco, Inc. Employee Stock Ownership Plan (the ESOP; collectively, the Plans) Located in Concordville, Pennsylvania

[Prohibited Transaction Exemption 2000–42; Exemption Application Nos. D–10539 and D–10540]

Exemption

The restrictions of sections 406(a), 406(b)(1) and (b)(2), and 407(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to (1) the proposed purchase and holding by the Pension Plan of common stock (the Company Stock) issued by South Chester Tube Company (the Company), an affiliate of Southco Inc. (the Employer), from the ESOP or the Employer; and (2) the acquisition, holding, and exercise of an irrevocable put option (the Put Option) permitting the Pension Plan to sell the Company Stock back to the Employer for cash in an amount that is the greater of either (i) the fair market value of the Company Stock at the time of the transaction (as established by a qualified, independent appraiser), or (ii) the Pension Plan's original acquisition cost for the Company Stock.

This exemption is subject to the following conditions:

(a) Immediately after acquisition by the Pension Plan, the aggregate fair market value of the Company Stock does not exceed 7.5% of the total assets of the Pension Plan;

(b) A qualified, independent fiduciary representing the Pension Plan expressly approves each acquisition of the Company Stock, based upon a determination that such acquisition is in the best interests of, and appropriate for, the Pension Plan;

(c) The independent fiduciary monitors the Pension Plan's holding of the Company Stock and takes whatever action necessary to protect the Pension Plan's rights, including, but not limited

to, the exercising of the Put Option, if appropriate;

(d) The Pension Plan pays a price that is no greater than the fair market value of the Company Stock at the time of the transaction (as established by a qualified, independent appraiser);

(e) In any sale of the Company Stock by the ESOP to the Pension Plan, the ESOP receives a price that is no less than the fair market value of the Company Stock at the time of the transaction (as established by a qualified, independent appraiser);

(f) The Pension Plan pays no commissions nor other fees in connection with the purchase or sale of the Company Stock;

(g) Each purchase or sale of the Company Stock by the Pension Plan is a one-time transaction for cash;

(h) The Employer's obligations under the Put Option are secured by an escrow account at an independent financial institution and containing cash or U.S. government securities worth at least 25 percent of the fair market value of the Company Stock held by the Pension Plan;

(i) The purchase of the Company Stock by the Pension Plan is not part of an arrangement to benefit the Employer pursuant to the Employer's obligation to redeem shares of the Company Stock from the participants of the ESOP; and

(j) All sales of the Company Stock by the ESOP to the Employer meet the requirements of section 408(e) of the Act and the regulation thereunder (see 29 CFR § 2550.408(e)).

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published on June 26, 2000 at 65 FR 39432.

FOR FURTHER INFORMATION CONTACT: Ms. Karin Weng of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

Robert P. Yoo MD, PC Profit Sharing Plan (the Plan) Located in Hyannis, Massachusetts

[Prohibited Transaction Exemption No. 2000–43; Application No. D–10842]

Exemption

The restrictions of sections 406(a), 406(b)(1), and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the sale (the Sale) by the Plan of a parcel of unimproved real property (the Property) to Robert P. Yoo, M.D. (Dr. Yoo), a party in interest with respect to the Plan, provided that the following conditions are satisfied:

(1) All terms and conditions of the Sale are at least as favorable to the Plan as those which the Plan could obtain in an arm's-length transaction with an unrelated party;

(2) The Sales price is the greater of $113,263 or the fair market value of the Property as of the date of the Sale;

(3) The fair market value of the Property has been determined by an independent, qualified appraiser;

(4) The Sale is a one-time transaction for cash; and

(5) The Plan does not pay any commissions, costs or other expenses in connection with the Sale.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the Notice of Proposed Exemption published on June 26, 2000 at 65 FR 39434.

FOR FURTHER INFORMATION CONTACT: Khalif Ford of the Department, telephone (202) 219–8883 (this is not a toll-free number).

United Food and Commercial Workers Union Local 789 and St. Paul Food Employers Health Care Plan (the Plan) Located in Bloomington, Minnesota

[Prohibited Transaction Exemption 2000–44; Exemption Application No. L–10872]

Exemption

The restrictions of section 406(a) of the Act shall not apply to the purchase of prescription drugs, at discount prices, by Plan participants and beneficiaries, from Rainbow Pharmacies and Rainbow Foods Group, Inc.(collectively, referred to as Rainbow), parties in interest with respect to the Plan, provided the following conditions are satisfied: (a) The terms of the transaction are at least as favorable to the Plan as those the Plan could obtain in a similar transaction with an unrelated party; (b) any decision by the Plan to enter into agreements governing the subject purchases will be made by Plan fiduciaries independent of Rainbow; (c) at least 50% of the preferred providers participating in the Preferred Pharmacy Network which will be selling prescription drugs to the Plan's participants and beneficiaries will be unrelated to Rainbow; (d) Rainbow will provide prescription drugs to eligible persons under the identical conditions and for the identical amounts as under the Snyder Drug Stores, Inc. and SuperValue Pharmacies, Inc. Agreements; and (e) the transaction is not part of an agreement, arrangement or understanding designed to benefit a party in interest.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published on June 26, 2000 at 65 FR 39440.

FOR FURTHER INFORMATION CONTACT: Mr. J. Martin Jara of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions to which the exemptions does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transactional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, D.C., this 16th day of August, 2000.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, Department of Labor.

[FR Doc. 00–21274 Filed 8–21–00; 8:45 am]

BILLING CODE 4510–29–P

OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy

Proposed Rescission of OMB Circular A–109, Major System Acquisitions

AGENCY: Office of Management and Budget, Office of Federal Procurement Policy.

ACTION: Proposed rescission of OMB Circular A–109, Major System Acquisitions.

SUMMARY: The Office of Management and Budget (OMB) issued Circular A–109, ''Major System Acquisitions,'' in 1976 to provide uniform guidance to the Executive Branch agencies on the acquisition of major systems. Since then, OMB has provided guidance on asset acquisition under Part 3 of Circular A–11, Planning, Budgeting, and Acquisition of Capital Assets, the Capital Programming Guide, Supplement to Part 3 of A–11, and Circular A–130, Management of Federal Information Resources. In an effort to eliminate duplicate guidance, OMB requests comments on the proposed rescission of Circular A–109.

DATES: Persons who wish to comment on the proposed rescission should submit their comments no later than October 31, 2000.

ADDRESSES: Comments should be addressed to Yvette Garner, Office of Federal Procurement Policy, Room 9013 New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Yvette Garner, Office of Federal Procurement Policy, 202–395–7187. Only hard copies of OMB Circular A–109 are available and can be obtained from Yvette Garner. Copies of Part 3 of OMB Circular A–11, the Capital Programming Guide, and OMB Circular A–130 can be obtained from the OMB website, http://www.whitehouse.gov/OMB.

SUPPLEMENTARY INFORMATION: The Federal Government has been working to manage better the planning, budgeting, and acquisition of capital assets. The National Performance Review in 1993 and various legislation have heightened the importance to agencies and to Congress that the Government must improve its performance in this area. The Clinger Cohen Act of 1996 also provided guidance to executive agencies to establish effective and efficient capital planning processes for selecting, managing, and evaluating the results of all of its major investments in information systems.

OMB issued Circular A–109, ''Major System Acquisitions,'' in 1976 to the Heads of Executive Departments and Establishments. In recent years, OMB has issued additional, separate guidance on asset acquisition. OMB guidance under Part 3 of Circular A–11 provides information on planning, budgeting, and acquisition of capital assets. The Capital Programming Guide, Supplement to Part 3 of Circular A–11, also provides professionals in the Federal Government a basic reference to principles and techniques for planning, budgeting, acquisition, and management of capital assets. Circular A–130 establishes uniform government-wide information resources management policies as required by the Paperwork Reduction Act of 1980, as amended by the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

In an effort to eliminate duplication of OMB guidance, OMB proposes to rescind Circular A–109, and continue to update Circular A–11 and Circular A–130 with current guidance on planning, budgeting, and acquisition of capital assets. OFPP requests comments on this proposed rescission.

Kenneth J. Oscar,

Deputy Administrator (Acting).

[FR Doc. 00–21312 Filed 8–21–00; 8:45 am]

BILLING CODE 3110–01–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice.

SUMMARY: NARA is giving public notice that the agency has submitted to OMB for approval the information collection described in this notice. The public is invited to comment on the proposed information collection pursuant to the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted to OMB at the address below on or before September 21, 2000 to be assured of consideration.

ADDRESSES: Comments should be sent to: Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: Mr. Jonathon Womer, Desk Officer for NARA, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the proposed information collection and supporting statement should be directed to Tamee Fechhelm at telephone number 301–713–6730 or fax number 301–713–6913.

SUPPLEMENTARY INFORMATION: Pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13), NARA invites the general public and other Federal agencies to comment on proposed information collections. NARA published a notice of proposed collection for this information collection on May 30, 2000 (65 FR 34503). No comments were received. NARA has submitted the described information collection to OMB for approval.

In response to this notice, comments and suggestions should address one or more of the following points: (a) whether the proposed information collection is necessary for the proper performance of the functions of NARA; (b) the accuracy of NARA's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of information technology. In this notice, NARA is soliciting comments concerning the following information collection:

Title: Applicant Background Survey.

OMB number: 3095–NEW.

Agency form number: NA Form 3035.

Type of review: Regular.

Affected public: Applicants for NARA jobs.

Estimated number of respondents: 16,600.

Estimated time per response: 5 minutes.

Frequency of response: On occasion (when applicant wishes to apply for a job at NARA).

Estimated total annual burden hours: 1,383 hours.

Abstract: NARA is below parity with the relevant Civilian Labor Force representation for many of our mission critical occupations, and has developed a 10 year Strategic Plan to improve representation and be more responsive to the changing demographics of the country. The only way to determine if there are barriers in the recruitment and selection process is to track the groups that apply and the groups at each stage of the selection process. There is no other objective way to make these determinations and no source of this information other than directly from applicants.

The information is not provided to selecting officials and plays no part in the selection of individuals. Instead, it is used in summary form to determine

trends over many selections within a given occupation or organizational area. The information is treated in a very confidential manner. No information from this form is entered into the Personnel File of the individual selected, and the records of those not selected are destroyed after the conclusion of the selection process.

The format of the questions on ethnicity and race are compliant with the new OMB requirements and are identical to those used in the year 2000 census. This form is a simplification and update of a similar OPM applicant background survey used by NARA for many years.

This form is used to obtain source of recruitment, ethnicity, race, and disability data on job applicants to determine if the recruitment is effectively reaching all aspects of the relevant labor pool and to determine if there are proportionate acceptance rates at various stages of the recruitment process. Response is optional. The information is used for evaluating recruitment only, and plays no part in the selection of who is hired.

Dated: August 16, 2000.

L. Reynolds Cahoon,

Assistant Archivist for Human Resources and Information Services.

[FR Doc. 00–21316 Filed 8–21–00; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Once approved by NARA, records schedules provide mandatory instructions on what happens to records when no longer needed for current Government business. They authorize the preservation of records of continuing value in the National Archives of the United States and the destruction, after a specified period, of records lacking administrative, legal, research, or other value. Notice is published for records schedules in which agencies propose to destroy records not previously authorized for disposal or reduce the retention period of records already authorized for disposal. NARA invites public comments on such records schedules, as required by 44 U.S.C. 3303a(a).

DATES: Requests for copies must be received in writing on or before October 6, 2000. Once the appraisal of the records is completed, NARA will send a copy of the schedule. NARA staff usually prepare appraisal memorandums that contain additional information concerning the records covered by a proposed schedule. These, too, may be requested and will be provided once the appraisal is completed. Requesters will be given 30 days to submit comments.

ADDRESSES: To request a copy of any records schedule identified in this notice, write to the Life Cycle Management Division (NWML), National Archives and Records Administration (NARA), 8601 Adelphi Road, College Park, MD 20740–6001. Requests also may be transmitted by FAX to 301–713–6852 or by e-mail to records.mgt@arch2.nara.gov. Requesters must cite the control number, which appears in parentheses after the name of the agency which submitted the schedule, and must provide a mailing address. Those who desire appraisal reports should so indicate in their request.

FOR FURTHER INFORMATION CONTACT: Marie Allen, Director, Life Cycle Management Division (NWML), National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740–6001. Telephone: (301)713–7110. E-mail: records.mgt@arch2.nara.gov.

SUPPLEMENTARY INFORMATION: Each year Federal agencies create billions of records on paper, film, magnetic tape, and other media. To control this accumulation, agency records managers prepare schedules proposing retention periods for records and submit these schedules for NARA's approval, using the Standard Form (SF) 115, Request for Records Disposition Authority. These schedules provide for the timely transfer into the National Archives of historically valuable records and authorize the disposal of all other records after the agency no longer needs them to conduct its business. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. Most schedules, however, cover records of only one office or program or a few series of records. Many of these update previously approved schedules, and some include records proposed as permanent.

No Federal records are authorized for destruction without the approval of the Archivist of the United States. This approval is granted only after a thorough consideration of their administrative use by the agency of origin, the rights of the Government and of private persons directly affected by the Government's activities, and whether or not they have historical or other value.

Besides identifying the Federal agencies and any subdivisions requesting disposition authority, this public notice lists the organizational unit(s) accumulating the records or indicates agency-wide applicability in the case of schedules that cover records that may be accumulated throughout an agency. This notice provides the control number assigned to each schedule, the total number of schedule items, and the number of temporary items (the records proposed for destruction). It also includes a brief description of the temporary records. The records schedule itself contains a full description of the records at the file unit level as well as their disposition. If NARA staff has prepared an appraisal memorandum for the schedule, it too includes information about the records. Further information about the disposition process is available on request.

Schedules Pending

1. Department of the Army, U.S. Army Research, Development and Engineering Center (N1–AU–00–29, 1 item, 1 temporary item). Master file of the Acquisition Information Management and Report System, an electronic information system used to collect and track information concerning contracts, contractors, and customers.

2. Department of the Army, U.S. Army Research, Development, and Engineering Center (N1–AU–00–32, 2 items, 2 temporary items). Master file and outputs of the Ammunition Accountability System, an electronic information system used to provide an audit trail of ammunition used for research and development. The system includes information on the classification, type, and price of ammunition.

3. Department of Commerce, Bureau of the Census (N1–29–00–3, 2 items, 2 temporary items). Records pertaining to the Transportation Truck Inventory and Use Survey (TIUS) of 1977 and the Commodity Transportation Survey of 1977, including questionnaire forms and computer printouts of information. The electronic aggregated data files from TIUS were previously approved for permanent retention.

4. Department of Commerce, Office of Inspector General (N1–40–00–1, 3 items, 3 temporary items). Records pertaining to audits and quality reviews. Included are such records as reports, working papers, financial statements, and electronic copies of documents created using electronic mail and word processing.

5. Department of Defense, National Imagery and Mapping Agency (N1–537–00–5, 1 item, 1 temporary item). Copies of paper records maintained separately from the agency's recordkeeping system. This schedule reduces the retention period for records which were previously approved for destruction.

6. Department of Energy, Office of Inspector General (N1–434–00–1, 19 items, 16 temporary items). Records relating to audits, inspections, and investigations. Included are audit case files, inspection files relating to allegations of a non-criminal nature and inquiries involving sensitive issues, and investigative records relating to alleged violations of law, waste, fraud, and abuse. Also included are electronic copies of documents created using electronic mail and word processing. Recordkeeping copies of semiannual reports to Congress are proposed for permanent retention as are final audit and inspection reports.

7. Department of Justice, Criminal Division (N1–60–00–9, 1 item, 1 temporary item). Paper and electronic records pertaining to non-litigative correspondence requiring a response which is received by the Criminal Division and tracked by the Division's Correspondence Management Staff. Included is correspondence with Congressional committees, individual members of Congress, and the general public as well as correspondence referred by the White House. Copies of Congressional committee correspondence regarding issues of interest to the Department of Justice, legislation, and other related matters that are held by the agency's Office of Legislation and Intergovernmental Affairs and by its Executive Secretariat were previously approved for permanent retention.

8. Department of Justice, Bureau of Prisons (N1–129–97–3, 5 items, 4 temporary items). Investigative files pertaining to crimes and prohibited acts that take place at agency correctional facilities. Also included are videotapes documenting the use of force and other actions of corrections officers and electronic copies of documents created using electronic mail and word processing. Recordkeeping copies of files relating to the most serious crimes, such as murder, rioting, escapes, and hostage taking, are proposed for permanent retention.

9. Department of State, Bureau of European Affairs (N1–59–99–2, 20 items, 16 temporary items). Records of the Assistant Secretary, Deputy Assistant Secretaries, Staff Assistants, and other ''Front Office'' staff, including such records as correspondence of Deputy Assistant Secretaries, chronological files, staff assistant files, biographical files, duplicate briefing books, task force files, and correspondence tracking system records. Also included are electronic copies of documents created using electronic mail and word processing. Proposed for permanent retention are recordkeeping copies of such files as the Assistant Secretary's correspondence, daily activity reports, special historical collections, briefing books, and Bureau level working group files.

10. Department of State, Bureau of European Affairs (N1–59–99–3, 15 items, 14 temporary items). Records of the Office of the Executive Director, including subject files, ambassador absence files, chronological files, budget files, and post management officers files. Also included are electronic copies of documents created using electronic mail and word processing. Recordkeeping copies of mission program plans for each post are proposed for permanent retention.

11. Department of State, Bureau of European Affairs (N1–59–99–4, 14 items, 13 temporary items). Records of the Office of Policy and Public Affairs, including country files, subject files, press clippings, copies of press guidance, speeches, and speaker biographical files. Also included are electronic copies of documents created using electronic mail and word processing. Recordkeeping copies of speeches of the Assistant Secretary are proposed for permanent retention.

12. Department of State, Bureau of European Affairs (N1–59–99–6, 19 items, 14 temporary items). Records of the Office of European Security and Political Affairs, including subject files that do not pertain to policy matters, chronological files, duplicate copies of briefing books, biographical files, task force files, and automated correspondence tracking records. Also included are electronic copies of documents created using electronic mail and word processing. Recordkeeping copies of substantive subject files, special historical collections, briefing books, Bureau level working group records, and negotiating files are proposed for permanent retention.

13. Department of State, Bureau of European Affairs (N1–59–99–7, 18 items, 14 temporary items). Records of the Office of Eastern European Assistance, including subject files that do not pertain to policy matters, chronological files, duplicate copies of briefing books, biographical files, daily activity reports, and task force files. Also included are electronic copies of documents created using electronic mail and word processing. Recordkeeping copies of substantive subject files, special historical collections, briefing books, and Bureau level working group records are proposed for permanent retention.

14. Department of State, Bureau of European Affairs (N1–59–99–9, 18 items, 15 temporary items). Records of the Geographic Offices responsible for European countries, including subject files that do not pertain to policy matters, chronological files, duplicate copies of briefing books, biographical files, daily activity reports, and task force files. Also included are electronic copies of documents created using electronic mail and word processing. Recordkeeping copies of special historical collections, briefing books, and Bureau level working group records are proposed for permanent retention.

15. Department of the Treasury, Bureau of Public Debt (N1–53–00–1, 4 items, 4 temporary items). Records relating to the reinvestment of maturing Treasury securities. Included are forms used to request reinvestments, responses to investors whose requests could not be processed, and electronic copies of documents created using electronic mail and word processing.

16. Bonneville Power Administration, Information Services (N1–305–99–1, 8 items, 8 temporary items). Records relating to the agency's Y2K program. Included are such records as system verification forms, correspondence, reports, presentations, and electronic copies of documents created using electronic mail and word processing.

Dated: August 15, 2000.

Michael J. Kurtz,

Assistant Archivist for Record Services—Washington, DC.

[FR Doc. 00–21258 Filed 8–21–00; 8:45 am]

BILLING CODE 7515–01–U

NUCLEAR REGULATORY COMMISSION

Sunshine Act Meeting

DATES: Weeks of August 21, 28, September 4, 11, 18, and 25, 2000.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of August 21

Monday, August 21

1 p.m.
Affirmation Session (Public Meeting)
a: Hydro Resources, Inc. Motion for Partial Reconsideration of CLI–00–08

1:05 p.m.
Discussion of Intragovernmental Issues (Closed—Ex. 4 and 9)

Week of August 28—Tentative

There are no meetings scheduled for the Week of August 28.

Week of September 4—Tentative

There are no meetings scheduled for the Week of September 4.

Week of September 11—Tentative

There are no meetings scheduled for the Week of September 11.

Week of September 18—Tentative

There are no meetings scheduled for the Week of September 18.

Week of September 25—Tentative

Friday, September 29

9:25 a.m.
Affirmation Session (Public Meeting) (If needed)

9:30 a.m.
Briefing on Risk-Informing Special Treatment Requirements (Public Meeting)

1:30 p.m.
Briefing on Threat Environment Assessment (Closed—Ex. 1)

Note: The schedule for Commission meetings is subject to change on short notice. To verify the status of meeting call (recording)—(301) 415–1292. Contact person for more information: Bill Hill (301) 415–1661.

The NRC Commission Meeting Schedule can be found on the Internet at: http://www.nrc.gov/SECY/smj/schedule.htm

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to it, please contact the Office of the Secretary, Attn: Operations Branch, Washington, D.C. 20555 (301–415–1661). In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to wmh@nrc.gov or dkw@nrc.gov.

Dated: August 18, 2000.

William M. Hill, Jr.,

SECY Tracking Officer, Office of the Secretary.

[FR Doc. 00–21535 Filed 8–18–00; 2:14 pm]

BILLING CODE 7590–01–M

POSTAL SERVICE BOARD OF GOVERNORS

Sunshine Act Meeting

TIMES AND DATES: 9:00 a.m., Monday, August 28, 2000; 8:30 a.m., Tuesday, August 29, 2000.

PLACE: Washington, DC, at U.S. Postal Service Headquarters, 475 L'Enfant Plaza, SW., in the Benjamin Franklin Room.

STATUS: August 28 (Closed); August 29 (Open).

MATTERS TO BE CONSIDERED:

Monday, August 28—9:00 a.m. (Closed)

1. Strategic Alliance.
2. Financial Performance.
3. Office of the Inspector General FY 2001 Budget.
4. International Mail Rates.
5. Fiscal Year 2001 Annual Performance Plan—Government Performance and Results Act.
6. International Funds Transfer Services.
7. EEO Settlement Authority.
8. Personnel Matters.
9. Compensation Issues.

Tuesday, August 29—8:30 a.m. (Open)

1. Minutes of the Previous Meeting, August 7–8, 2000.
2. Remarks of the Postmaster General/Chief Executive Officer.
3. Postal Rate Commission FY 2001 Budget.
4. Capital Investments.
   a. Delivery Operations Information System (DOIS).
   b. 359 Automatic Flats Feeder and Optical Character Reader for Flats Sorter Machines 1000s.
   c. Santa Monica, California, Advance Site Acquisition and Design.
   d. San Francisco, California, Airport Mail Center Expansion.
5. Tentative Agenda for the October 2–3, 2000, meeting in San Diego, California.

CONTACT PERSON FOR MORE INFORMATION: David G. Hunter, Secretary of the Board, U.S. Postal Service, 475 L'Enfant Plaza, SW., Washington, DC 20260–1000. Telephone (202) 268–4800.

David G. Hunter,

Secretary.

[FR Doc. 00–21449 Filed 8–17–00; 4:51 pm]

BILLING CODE 7710–12–M

SOCIAL SECURITY ADMINISTRATION

Agency Information Collection Activities: Proposed Request and Comment Request

In compliance with Public Law 104–13, the Paperwork Reduction Act of 1995, SSA is providing notice of its information collections that require submission to the Office of Management and Budget (OMB). SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility and clarity; and on ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology.

I. The information collections listed below will be submitted to OMB within 60 days from the date of this notice. Therefore, comments and recommendations regarding the information collections would be most useful if received by the Agency within 60 days from the date of this publication. Comments should be directed to the SSA Reports Clearance Officer at the address listed at the end of this publication. You can obtain a copy of the collection instruments by calling the SSA Reports Clearance Officer on (410) 965–4145, or by writing to him at the address listed at the end of this publication.

1. *Representative Payee Report-Special Veterans Benefits—0960–0621.*

The information collected on form SSA–2001 is used to determine whether payments certified to the representative payee have been used properly and whether the representative payee continues to demonstrate strong concern for the beneficiary's best interests. The form will be completed annually by all representative payees receiving special veterans benefits (SVB) payments on behalf of beneficiaries outside the United States. It will also be required at anytime SSA has reason to believe that the representative payee could be misusing the payments. Respondents are representative payees of veterans receiving SVB Payments under title VIII.

Number of Respondents: 200.

Frequency of Response: 1.

Average Burden Per Response: 10 minutes.

Estimated Annual Burden: 33 hours.

Background Information: In November 1999, Congress passed the Foster Care Independence Act, and on December 14, 1999, the President signed it into law (Pub. L. 106–169). An important part of this legislation, section 251, creates a new title VIII of the Social Security Act. Title VIII

provides for a program of special benefits for certain World War II veterans.

As a part of the title VIII administration, Section 807(a) of P.L. 106–169, also provides that, if the Social Security Administration determines that it is not in the best interest of the beneficiary to receive benefits directly, payments may be certified to a relative, another person or an organization interested in or concerned about the welfare of the beneficiary. These individuals or organizations are called representative payees.

2. *Annual Earning Test—Direct Mail Follow-up Program Notices—0960–0369.* In 1997, as part of the initiative to reinvent government, SSA began to use the information reported on W–2's and self-employment tax returns to adjust benefits under the earnings test rather than have beneficiaries make a separate report, which often showed the same information. As a result, Beneficiaries under full retirement age (FRA) complete forms SSA–L9778–SM–SUP, SSA–L9779–SM–SUP and SSA–L9781–SM under this information collection.

With the passage of the ''Senior Citizen'' Freedom to Work Act of 2000 the annual earnings test (AET) at FRA was eliminated. As a result SSA designed 2 new Midyear Mailer Forms SSA–L9784–SM and SSA–L9785–SM to request an earnings estimate (in the year of FRA) for the period prior to the month of FRA. Social Security benefits may be adjusted based on the information provided and this information is needed to comply with the law. Consequently, the Midyear Mailer program has become an even more important tool in helping SSA to ensure that Social Security payments are correct. Respondents are beneficiaries who must update their current year estimate of earnings, give SSA an estimate of earnings for the following year and an earnings estimate (in the year of FRA) for the period prior to the month of FRA.

Number of Respondents: 225,000.

Frequency of Response: 1.

Average Burden Per Response: 10 minutes.

Estimated Annual Burden: 37,500 hours.

3. *Student Statement Regarding School Attendance—0960–0105.* The information collected on Form SSA–1372 is needed to determine whether children of an insured worker are eligible for benefits as a student. The respondents are student claimants for Social Security benefits and their respective schools.

Number of respondents: 200,000.

Number of Response: 1.

Average burden per response: 10 minutes.

Estimated Annual Burden: 33,333 hours.

II. The information collections listed below have been submitted to OMB for clearance. Written comments and recommendations on the information collections would be most useful if received within 30 days from the date of this publication. Comments should be directed to the SSA Reports Clearance Officer and the OMB Desk Officer at the addresses listed at the end of this publication. You can obtain a copy of the OMB clearance packages by calling the SSA Reports Clearance Officer on (410) 965–4145, or by writing to him.

1. *Subpart T—State Supplementation Provisions; Agreement; Payments, 20 CFR 416.2099—0960–0240.* Section 1618 of the Social Security Act contains pass-along provisions of the Social Security amendments. These provisions require States that supplement the Federal SSI benefits pass along Federal cost-of-living increases to individuals who are eligible for State supplementary payments. If a State fails to keep payments at the required level, it becomes ineligible for Medicaid reimbursement under title XIX of the Social Security Act. Regulation at 20 CFR 416.2099 requires the States to report mandatory minimum and optional supplementary payment data to SSA. The information is used to determine compliance with the law and regulations. The respondents are States that supplement Federal SSI payments.

Number of respondents: 26.

Number of Responses: 15 states report quarterly, 11 states report annually.

Average burden per response: 1 hour.

Estimated Annual Burden: 71 hours.

2. *Application for Search of Census Records for Proof of Age—0960–0097.* The information collected on Form SSA–1535–U3 is required to provide the Census Bureau with sufficient identifying information, which will allow an accurate search of census records to establish proof of age for an individual applying for Social Security Benefits. It is used for individuals who must establish age as a factor of entitlement. The respondents are individuals applying for Social Security Benefits.

Number of respondents: 18,000.

Number of Response: 1.

Average burden per response: 12 minutes.

Estimated Annual Burden: 3,600.

(SSA Address) Social Security Administration, DCFAM, Attn: Frederick W. Brickenkamp, 1–A–21 Operations Bldg., 6401 Security Blvd., Baltimore, MD 21235

(OMB Address) Office of Management and Budget, OIRA, Attn: Desk Officer for SSA, New Executive Office Building, Room 10230, 725 17th St., NW., Washington, DC 20503

Dated: August 16, 2000.

Nicholas E. Tagliareni,

Director, Center for Publications Management, Social Security Administration.

[FR Doc. 00–21323 Filed 8–21–00; 8:45 am]

BILLING CODE 4190–29–U

SOCIAL SECURITY ADMINISTRATION

Public Workshop: Identity Theft Prevention

AGENCY: Social Security Administration (SSA) Office of the Inspector General (OIG).

ACTION: Initial Notice Requesting Public Comment and Announcing Public Workshop.

SUMMARY: The Social Security Administration (SSA), Office of the Inspector General (OIG), will hold a public workshop to identify relevant issues and examine potential solutions to prevent identity theft. This notice seeks public comments to inform the discussion that will take place at the workshop.

DATES: October 25, 2000, 9 a.m. to 4 p.m. Written comments and requests to participate as panelist in the workshop must be submitted on or before September 21, 2000.

ADDRESSES: The Identity Theft Workshop will be held in Washington, D.C., at the Department of Health and Human Services Cohen Building, 330 Independence Ave., S.W., Washington, D.C. 20201.

SUBMISSION OF DOCUMENTS: Comments should be captioned ''Identity Theft Prevention Workshop.'' Comments may be submitted in writing or on diskette in Microsoft Word (please specify version). Mail written comments to Judy Ringle, Social Security Administration, Office of the Inspector General, Office of the Counsel to the Inspector General, 300 Altmeyer Building, 6401 Security Boulevard, Baltimore, MD 21235. As an alternative to paper submissions, comments may be sent through electronic mail, in Microsoft Word format, to: *judy.ringle@ssa.gov*.

FOR FURTHER INFORMATION CONTACT: Judy Ringle, Attorney, Office of the Inspector General, Office of the Counsel to the Inspector General, Social Security Administration, 300 Altmeyer Building, 6401 Security Boulevard, Baltimore, MD 21235–6401, (410) 966–6906. For information on eligibility, claiming

benefits, or coverage of earnings, call our national toll-free number, 1–800–772–1213 or TTY 1–800–325–0778.

SUPPLEMENTARY INFORMATION:

Type of Meeting: This meeting is open to the public.

Purpose: The purpose of this meeting is to identify the means to prevent identity theft in governmental and private transactions. Identity theft is on the rise. The illegal use of Social Security numbers (SSNs) and other means of identification by individuals who seek to profit from the illegal use of another's identification has increased exponentially in recent years. In Fiscal Year 1999 alone, the SSA OIG Fraud Hotline received approximately 62,000 allegations involving SSN misuse. Specifically, 32,000 allegations had SSN misuse implications involving SSA programs and an additional 30,000 allegations represented SSN misuse with no direct program implications. These are very concerning statistics.

It is imperative that SSNs remain secure with the individual SSN holder. However, the proliferate use of the SSN as an identifier not only by private entities and corporations, but also by medical providers and government entities, reduces the security of SSNs and increases the likelihood of illegal SSN use for purposes of committing identity theft. The expansion and popularity of the Internet to effect commercial transactions has increased the opportunities to commit crimes involving identity theft. At the same time, the expansion and popularity of the Internet to post official information for the benefit of citizens and customers has increased opportunities to obtain SSNs for illegal purposes.

While accurate means of identification are a necessity for commercial and private entities, medical providers and governmental entities, as well as individuals, when such means of identification are subject to misuse and fraud, it is of little use to those who need it most.

How to decrease the opportunity for disclosure and misuse of SSNs will be the subject of this workshop. The competing interests of individuals, concerned with irresponsible SSN disclosure and criminal SSN misuse, must be balanced against the legitimate needs of medical providers, law enforcement and other governmental entities, and commercial establishments to maintain clearly identifiable records.

To inform the SSA OIG prior to the workshop, we are seeking views on this subject from industry representatives, consumer representatives, the academic community, and the larger public from the United States and other countries, including views on the elements of fair and effective methods of victim assistance and remediation. Views are welcome on any aspect of this subject.

Dated: August 10, 2000.

James G. Huse, Jr.,

Inspector General of Social Security.

[FR Doc. 00–21322 Filed 8–21–00; 8:45 am]

BILLING CODE 4191–02–P

SOCIAL SECURITY ADMINISTRATION

Privacy Act of 1974 as amended; Computer Matching Program (SSA/Texas Workers Compensation Commission) Match Number 1092

AGENCY: Social Security Administration (SSA).

ACTION: Notice of computer matching program.

SUMMARY: In accordance with the provisions of the Privacy Act, as amended, this notice announces a computer matching program that SSA plans to conduct with Texas Workers Compensation Commission.

DATES: SSA will file a report of the subject matching program with the Committee on Governmental Affairs of the Senate, the Committee on Government Reform and Oversight of the House of Representatives, and the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB). The matching program will be effective as indicated below.

ADDRESSES: Interested parties may comment on this notice by either telefax to (410) 966–2935 or writing to the Associate Commissioner, Office of Program Support, 2–Q–16 Operations Building, 6401 Security Boulevard, Baltimore, MD 21235–6401. All comments received will be available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT: The Associate Commissioner for Program Support as shown above.

SUPPLEMENTARY INFORMATION:

A. General

The Computer Matching and Privacy Protection Act of 1988 (Public Law (Pub. L.) 100–503), amended the Privacy Act (5 U.S.C. 552a) by describing the manner in which computer matching involving Federal agencies could be performed and adding certain protections for individuals applying for and receiving Federal benefits. Section 7201 of the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101–508) further amended the Privacy Act regarding protections for such individuals. The Privacy Act, as amended, regulates the use of computer matching by Federal agencies when records in a system of records are matched with other Federal, State, or local government records.

It requires Federal agencies involved in computer matching programs to:

(1) Negotiate written agreements with the other agency or agencies participating in the matching programs;

(2) Obtain the Data Integrity Boards' approval of the match agreements;

(3) Furnish detailed reports about matching programs to Congress and OMB;

(4) Notify applicants and beneficiaries that their records are subject to matching; and

(5) Verify match findings before reducing, suspending, terminating, or denying an individual's benefits or payments.

B. SSA Computer Matches Subject to the Privacy Act

We have taken action to ensure that all of SSA's computer matching programs comply with the requirements of the Privacy Act, as amended.

Dated: August 16, 2000.

Susan M. Daniels,

Deputy Commissioner for Disability and Income Security Programs.

Notice of Computer Matching Program, Texas Workers Compensation Commission (TWCC) With the Social Security Administration (SSA)

A. Participating Agencies

SSA and Texas Workers Compensation Commission (TWCC)

B. Purpose of the Matching Program

The purpose of this pilot matching program is to identify Title II and/or Title XVI recipients who are receiving workers compensation benefits. This pilot will facilitate the identification of changes in workers compensation benefits and status, thereby ensuring efficient and accurate processing of entitlement and post eligibility workloads.

C. Authority for Conducting Matching Program

Section 205(a) and 1631 (e)(1)(B) of the Social Security Act.

D. Categories of Records and Individuals Covered by the Matching Program

On the basis of certain identifying information, TWCC will provide SSA with electronic files containing workers compensation records.

SSA will then match the TWCC data with beneficiary information

maintained in the Master Beneficiary Record, Supplemental Security Income Record, and the Master Files of Social Security Number Holders and SSN Applications.

E. Inclusive Dates of the Match

The matching program shall become effective no sooner than 40 days after notice for the program is sent to Congress and OMB, or 30 days after publication of this notice in the **Federal Register**, whichever date is later. The matching program will continue for 18 months from the effective date and may be extended for an additional 12 months thereafter, if certain conditions are met.

[FR Doc. 00–21324 Filed 8–21–00; 8:45 am]

BILLING CODE 4191–02–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

[USCG 2000–7693]

Guidelines for Assessing Merchant Mariners Through Demonstrations of Proficiency as Officers in Charge of Navigational Watches on Ships of 500 Gross Tonnage or More as Measured Under the International Tonnage Convention (ITC)

AGENCY: Coast Guard, DOT.

ACTION: Notice of availability and request for comments.

SUMMARY: The Coast Guard announces the availability of, and seeks public comments on, the national performance measures proposed here for use as guidelines when mariners demonstrate their proficiency as Officers in Charge of Navigational Watches on ships of 500 gross tonnage ITC or more. A working group of the Merchant Marine Personnel Advisory Committee (MERPAC) developed and recommended national performance measures for this proficiency. The Coast Guard has adapted the measures recommended by MERPAC.

DATES: Comments and related material must reach the Docket Management Facility on or before October 23, 2000.

ADDRESSES: Please identify your comments and related material by the docket number of this rulemaking [USCG 2000–7693]. Then, to make sure they enter the docket just once, submit them by just one of the following means:

(1) By mail to the Docket Management Facility, U.S. Department of Transportation, room PL–401, 400 Seventh Street SW., Washington, DC 20590–0001.

(2) By 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 Notice. Comments and related material received from the public, as well as documents mentioned in this Notice, 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.

The measures proposed here are also available from Mr. Mark Gould or Mr. Gerald Miante, Maritime Personnel Qualifications Division, Office of Operating and Environmental Standards, Commandant (G–MSO–1), U.S. Coast Guard Headquarters, telephone 202–267–0229.

FOR FURTHER INFORMATION CONTACT: For questions on this Notice or on the national performance measures proposed here, write or call Mr. Gould or Mr. Miante where indicated under **ADDRESSES.** For questions on viewing or submitting material to the docket, call Ms. Dorothy Beard, Chief, Dockets, Department of Transportation, telephone 202–366–9329.

SUPPLEMENTARY INFORMATION:

What Action is the Coast Guard Taking?

Table A–II/1 of the Code accompanying the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW), 1978, as amended in 1995, articulates qualifications for ensuring merchant mariners' attaining the minimum standard of competence through demonstrations of their proficiency as Officers in Charge of Navigational Watches on ships of 500 gross tonnage ITC or more. The Coast Guard tasked MERPAC with referring to the Table, modifying and specifying it as it deemed necessary, and recommending national performance measures. The Coast Guard has adapted the measures recommended by MERPAC and is proposing them here for use as guidelines for assessing that proficiency. Next we set forth the Five Skills by which a mariner must demonstrate that proficiency and we give an example of a Performance Condition, a Performance Behavior, and three Performance Standards for one of the skills.

Five Skills: Plan and conduct a passage and determine position; Maintain a safe navigational watch; Use radar and ARPA to maintain the safety of navigation; Transmit and receive information by visual signaling; and Maneuver the ship.

The Performance Condition for the skill entitled, ''Plan and conduct a passage and determine position'' is: On a ship or in a navigational laboratory, given notices to mariners and uncorrected charts and publications.

The Performance Behavior for the same skill is: The candidate will correct five charts and three publications, including the *Light List* or the *List of Lights*.

The Performance Standards for the same skill are: Charts and publications needing correction are identified; Corrections are correctly made to the affected charts and publications; and All corrections to charts are recorded on the chart, and in the chart-correction record or on the chart-correction spreadsheet, and all corrections to publications are recorded on the correction page of the publication and on either the publication-correction card or the publication-correction spreadsheet.

If the mariner properly meets all of the Performance Standards, he or she passes the practical demonstration. If he or she fails to properly carry out any of the Performance Standards, he or she fails it.

Why Is the Coast Guard Taking This Action?

The Coast Guard is taking this action to comply with STCW, as amended in 1995 and incorporated into domestic law at 46 CFR Parts 10, 12, and 15 in 1997. Guidance from the International Maritime Organization on shipboard assessments of proficiency suggests that Parties develop standards and measures of performance for practical tests as part of their programs for training and assessing seafarers.

How May I Participate in This Action?

You may participate in this action by submitting comments and related material on the national performance measures proposed here. (Although the Coast Guard does not seek public comment on the measures recommended by MERPAC, as distinct from the measures proposed here, those measures are available on the Internet at

the Homepage of MERPAC, http://www.uscg.mil/hq/g-m/advisory/merpac/merpac.htm.) These measures are available on the Internet at http://dms.dot.gov. They are also available from Mr. Gould or Mr. Miante where indicated under **ADDRESSES**. If you submit written comments please include—

- Your name and address;
- The docket number for this Notice [USCG 2000–7693];
- The specific section of the performance measures to which each comment applies; and
- The reason for each comment.

You may mail, deliver, fax, or electronically submit your comments and related material to the Docket Management Facility, using an address or fax number listed in **ADDRESSES**. Please do not submit the same comment or material more than once. If you mail or deliver your comments and material, they must be on 8½-by-11-inch paper, and the quality of the copy should be clear enough for copying and scanning. If you mail your comments and material and would like to know whether the Docket Management Facility received them, please enclose a stamped, self-addressed postcard or envelope. The Coast Guard will consider all comments and material received during the 60-day comment period.

Once we have considered all comments and related material, we will publish a final version of the national performance measures for use as guidelines by the general public. Individuals and institutions assessing the competence of mariners may refine the final version of these measures and develop innovative alternatives. If you vary from the final version of these measures, however, you must submit your alternative to the National Maritime Center for approval by the Coast Guard under 46 CFR 10.303(e) before you use it as part of an approved course or training program.

Dated: July 27, 2000.

Joseph J. Angelo,

Director of Standards, Marine Safety and Environmental Protection.

[FR Doc. 00–21259 Filed 8–21–00; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Proposed Advisory Circular (AC) No. 21.101–XX, Advisory Material for the Establishment of the Certification Basis of Changed Aeronautical Products

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of availability and request for comments.

SUMMARY: This notice announces the availability of and request for comments on a proposed advisory circular (AC) that provides guidance for establishing the certification basis for changed aeronautical products, including identifying the conditions under which it will be necessary to apply for a new type certificate. The FAA has issued a final rule, Type Certification Procedures for Changed Products that amends the procedural regulations for the certification of changes to type certification products. These amendments affect changes accomplished through either an amended type certificate or a supplemental type certificate. This proposed AC provides guidance for determining compliance with those amended procedural regulations for the certification of changes to transport category airplanes and restricted category airplanes that have been certified using transport category regulations.

DATES: Comments must be received on or before November 20, 2000.

ADDRESSES: Send all comments on the proposed AC to: Certification Procedures Branch, AIR–110, Aircraft Engineering Division, Aircraft Certification Service, Federal Aviation Administration, 800 Independence Ave., SW., Washington, DC 20591; telephone number: (202) 267–3777.

FOR FURTHER INFORMATION CONTACT: Madeleine Miguel, Certification Procedures Branch, AIR–110, Aircraft Engineering Division, Aircraft Certification Service, Federal Aviation Administration, 800 Independence Ave. SW., Washington, DC 20591; telephone number: (202) 267–3777, fax (202) 267–5340.

SUPPLEMENTARY INFORMATION:

Comments Invited

A copy of the draft AC may be obtained by accessing the FAA's webpage at http://www.faa.gov/avr/arm/nprm/nprm.htm. Interested parties are invited to comment on the proposed AC, and to submit such written data, views, or arguments as they desire. Commenters must identify AC 21–101–XX, Advisory Material for the Establishment of the Certification Basis of Changed Aeronautical Products, and submit comments to the address specified above. All communications received on or before the closing date for comments will be considered by the FAA before issuing the final AC.

Background

Final Rule

The FAA amended and published in the **Federal Register** on June 7, 2000 (65 FR 36244) new procedural regulations, titled ''Type Certification Procedures for Changed Products'' for the certification of changes to type certification products. This final rule was in response to a trend in the aviation industry towards fewer aviation type certification products that are of completely new design and more products with multiple changes to previously approved designs. The final rule set mandatory compliance dates of December 10, 2001, for transport category airplanes and restricted category airplanes that have been certified using transport category standards, and December 9, 2002, for all other category aircraft and engines and propellers.

The amended procedural regulations require that the starting point for determining the certification basis for an amended or supplemental type certificate be the regulations in effect at the date of the application for the change, rather than those regulations incorporated by reference in the type certificate. Exceptions are provided to permit the applicant, under certain conditions, to comply with previous amendments to those regulations.

Advisory Circular (AC)

This AC provides guidance for the applicant to comply with the amended regulations for the certification of changes to transport category airplanes and restricted category airplanes that have been certified using transport category regulations. Further guidance material related to other aeronautical products will be introduced and published as changes to the AC before the mandatory compliance dates for the amended procedural regulations become effective for those products.

On May 2, 1997, the FAA published in the **Federal Register** (62 FR 24152) a notice of availability and request for comments for a previous version of this proposed AC. The FAA determined that a new proposed AC is warranted due to the introduction of substantial changes,

particularly to Appendix 2 of the AC. Appendix 2 of the 1997 proposed AC contained a ''safety benefit-resource evaluation guide,'' recommended by the Aviation Rulemaking Advisory Committee (ARAC), as a means of compliance to the proposed rulemaking § 21.101(b)(3), Determining Whether Compliance Would Not Materially Contribute to the level of Safety of the Changed Product or Would Be Impractical. The FAA declined to include this safety benefit-resource evaluation guide in this new proposed AC. Instead, the FAA has included ''Procedure for Evaluating Impracticality of Applying Latest Regulations to a Changed Product,'' as guidance material that can be used for evaluating the safety benefit and resource impact of implementing the latest airworthiness requirements in the certification basis of a changed product. This procedure is more generic in nature. It describes the steps and necessary inputs that any applicant can use on any project to develop a position or argument to show that compliance with a regulation in effect at the date of the application for the change would be impactical.

Issued in Washington, DC, on August 15, 2000.

James C. Jones,

Manager, Aircraft Engineering Division.

[FR Doc. 00–21266 Filed 8–21–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Shorten Application Deadline for Appointment of Members to Aircraft Repair and Maintenance Advisory Committee

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Notice.

SUMMARY: This notice announces the intent of the FAA to reduce the application period from 60 days to 30 days for those persons interested in appointment to the FAA Aircraft Repair and Maintenance Advisory Committee.

DATES: Requests for appointment as a member of the committee must be submitted on or before September 5, 2000.

FOR FURTHER INFORMATION CONTACT: Russell S. Unangst, Jr., Federal Aviation Administration (AFS–300), 800 Independence Avenue, SW., Washington, DC 20591; phone (202) 267–8844; fax (202) 267–5115; e-mail *russell.unangst@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

On July 27, 2000, a notice was published in the **Federal Register**, 65FR46192, announcing the FAA's intent to establish an Aircraft Repair and Maintenance Advisory Committee. The advisory committee was mandated by the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century, Public Law 106–81, section 734. The committee will review issues related to the use and oversight of aircraft and aviation component repair and maintenance facilities located within, our outside of, the United States. The original deadline for submission of applications was September 25, 2000. However, the FAA has determined that 60 days is too long an application period considering the compelling need for the work of the committee. Accordingly, the FAA finds that it is necessary to shorten the timeframe for submission of applications.

This notice informs the public that the FAA will reduce the application period from 60 days to 30 days. Accordingly, requests for appointment should now be submitted on or before September 5, 2000.

Issued in Washington, DC, on August 14, 2000.

Angela B. Elgee,

Manager, Continuous Airworthiness Maintenance Division.

[FR Doc. 00–21263 Filed 8–21–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Passenger Facility Charge (PFC) Approvals and Disapprovals

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Monthly Notice of PFC Approvals and Disapprovals. In July 2000, there were nine applications approved. This notice also includes information on one application, approved in June 2000, inadvertently left off the June 2000 notice. Additionally, nine approved amendments to previously approved applications are listed.

SUMMARY: The FAA publishes a monthly notice, as appropriate, of PFC approvals and disapprovals under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158). This notice is published pursuant to paragraph (d) of § 158.29.

PFC Applications Approved

Public Agency: Metropolitan Nashville Airport Authority, Nashville, Tennessee.

Application Number: 00–07–C–00–BNA.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved in This Decision: $2,094,000.

Earliest Charge Effective Date: January 1, 2002.

Estimated Charge Expiration Date: April 1, 2002.

Class of Air Carriers Not Required to Collect PFC's: Part 135 air taxis.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at Nashville International Airport.

Brief Description of Project Approved for Collection and Use: Air cargo ramp.

Decision Date: June 30, 2000.

FOR FURTHER INFORMATION CONTACT: Cynthia K. Wills, Memphis Airports District Office, (901) 544–3495, ext. 16.

Public Agency: City of Greenville, Mississippi.

Application Number: 00–02–C–00–GLH

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved in This Decision: $82,292.

Earliest Charge Effective Date: August 1, 2000.

Estimated Charge Expiration Date: February 1, 2003.

Class of Air Carriers Not Required to Collect PFC's: Air taxi/commercial operators filing FAA Form 1800–31.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at Mid Delta Regional Airport

Brief Description of Projects Approved for Collection and Use:

Acquire airfield sweeepr.

Conduct airport master plan study, phase 1.

Design refurbishment of the airport access road.

Purchase 4-Kilowatt constant voltage regulator.

Conduct airport master plan, phase 2.

Rehabilitation of airport access road.

Rehabilitation of taxiway B.

Rehabilitation of security fencing.

Brief Description of Project Approved for Collection and Use: Develop a new Disadvantaged Business Enterprise program.

Determination: Disapproved. This project is not required as an administrative cost of the PFC program. Rather, it is an administrative cost of the Airport Improvement Program. Therefore, this project does not meet the eligibility requirements under the definition of allowable cost in § 158.3 or under § 158.15(b).

Decision Date: July 5, 2000.

For Further Information Contact: Patrick Vaught, Jackson Airports District Office, (601) 664–9885.

Public Agency: City of Chicago, Department of Aviation, Chicago, Illinois.

Application Number: 00–08–C–00–MDW.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved in This Decision: $20,000,000.

Earliest Charge Effective Date: January 1, 2044.

Estimated Charge Expiration Date: November 1, 2044.

Class of Air Carriers Not Required to Collect PFC's: Air taxi operators.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at Chicago Midway Airport.

Brief Description of Project Approved for Collection and Use: Residential insulation.

Decision Date: July 7, 2000.

For Further Information Contact: Philip M. Smithmeyer, Chicago Airports District Office, (847) 294–7335.

Public Agency: Hillsborough County Aviation Authority, Tampa, Florida.

Application Number: 00–04–C–00–TPA.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved in This Decision: $124,728,400.

Earliest Charge Effective Date: July 1, 2002.

Estimated Charge Expiration Date: October 1, 2007.

Class of Air Carriers Not Required to Collect PFC's: On-demand air taxi/commercial operators that (1) do not enplane or deplane passengers at Tampa International Airport's main passenger terminal buildings, or (2) enplane less than 500 passengers per year at Tampa International Airport.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at Tampa International Airport.

Brief Description of Projects Approved for Collection and Use:

Airside E development program.

Departure level expansion and modernization.

Purchase passenger loading bridges.

Taxiway J extension.

Reconstruct a portion of taxiway A.

Decision Date: July 10, 2000.

For Further Information Contact: Susan A. Moore, Orlando Airports District Office, (407) 812–6331, ext. 20.

Public Agency: City of Burlington, Vermont.

Application Number: 00–03–C–00–BTV.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved In This Decision: $1,788,581.

Earliest Charge Effective Date: February 1, 2011.

Estimated Charge Expiration Date: February 1, 2012.

Class of Air Carriers Not Required to Collect PFC's: On-demand air taxi/commercial operators that (1) do not enplane or deplane passengers at Burlington International Airport's main passenger terminal building, or (2) enplane less than 200 passengers per year at Burlington International Airport.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at Burlington International Airport.

Brief Description of Projects Approved for Collection and Use:

North end expansion baggage claim area.

PFC application costs.

Brief Description of Project Approved for Use: Air carrier apron expansion north end.

Decision Date: July 10, 2000.

For Further Information Contact: Priscilla A. Scott, New England Region Airports Division, (781) 238–7614.

Public Agency: Missoula County Airport Authority, Missoula, Montana.

Application Number: 00–03–C–00–MSO.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved In This Decision: $1,500,000.

Earliest Charge Effective Date: August 1, 2003.

Estimated Charge Expiration Date: June 1, 2006.

Classes of Air Carriers Not Required to Collect PFC's: (1) Air taxis; (2) charter carriers.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that each of the proposed classes account for less than 1 percent of the total annual enplanements at Missoula International Airport.

Brief Description of Project Approved for Collection and Use: Land acquisition.

Decision Date: July 13, 2000.

For Further Information Contact: David P. Gabbert, Helena Airports District Office, (406) 449–5271.

Public Agency: Greater Orlando Aviation Authority, Orlando, Florida.

Application Number: 00–08–C–00–MCO.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved In This Decision: $253,632,770.

Earliest Charge Effective Date: April 1, 2008.

Estimated Charge Expiration Date: February 1, 2014.

Class of Air Carriers Not Required to Collect PFC's: None.

Brief Description of Projects Approved for Collection and Use: South terminal complex, construction

Heintzelman Boulevard, southern end—construction.

Decision Date: July 19, 2000.

For Further Information Contact: Pablo G. Auffant, Orlando Aiports District Office, (407) 812–6331, ext. 30.

Public Agency: County of Kalamazoo, Kalamazoo, Michigan.

Application Number: 00–02–U–00–AZO.

Application Type: Use PFC revenue.

PFC Level: $3.00.

Total PFC Revenue To Be Used in This Decision: $659,649.

Charge Effective Date: April 1, 1997.

Charge Expiration Date: June 1, 2000.

Class of Air Carriers Not Required To Collect PFC's: No change from previous decision.

Brief Description of Projects Approved for Use:

Taxiway B rehabilitation and relocation.

Glycol capture system.

Taxiway D rehabilitation.

Perimeter road.

Taxiway A rehabilitation.

Taxiway E. rehabilitation.

Decision Date: July 21, 2000.

For Further Information Contact: Gary J. Migut, Detroit Airports District Office, (703) 487–7278.

Public Agency: Port of Port Angeles, Washington.

Application Number: 00–05–C–00–CLM.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved in This Decision: $211,683.

Earliest Charge Effective Date: November 1, 2000.

Estimated Charge Expiration Date: October 1, 2003.

Class of Air Carriers Not Required to Collect PFC's: Part 135 air taxi/commercial operators who conduct operations in air commerce carrying persons for compensation or hire, including air taxi/commercial operators offering on-demand, non-scheduled public or private charters.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual emplanements at William R. Fairchild International Airport.

Brief Description of Projects Approved for Collection and Use: Construct runway safety area (runway 08) including remove and replace medium intensity approach lighting system with runway alignment indicator lights, install guidance signage, and mark displaced threshold.

Expand terminal building.

Security fencing.

Taxiway safety area grading.

Runway 8 safety area improvements: drainage design and engineering.

Passenger lift.

Upgrade baggage handling equipment.

Airport layout plan update.

Vehicle security gate.

Brief Description of Projects Withdrawn:

Runway safety areas improvements, runway 26.

General aviation taxilanes and fencing.

Determination: These projects were withdrawn by the public agency in its letter dated April 14, 2000. Therefore, the FAA did not rule on these projects in this decision.

Decision Date: July 26, 2000.

For Further Information Contact: Suzanne Lee-Pang, Seattle Airports District Office, (425) 227–2660.

Public Agency: Monterey Peninsula Airport District, Monterey, California.

Application Number: 00–05–C–00–MRY.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved in This Decision: $82,398.

Earliest Charge Effective Date: October 1, 2000.

Estimated Charge Expiration Date: December 1, 2000.

Class of Air Carriers Not Required to Collect PFC's: Unscheduled Part 135 air taxi operators.

Determination:: Approved. Based on information contained in the public agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at Monterey Peninsula Airport.

Brief Description of Project Approved for Collection and Use:

Blast pad at holding area.

Terminal area security fence.

Terminal fire alarm and detection system.

Joint sealant at north side portland cement concrete apron and south side portland cement concrete ramp.

Southeast perimeter fence extension.

Slurry seal taxiways A and E, phases 1 and 2.

Environmental assessment for terminal road improvement program.

Pavement management program.

Electrical service to north ramp.

Brief Description of Project Withdrawn: Environmental review for runway 10L/28R extension.

Determination: This project was withdrawn by the public agency in its letter dated July 3, 2000. Therefore, the FAA did not rule on this project in this decision.

Decision Date: July 28, 2000.

FOR FURTHER INFORMATION CONTACT: Marlys Vandervelde, San Francisco Airports District Office, (650) 876–2806.

Amendments to PFC Approvals

Amendment No., City, State	Amendment approved date	Original approved net PFC revenue	Amended approved net PFC revenue	Original estimated charge exp. date	Amended estimated charge exp. date
98–02–C–01–BIS, Bismarck, ND	06/27/00	$1,461,653	$1,345,153	12/01/02	05/01/02
99–06–C–01–BNA, Nashville, TN	07/17/00	2,660,000	4,160,000	01/01/02	03/01/02
97–04–C–01–BTR, Baton Rouge, LA	07/18/00	10,157,206	19,069,316	06/01/08	08/01/16
97–04–C–01–MQT, Marquette, MI	07/18/00	672,968	741,542	11/01/02	01/01/03
99–05–C–01–MFR, Medford, OR	07/18/00	1,583,000	1,672,962	02/01/06	08/01/04
93–01–C–03–PBI, West Palm Beach, FL	07/19/00	22,689,840	16,014,840	07/01/00	07/01/96
97–03–U–01–PBI, West Palm Beach, FL	07/19/00	NA	NA	07/01/00	07/01/96
99–01–C–01–ANC, Anchorage, AK	07/20/00	15,000,000	15,000,000	04/01/03	01/01/04
99–01–C–01–FAI, Fairbanks, AK	07/20/00	5,460,000	5,460,000	03/01/06	01/01/04

Issued in Washington, DC, on August 14, 2000.

Eric Gabler,

Manager, Passenger Facility Charge Branch.

[FR Doc. 00–21265 Filed 8–21–00; 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 Will Rogers World Airport, Oklahoma City, OK

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 Will Rogers World Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and part

158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before September 21, 2000.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate copies to the FAA at the following address: Mr. G. Thomas Wade, Federal Aviation Administration, Southwest Region, Airports Division, Planning and Programming Branch, ASW–611, Fort Worth, Texas 76193–0610.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Luther E. Trent, Manager of Will Rogers World Airport at the following address: Mr. Luther E. Trent, Director of Aviation, City of Oklahoma City, 7100 Terminal Drive, Box 937, Oklahoma City, OK 73159–0937.

Air carriers and foreign air carriers may submit copies of the written comments previously provided to the Airport under Section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Mr. G. Thomas Wade, Federal Aviation Administration, Southwest Region, Airports Division, Planning and Programming Branch, ASW–611, Fort Worth, Texas 76193–0610, (817) 222–5613.

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 Will Rogers World 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 August 7, 2000 the FAA determined that the application to impose and use the revenue from a PFC submitted by the Airport 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 28, 2000.

The following is a brief overview of the application.

Level of the proposed PFC: $3.00.

Proposed charge effective date: April 1, 2001.

Proposed charge expiration date: May 1, 2019.

Total estimated PFC revenue: $115,253,750.

PFC application number: 00–03–C–00–OKC.

Brief description of proposed project(s):

Projects To Impose and Use PFC's

1. Renovate and Expand Terminal Building, Phase I and II
2. Acquire and Install Seventeen (17) Passenger Loading Bridges
3. Construct Terminal Building Baggage Make-Up System

Proposed class or classes of air carriers to be exempted from collecting PFC's: FAR Part 135 on demand air Taxi/Commercial Operator (ATCO) reporting on FAA Form 1800–31.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA regional Airports office located at: Federal Aviation Administration, Southwest Region, Airports Division, Planning and Programming Branch, ASW–610, 2601 Meacham Blvd., Fort Worth, Texas 76137–4298.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at Will Rogers World Airport.

Issued in Fort Worth, Texas on August 7, 2000.

Naomi L. Saunders,

Manager, Airports Division.

[FR Doc. 00–21264 Filed 8–21–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for Waiver of Compliance

In accordance with Part 211 of Title 49, Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) has received a request for waiver of compliance with certain requirements of the Federal railroad safety regulations. The individual petition is described below, including the party seeking relief, the regulatory and statutory provisions involved, the nature of the relief being sought and the petitioner's arguments in favor of relief.

CSX Transportation

Docket No. FRA–2000–7783

The CSX Transportation (CSXT) seeks a waiver of compliance from certain provisions of 49 CFR Part 213, the Federal Track Safety Standards. Specifically, the petitioner seeks relief from the requirements of section 213.345 (vehicle qualification testing) and sections 213.57 and 213.329 (curves, elevation and speed limitations for track classes 1 through 5 and 6 through 9, respectively) in order to conduct a one-time only series of tests and demonstrations of the RTL–III turbine-powered trainset.

The tests and demonstrations would last approximately two days and would be conducted at speeds up to 125 miles per hour and six inches of cant deficiency between Albany/Rensselaer (CP 142) and Stuyvesant (CP–124) on the Hudson Line in New York State. The petitioner does not seek to qualify the trainset for 125 mph *revenue service* at this time. CSXT owns the track over which the runs will operate. The National Railroad Passenger Corporation (Amtrak) is responsible for the track maintenance over this segment and CSXT maintains the signal system.

In its petition, CSXT advises that the RTL–III trainset is an upgraded version of the RTL–II trainset which was previously tested in 1995 under waivers H–94–3 and H–94–4 at 125 mph in the same limits as proposed in this waiver petition. After the tests and demonstrations were completed in 1995, the waivers expired. The RTL has operated in revenue service for several years at speeds up to 110 mph on the Hudson Line.

The trainset, designated RTL–III, like the RTL–II, is designed to operate at a maximum speed of 125 mph. The truck suspension is identical to that of the RTL–II and the vehicle weights are within five percent of the RTL–II weights.

Since 1995 and 1996 when the RTL–II was tested at speeds up to 125 mph and six inches of cant deficiency, FRA issued a final rule for the revision of the Federal Track Safety Standards (see 63 FR 3399, June 22, 1998). The new standards now contain requirements (Subpart G) for track classes 6 through 9 for speeds between 90 mph and 200 mph. Section 213.345(a) requires that equipment that operates in track classes 6 through 9 be qualified over the route using the safety limits for wheel/rail forces and accelerations specified in paragraph (b) under the procedures specified in paragraphs (c) through (f). In its petition, CSXT states that, in view of the limited number or runs and the previously demonstrated satisfactory performance of the RTL–II at 125 mph and six inches of cant deficiency, it is requesting relief from the requirements in Section 213.345.

CSXT is also requesting relief from the requirements of Sections 213.57 and 213.329. Specifically, the sections limit the roll angle and percent unloading of equipment which operates at higher cant deficiencies. The term cant deficiency refers to the theoretical

amount of superelevation that would have to be added to the existing superelevation in order for the forces to be balanced (same on both rails) as the train negotiates a curve. In practice, trains seldom operate at a balanced speed for the given curvature and superelevation. CSXT points out in its petition that the RTL–II has been successfully tested at curving speed producing more than 6 inches of cant deficiency and the wheel unloading was well within established limits.

CSXT states that the new track safety standards limit the roll angle when the coaches are placed on an elevated track corresponding to the amount of cant deficiency to 5.7 degrees. The standards also limit the roll angle to 8.6 degrees when the vehicle is placed on seven inches of superelevation. The measurements for the RTL coaches are 7.5 degrees and 8.8 degrees, respectively. The roll angle between the floor of a passenger-carrying vehicle's floor and the horizontal results in a limitation on the amount of ''g's'' felt by passengers in a lateral direction. However, considering the long operating history, CSXT and Amtrak believe the equipment will be acceptable for the testing and demonstration runs requested in this petition.

The CSXT petition contained a test plan prepared by Amtrak which addresses a number of safety-related items which were included in the testing back in 1995 and 1996. Each public or private highway/grade crossing not equipped with active warning devices and where the test speeds will be more than 10 mph greater than the maximum timetable speed would be flagged or barricaded.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing, if any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request. All communications concerning these proceedings should identify the appropriate docket number (*e.g.,* Waiver Petition Docket Number 2000–7783) and must be submitted to the Docket Clerk, DOT Docket Management Facility, Room PL–401 (Plaza Level), 400 7th Street, SW, Washington, DC 20590.

Communications received within 30 days of the date of this notice will be considered by ERA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9:00 a.m.–5:00 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's web site at http//dms.dot.gov.

Issued in Washington, DC, on August 16, 2000.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 00–21348 Filed 8–21–00; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on Prosthetics and Special-Disabilities Programs, Notice of Charter Renewal

This gives notice under the Federal Advisory Committee Act (Public Law 92–463) of October 6, 1972, that the Advisory Committee on Prosthetics and Special-Disabilities has been nenewed for a 2-year period beginning August 2, 2000, through August 2, 2002.

Dated: August 8, 2000.

By direction of the Acting Secretary.

Marvin R. Eason,

Committee Management Officer.

[FR Doc. 00–21310 Filed 8–21–00; 8:45 am]

BILLING CODE 8320–01–M

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on Cemeteries and Memorials; Notice of Meeting

The Department of Veterans Affairs (VA) gives notice that a meeting of the Advisory Committee on Cemeteries and Memorials, authorized by 38 U.S.C. 2401, will be held Saturday, September 9, 2000, from 8:30 a.m. and adjourn at 4:30 p.m. and Sunday, September 10, 2000, from 9 a.m. and adjourn at 5 p.m., at the Hilton Akron/Fairlawn, 3180 West Market Street, Akron, OH 44333–3365 in Akron, OH. This will be the Committee's second meeting of 2000.

The purpose of the Committee is to review the administration of VA's cemeteries and burial benefits program.

On Saturday, September 9, the Committee will be updated on National Cemetery Administration (NCA) issues, including cemetery construction, budget, legislation, military funeral honors and other issues related to the provision of headstones and markers. Additionally, the Committee will also be updated on the 50th anniversary of the Korean War commemoration and the progress of the construction of the WWII Memorial. In the afternoon, the Committee will tour and continue the meeting at the Ohio Western Reserve National Cemetery. The Committee will be briefed by the cemetery director on issues related to the opening and dedication of the new national cemetery.

On Sunday, September 10, the committee will convene at 9 a.m. to discuss NCA issues and make recommendations and endorsements. In the afternoon, the committee will participate in the dedication ceremony of the new Ohio Western Reserve National Cemetery in Rittman, OH.

The meeting will be open to the public. Individuals wishing to attend the meeting should contact Mrs. Paige Lowther, National Cemetery Administration, [phone (202) 273–5157] no later than 12 noon (ET), September 1, 2000.

Any interested person may attend, appear before, or file a statement with the committee. Individuals wishing to appear before the committee should indicate this in a letter to Mrs. Paige Lowther, Designated Federal Official, National Cemetery Administration (40), 810 Vermont Avenue, NW., Washington, DC 20420. In any such letters, the writers must fully identify themselves and state the organization, association or person(s) they represent. In addition, to the extent practicable, letters should indicate the subject matter to be discussed. Oral presentations should be limited to 10 minutes in duration. Individuals wishing to file written statements to be submitted to the Committee must also mail, or otherwise deliver, them to Mrs. Lowther.

Letters and written statements as discussed above must be mailed or delivered in time to reach Mrs. Lowther by 12 noon (ET), September 1, 2000. Oral statements will be heard between 10 a.m. and 10:30 a.m. (ET), September 9, 2000, at the Hilton Akron/Fairlawn, 3180 West Market Street, Akron, OH 44333–3365 in Akron, OH.

Dated: August 8, 2000.

By Direction of the Secretary.

Marvin R. Eason,

Committee Management Officer.

[FR Doc. 00–21311 Filed 8–21–00; 8:45 am]

BILLING CODE 8320–01–M

Federal Register

Tuesday,
August 22, 2000

Part II

Office of Management and Budget

Final Report and Recommendations From the Metropolitan Area Standards Review Committee to the Office of Management and Budget Concerning Changes to the Standards for Defining Metropolitan Areas; Notice

OFFICE OF MANAGEMENT AND BUDGET

Final Report and Recommendations From the Metropolitan Area Standards Review Committee to the Office of Management and Budget Concerning Changes to the Standards for Defining Metropolitan Areas

AGENCY: Executive Office of the President, Office of Management and Budget (OMB), Office of Information and Regulatory Affairs.

ACTION: Notice and request for comment.

SUMMARY: OMB requests comment on the final recommendations it has received from the Metropolitan Area Standards Review Committee for changes to OMB's metropolitan area standards. The committee's recommendations, which are published in their entirety in the appendix to this Notice, reflect the comprehensive review of the metropolitan area concept and the current standards that began in the early 1990s. These recommendations also reflect consideration of comments received in response to the committee's initial recommendations as published in the October 20, 1999 **Federal Register** (64 FR 56628–56644). The committee's final recommendations include both modifications and additions to the initial recommendations.

Decisions on changes to the metropolitan area standards will not affect the collection, tabulation, and publication of data from Census 2000 and other current Federal data collections for geographic areas such as states, counties, county subdivisions, and municipalities. In addition, the Census Bureau will tabulate and publish data from Census 2000 for all metropolitan areas in existence at the time of the census.

DATES: To ensure consideration during the final decision making process, OMB must receive all written comments no later than October 6, 2000.

ADDRESSES: Please send comments about the committee's final recommendations to: Katherine K. Wallman, Chief Statistician, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10201 New Executive Office Building, 725 17th Street, NW., Washington, DC 20503; fax: (202) 395–7245.

Electronic Availability and Addresses: This **Federal Register** Notice, and the two previous Notices related to the review of the metropolitan area standards, are available electronically from the OMB web site: <<http://www.whitehouse.gov/OMB/fedreg/index.html>>. **Federal Register** Notices also are available electronically from the U.S. Government Printing Office web site: <<http://www.access.gpo.gov/su_docs/aces/aces140.html>>. Maps portraying the extent of areas that would be defined if the recommended standards were applied to 1990 census data, as well as lists of those areas, their components, and principal cities, are available electronically from the Census Bureau's web site: <<http://www.census.gov/population/www/estimates/masrp.html>>. Paper copies of these additional materials may be obtained by calling (301) 457–2419.

FOR FURTHER INFORMATION CONTACT: James D. Fitzsimmons, Chair, Metropolitan Area Standards Review Committee, (301) 457–2419; or E-mail <<pop.frquestion@ccmail.census.gov>>.

SUPPLEMENTARY INFORMATION:

Outline of Notice

1. Background
2. Review Process
3. Summary of Comments Received in Response to the October 20, 1999 **Federal Register** Notice
4. Overview of Final Recommendations From the Metropolitan Area Standards Review Committee
5. Specific Issues for Comment
Appendix—Final Report and Recommendations From the Metropolitan Area Standards Review Committee to the Office of Management and Budget Concerning Changes to the Standards for Defining Metropolitan Areas
A. Discussion of Final Recommendations
B. Comparison of 1990 Metropolitan Area Standards With the Recommended 2000 Metropolitan and Micropolitan Area Standards
C. Recommended Standards for Defining Metropolitan and Micropolitan Areas
D. Key Terms

1. Background

The metropolitan area program has provided standard statistical area definitions for 50 years. In the 1940s, it became clear that the value of metropolitan data produced by Federal agencies would be greatly enhanced if agencies used a single set of geographic definitions for the Nation's largest centers of population and activity. OMB's predecessor, the Bureau of the Budget, led the effort to develop what were then called ''standard metropolitan areas'' in time for their use in 1950 census reports. Since then, comparable data products for metropolitan areas have been available.

The general concept of a metropolitan area is that of an area containing a large population nucleus and adjacent communities that have a high degree of integration with that nucleus. The purpose of the metropolitan area standards is to provide nationally consistent definitions for collecting, tabulating, and publishing Federal statistics for a set of geographic areas. OMB establishes and maintains these areas solely for statistical purposes. In reviewing and revising the areas, OMB does not take into account or attempt to anticipate any public or private sector nonstatistical uses that may be made of the definitions. These areas are not designed to serve as a general purpose geographic framework applicable for nonstatistical activities or for use in program funding formulas.

OMB discussed the evolution of the standards for defining metropolitan areas in detail in its December 21, 1998 **Federal Register** Notice, ''Alternative Approaches to Defining Metropolitan and Nonmetropolitan Areas'' (63 FR 70526–70561). Table 1 of that Notice summarized the evolution of metropolitan area standards since 1950. The Notice includes the standards that were used to define metropolitan areas during the 1990s.

OMB published the committee's report on its review and initial recommendations to OMB as part of the October 20, 1999 **Federal Register** Notice entitled, ''Recommendations From the Metropolitan Area Standards Review Committee to the Office of Management and Budget Concerning Changes to the Standards for Defining Metropolitan Areas' (64 FR 56628–56644). In that Notice, the committee recommended the creation of a ''Core Based Statistical Area'' (CBSA) classification. That Notice also included four maps, as well as a table that compared the 1990 metropolitan area standards with the committee's initial recommendations for revised standards.

2. Review Process

From the beginning, OMB has reviewed the metropolitan area standards and, if warranted, revised them in the years preceding their application to new decennial census data. Periodic review of the standards is necessary to ensure their continued usefulness and relevance. The current review of the metropolitan area standards—the Metropolitan Area Standards Review Project—is the fifth such review. It addresses, as a first priority, users' concerns with the conceptual and operational complexity of the standards as they have evolved over the decades. Other key concerns of the review have been whether and how:

- To modify the standards further to stay abreast of changes in population distribution and activity patterns;

• To use advances in computer applications to consider new approaches to defining areas; and

• To capture a more complete range of U.S. settlement and activity patterns than the 1990 standards.

The committee has addressed a number of specific, major issues:

• Whether the Federal Government should define metropolitan and nonmetropolitan statistical areas;

• What geographic units—''building blocks''—should be used in defining the statistical areas;

• What criteria should be used to group together such building blocks in defining the statistical areas;

• Whether the statistical areas should account for all territory of the Nation;

• Whether there should be hierarchies or multiple sets of statistical areas in the classification;

• What kinds of entities should receive official recognition in the classification;

• Whether the classification should reflect statistical rules only or allow a role for local opinion; and

• How frequently statistical areas should be updated.

The review has included several Census Bureau research projects, open conferences held in November 1995 and January 1999, a congressional hearing in July 1997, presentations at professional and academic conferences, and meetings with Federal, state, and local officials. The December 1998 and October 1999 **Federal Register** Notices discuss these activities in detail.

In the fall of 1998, OMB chartered the Metropolitan Area Standards Review Committee and charged it with examining the 1990 metropolitan area standards in light of work completed earlier in the decade and providing recommendations for possible changes to those standards. Agencies represented on the committee include the Bureau of the Census (Chair), Bureau of Economic Analysis, Bureau of Labor Statistics, Bureau of Transportation Statistics, Economic Research Service (Agriculture), National Center for Health Statistics, and, *ex officio,* OMB. The Census Bureau provides research support to the committee.

This is the third Notice that seeks public comment. The December 1998 **Federal Register** Notice presented four alternative approaches to defining metropolitan and nonmetropolitan areas. The October 1999 **Federal Register** Notice presented the committee's initial recommendations to OMB. OMB sought and received comments on the issues, approaches, and recommendations outlined in these Notices. In developing the final recommendations set forth in this Notice, the committee has continued its work based on the earlier research and has considered all of the comments received in response to previous Notices, as well as comments received at numerous meetings where the proposals under consideration were discussed.

Ongoing research projects will improve our understanding of the Nation's patterns of settlement and activity and the ways in which the patterns can be portrayed. Research will continue into aspects of all of the alternative approaches presented in the December 1998 Notice. For example, Census Bureau staff are investigating the feasibility of developing a census tract level classification to identify settlement and land use categories along an urban-rural continuum. The Census Bureau has a project to conduct additional research on the comparative density approach outlined in the December 1998 Notice. It also is continuing research on potential uses of directional commuting statistics and commodity flow data in defining statistical areas. The Economic Research Service, in conjunction with the Office of Rural Health Policy in the Department of Health and Human Services and the University of Washington, has developed a nationwide census tract level rural-urban commuting area classification. This classification is available from the Economic Research Service web site: http://www.ers.usda.gov:80/briefing/rural/ruca/rucc.htm. In addition, the Census Bureau is investigating the feasibility of defining statistical areas that would better describe the functional relationships between geographic areas within the large, densely settled urban areas. These research efforts may lead to pilot projects of the Census Bureau or other agencies.

3. Summary of Comments Received in Response to the October 20, 1999 Federal Register Notice

The October 20, 1999 **Federal Register** Notice requested comment on the committee's initial recommendations to OMB concerning revisions to the standards for defining metropolitan areas. OMB received a total of 673 comments, including some that arrived after the December 30, 1999, deadline.

OMB received 167 comment letters and 34 E-mail messages on a variety of issues from individuals (72), municipalities (39), nongovernmental organizations (38), state governmental agencies (18), regional governmental and planning organizations (14), Federal agencies (10), and Members of Congress (10). In addition, it received 404 letters and 68 E-mail messages from individuals and organizations regarding the situation of Schuylkill County, Pennsylvania.

Eight commenters addressed the committee's recommendations about the qualification requirements for areas and central counties. Three commenters supported the committee's recommendation that areas should qualify for CBSA status if a core of sufficient size—a Census Bureau defined urban cluster of at least 10,000 population or an urbanized area of at least 50,000 population—was present. (In this Notice, the term ''urban cluster'' replaces the term ''settlement cluster'' that was used in the October 1999 **Federal Register** Notice.) Two commenters expressed concern that some current metropolitan areas that qualify based on the presence of a city of at least 50,000 population might not qualify as a macropolitan area under the recommended standards if an urbanized area is not present. They suggested including criteria in the new standards that would either (1) allow an area that contains a city of 50,000 or more population, but not an urbanized area, to qualify as a macropolitan area or (2) ''grandfather'' current metropolitan statistical areas. Three commenters questioned the way in which the recommended standards would use urban clusters and urbanized areas as cores to qualify central counties, in particular when a core crosses county lines, but the portion of the core in one county is not sufficient to qualify that county as central.

Many comments addressed whether core population or total area population should be used to determine the level to which each CBSA is assigned. Two commenters supported using total population of the CBSA to determine the level; one pointed out that by using core population to assign levels, it would be possible to have a micropolitan area with a greater total CBSA population than the total population of a macropolitan area. Two commenters suggested that the level to which a CBSA is assigned should be based on the population of the largest core in the area rather than on the total population in all cores. More than 470 commenters suggested that a county with a total population of at least 100,000 should qualify as a macropolitan area solely on that basis, even though its core population is less than 50,000; all but one of these commenters were specifically

concerned with Schuylkill County, Pennsylvania.

OMB received 29 comments about terminology and the number of levels in the proposed CBSA standards. Six commenters argued that the core population size range recommended for the macropolitan area level was too broad and suggested that the standards should include five levels of areas instead of the recommended four. Six commenters favored use of the terms ''metropolitan'' and ''nonmetropolitan.'' One commenter favored using ''metropolitan'' and ''nonmetropolitan,'' but also supported recognizing micropolitan areas as a subset of nonmetropolitan areas. Two additional commenters supported using the term ''metropolitan,'' but one of them suggested not using the term ''nonmetropolitan.'' Another commenter supported a metropolitan/nonmetropolitan breakdown, but suggested classifying metropolitan areas into small, midsize, and large categories with core population thresholds of 50,000, 250,000, and 1,000,000, respectively. Two commenters argued that if the CBSA standards were to include several levels, these levels should be denoted with a numbering or lettering system instead of using specific terms. Some of these commenters and others opposed the use of the terms ''megapolitan,'' ''macropolitan,'' and ''micropolitan'' because they found them confusing. Other commenters suggested ''community statistical area'' to replace ''core based statistical area,'' and ''nanopolitan'' to replace ''outside core based statistical area.'' Three commenters suggested that all territory in the United States should be classified in the new system, and no area should be classified as a ''non-'' or ''outside'' area.

Forty-two commenters remarked on the committee's recommendation to use counties as the building block for CBSAs. Seventeen commenters supported the use of counties, and 25 favored census tracts or some other subcounty unit. One commenter suggested that if counties are used as building blocks, subcounty commuting data should be provided to data users. Nineteen commenters favored the use of minor civil divisions as building blocks; 18 of these commenters specifically favored the use of minor civil divisions as the building block for a primary set of areas in New England.

Eighteen commenters responded about the use of commuting data in the standards for qualifying outlying counties as well as mergers and combinations of adjacent CBSAs. Six commenters supported a 25 percent commuting threshold for outlying county qualification as the committee recommended; two suggested a 20 percent threshold. One commenter questioned the rationale behind raising the commuting threshold to 25 percent from the 15 percent threshold that has been in the standards since they were developed, arguing that raising the threshold to 25 percent will omit many counties that realistically are within the core's labor market. Two commenters expressed general support for the committee's recommendations. Seven commenters, however, expressed concerns that commuting data alone cannot measure all kinds of social and economic interactions between areas. One of these commenters suggested using population density data as an additional measure. One commenter noted that journey-to-work data alone are not sufficient to determine whether sufficient ties exist to warrant merging or combining two adjacent CBSAs.

Two commenters supported the committee's recommendations on mergers and three supported its recommendations on combinations. Two commenters suggested that local opinion should play a larger role in determining whether two adjacent areas should merge or combine.

Seventy-one commenters responded about the recommended criteria for titling CBSAs. Sixty-four of these 71 commenters remarked specifically on the impact that these criteria would have on the titles of current metropolitan areas in North Carolina. Seven commenters responded regarding the potential title of the current Norfolk-Virginia Beach-Newport News, VA-NC Metropolitan Statistical Area.

Forty-two commenters responded about the lack of recommended criteria for subdividing the largest CBSAs to form smaller component groupings of counties. All but one of these commenters favored development of criteria for subdividing areas. Twenty-six of these commenters were concerned with New Jersey or Long Island; their remarks pertained specifically to the perceived need for smaller groupings of counties within the New York and Philadelphia megapolitan areas to provide greater detail for data users. One commenter did not favor subdividing the New York megapolitan area. Sixteen commenters who favored subdividing CBSAs focused on Massachusetts; their remarks pertained primarily to the need for subdivisions of the Boston area.

Twenty-three commenters raised questions about the potential impact of the recommended standards on various nonstatistical programs, particularly those involving funding. Some commenters suggested that there should be a study to provide information about the current nonstatistical programmatic uses of metropolitan areas and the potential effect of new standards on existing programs.

Five commenters expressed concerns about the comparability of data provided under the 1990 standards and the proposed standards. They suggested that statistical areas should be defined for a period after the 2000 census using both the old and the new standards. Two commenters remarked on the confusion between the urban/rural and metropolitan/nonmetropolitan classifications. Both of these commenters suggested that a single classification that unambiguously identifies metropolitan, nonmetropolitan, urban, and rural without any overlapping of these concepts should be developed by OMB. Similarly, one commenter stated that the classification should include specific criteria for identifying rural areas.

The committee took all of these comments into account, giving them careful consideration. As outlined below, it adopted some of these suggested changes and modified its recommendations to OMB as a result of the comments. In a number of other cases, however, the committee concluded that it could not adopt the suggestions made by commenters without undermining efforts to achieve a consistent, national approach designed to enhance the value of metropolitan data produced by Federal agencies.

4. Overview of Final Recommendations From the Metropolitan Area Standards Review Committee

This **Federal Register** Notice makes available for comment the committee's final recommendations to OMB on how the current metropolitan area standards should be revised. These recommendations are presented in their entirety in the ''Final Report and Recommendations From the Metropolitan Area Standards Review Committee to the Office of Management and Budget Concerning Changes to the Standards for Defining Metropolitan Areas,'' provided in the appendix to this Notice. Section C of the appendix presents for public comment the specific standards recommended by the committee for adoption by OMB.

The committee recommends a classification based on densely settled concentrations of population called ''cores.'' The cores for this classification would be Census Bureau defined

urbanized areas of 50,000 or more population and smaller urban clusters of 10,000 to 49,999 population that will be identified using Census 2000 data. Defining a CBSA would require the presence of at least one core of 10,000 or more population. The recommended CBSA classification has two categories of areas: (1) Metropolitan areas defined around at least one urbanized area of 50,000 or more population; and (2) micropolitan areas defined around at least one urban cluster of 10,000 to 49,999 population. The recommendation to identify micropolitan areas extends the classification to smaller population centers that in earlier decades would have been in a ''nonmetropolitan residual.'' The title for the new classification would be ''Standards for Defining Metropolitan and Micropolitan Areas.''

These recommendations include a change from the committee's initial recommendation to identify ''megapolitan areas,'' based on one or more cores with a total core population of at least one million, and ''macropolitan areas,'' based on one or more cores with a total core population of 50,000 to 999,999. The committee recommends that additional research be undertaken to study the analytical utility of various categories based on population size, and more specifically, to determine meaningful size thresholds for such categories. In addition, these recommendations include a change from the committee's initial recommendation to base categories of areas on the total population in *all* cores within a CBSA.

The committee recommends the use of counties and equivalent entities as the building block for CBSAs throughout the United States, Puerto Rico, and Island Areas, including the use of counties as building blocks for CBSAs in New England. The committee also recommends that minor civil divisions be used as building blocks for a set of statistical areas conceptually similar to CBSAs for the New England states only.

The committee recommends identifying principal cities within CBSAs. It also recommends that component entities comprising one or more counties be identified within CBSAs that contain a single core with 2.5 million or more population. These component entities would be termed ''metropolitan divisions.'' (The committee's recommendations would extend this practice to the minor civil division based areas in New England.) This recommendation is an addition to the initial recommendations. The committee recommends titling each metropolitan division using the names of up to three principal cities within the metropolitan division, in order of descending city population size. If there are no principal cities located within a metropolitan division, the committee recommends including in the title the names of up to three counties in order of descending population size.

The committee recommends combining adjacent CBSAs when their employment interchange rate is at least 15. The areas that combine also would retain their identities as separate metropolitan and micropolitan areas.

5. Specific Issues for Comment

With this Notice, OMB requests comment on all of the final recommendations of the Metropolitan Area Standards Review Committee concerning revisions to the current standards for defining metropolitan areas. The standards recommended to OMB for adoption appear in Section C of the appendix to this Notice. Section A of the appendix provides a discussion of the recommendations on the various issues considered by the committee. Section B of the appendix presents a comparison of the 1990 metropolitan area standards with the recommended Metropolitan and Micropolitan Area Standards.

OMB notes that there were several issues on which comment was received, but on which the committee has not changed its initial recommendations, including the use of population in cores (in contrast to total area population) as a means of determining a CBSA's category (metropolitan or micropolitan), and the use only of the name of the largest principal city in each of up to three CBSAs that combine to title Combined Areas.

OMB particularly seeks comment on those final recommendations that differ from the committee's initial recommendations published in the October 20, 1999 **Federal Register**. These are the recommendations about the:

- Number of categories of CBSAs and the terms by which they would be identified (see Section A.1);
- Categorization of CBSAs on the basis of population in cores (Section A.1);
- Identification of New England City and Town Areas (NECTAs) to indicate that NECTAs are conceptually similar to CBSAs (Section A.2);
- Criteria for qualifying a central county (Section A.3);
- Identification of metropolitan divisions within CBSAs with a core of 2.5 Million or more population and NECTA divisions within NECTAs that have a core of that size (Section A.7); and
- Criteria for titling Combined Areas, which would now require that the second- and third-largest CBSAs in a Combined Area each have at least one-third the population of the largest area for their single largest principal cities to appear in the title (Section A.9).

OMB would appreciate receiving views and comments on any aspects of the recommended standards.

John T. Spotila,

Administrator, Office of Information and Regulatory Affairs.

Appendix—Final Report and Recommendations From the Metropolitan Area Standards Review Committee to the Office of Management and Budget Concerning Changes to the Standards for Defining Metropolitan Areas

Transmittal Memorandum

July 6, 2000.

Memorandum for Katherine K. Wallman, Chief Statistician, Office of Management and Budget

From: Metropolitan Area Standards Review Committee

Subject: Transmittal of Final Report and Recommendations Concerning Changes to the Standards for Defining Metropolitan Areas

We are pleased to transmit to you the attached report presenting this committee's final recommendations for modifying the Office of Management and Budget's (OMB's) standards for defining metropolitan areas. They represent our best technical and professional advice for how the standards could better account for and describe changes in settlement and activity patterns throughout the United States, Puerto Rico, and the Island Areas, yet still meet the data reporting needs and requirements of Federal agencies and the public. In developing these final recommendations, we have continued our review of work completed over the past several years, and we have considered and discussed comments that were received in response to our initial recommendations published in the October 20, 1999 **Federal Register**. In addition to a discussion of our final recommendations, we are providing a comparison of the standards we propose with the 1990 metropolitan area standards. We also are providing the specific standards recommended by the committee and definitions of key terms used in this report.

We hope that OMB will find these final recommendations informative and helpful in making its decision on what changes, if any, to adopt in the standards for defining geographic areas for collecting, tabulating, and publishing Federal statistics.

Attachment—Final Report and Recommendations from the Metropolitan Area Standards Review Committee to the Office of Management and Budget Concerning Changes to the Standards for Defining Metropolitan Areas

A. Discussion of Final Recommendations

1. Recommendations Concerning Categories and Terminology for a Core Based Statistical Area (CBSA) Classification to Be Titled ''Standards for Defining Metropolitan and Micropolitan Areas''

The Metropolitan Area Standards Review Committee recommends adoption of a CBSA classification that uses densely settled concentrations of population (cores) for the qualification of areas. The classification would be titled ''Standards for Defining Metropolitan and Micropolitan Areas.'' The committee recommends a minimum population size of 10,000 for a core that would qualify a CBSA. Those CBSAs that are associated with at least one core of 50,000 or more population (an urbanized area) should be categorized as metropolitan areas. Those CBSAs that are associated with at least one core of 10,000 to 49,999 population (an urban cluster), but no single core of 50,000 or more population, should be categorized as micropolitan areas. Under these recommended standards, nearly 90 percent of the U.S. population would reside in micropolitan and metropolitan areas.

Territory not included in CBSAs should be referred to as being ''outside core based statistical areas.'' The committee suggests that additional research be done to identify methods for defining and categorizing territory outside CBSAs to attain an area classification that applies to the entire Nation.

The committee considered the following sometimes incompatible concerns as it developed size categories and terminology:

- Eliminating the current metropolitan/nonmetropolitan dichotomy and replacing it with a range of categories that more meaningfully represent the settlement and activity patterns of the Nation;
- Introducing specific terms for areas containing cores of 1,000,000 or more persons and cores of 250,000 to 999,999 persons, respectively;
- Evaluating advantages and disadvantages of retaining the 1990 metropolitan area standards' core population threshold of 50,000;
- Assessing advantages and disadvantages of retaining the metropolitan/nonmetropolitan terminology of the 1990 standards; and
- Maintaining simplicity.

Broad agreement existed in favor of establishing a micropolitan area category as a means of distinguishing between (1) areas integrated with smaller centers of population and activity and (2) territory not integrated with any particular population center. Defining micropolitan areas represents a response to comments that a revised classification should cover a broader range of population and economic activity patterns than the 1990 standards. The committee also considered various combinations of population distribution and economic activity pattern measures to classify counties not included in a CBSA, but none offered a satisfactory method of meaningfully accounting for these counties in the recommended classification.

The categories and terminology recommended here constitute a change from the committee's initial recommendations as reported in the October 20, 1999 **Federal Register** Notice. The changes in terminology are a response to public comment that urged retention of the term ''metropolitan'' in the revised standards because of its familiarity and broad usage among data users and the general public.

The committee considered two issues when discussing the basis for categorizing CBSAs as either metropolitan or micropolitan. The first of these issues was whether to base categorization on the total CBSA population or on core population. The committee agreed that since cores are the organizing entities of CBSAs, categorization should be on the basis of the population in cores, reasoning that the range of services and functions provided within an area largely derive from the size of the core.

The second issue was whether to categorize areas based on the population of the most populous (or ''dominant'') core or on the total population of all (or ''multiple'') cores within a CBSA. The committee's initial recommendation suggested categorizing areas on the basis of the total population in all cores within a CBSA. In reaching this decision, the committee reasoned that because all cores play a role in determining the extent of a CBSA, all should be taken into account when categorizing that CBSA. Although commuting is measured from county to county, most workers commute to specific cores. When there are multiple cores within a CBSA, each core plays a role in the qualification of outlying counties. Some committee members argued, however, that a single core of 50,000 or more population provides a wider variety of functions and services than does a group of smaller cores, even when such a group may have a collective population greater than 50,000. These committee members were concerned that CBSAs categorized as metropolitan on the basis of the population in all cores would not bear the same kinds of characteristics as CBSAs categorized as metropolitan areas on the basis of a single core of 50,000 or more population.

In reaching the decision to categorize CBSAs on the basis of the population in the largest core, the committee agreed that this is a complex issue that, in part, is reflected in the ongoing debate regarding the current nature of urbanization and urban systems. In the past, metropolitan areas tended to be dominated by a single core, consisting largely of a populous city and its adjacent densely settled suburbs. The dispersal of residential locations and economic activities that has occurred in some areas over the past 50 years, however, has resulted in multiple cores, each of which may provide specialized functions that contribute to the social and economic well-being of the entire area. The extent of the spheres of influence of the various cores may vary and overlap depending on the kinds of functions or services provided. One core may play a greater, or more dominant, role in organizing and influencing the social and economic activity of a particular CBSA. At the same time, its influence could be supplemented or possibly matched by additional cores within the same CBSA. The committee recommends further research on the functional integration of multiple, noncontiguous cores.

While recognizing the usefulness of standard size categories for CBSAs for tabulating data, the committee was less certain regarding the significance of specific population thresholds as a means of identifying functional differences between different sizes of areas. The committee therefore does not recommend delineations of categories of CBSAs with core populations greater than 50,000 and has dropped the ''megapolitan'' and ''macropolitan'' area categories set forth in its initial recommendations. The committee

recommends retaining the population threshold of 50,000 to distinguish between micropolitan and metropolitan areas, primarily to maintain comparability with previous definitions of metropolitan areas. The committee concluded that additional research is needed to identify optimal population thresholds for categories of CBSAs. In the meantime, users can group the areas that would be defined as ''metropolitan'' by size to meet their particular research needs.

2. Recommendations Concerning the Geographic Unit to Be Used as the Building Block for Defining CBSAs

Counties and equivalent entities should be used as building blocks for CBSAs throughout the United States, Puerto Rico, and the Island Areas. Minor civil divisions should be used as the building block for a set of areas, similar in concept to CBSAs, in New England only. Using counties and equivalent entities throughout the United States and Puerto Rico continues current practice, except in New England, where historically metropolitan areas have been defined using minor civil divisions.

The choice of a geographic unit to serve as the building block can affect the geographic extent of a statistical area and its relevance or usefulness in describing economic and demographic patterns. The choice also has implications for the ability of Federal agencies to provide data for statistical areas and their components. The December 1998 **Federal Register** Notice, ''Alternative Approaches to Defining Metropolitan and Nonmetropolitan Areas,'' presented advantages and disadvantages of five potential building blocks. Each of these units was evaluated in terms of its consistency in delineation across the Nation, data availability, boundary stability, and familiarity.

The advantages of using counties and their equivalents are that they are available for the entire country, have stable boundaries, and represent familiar geographic entities. In addition, more Federal statistical programs produce data at the county level than at any subcounty level. The committee decided that the well-known disadvantages of counties as the building block for statistical areas—the large geographic size of some counties and the lack of geographic precision that follows from their use—were outweighed by the advantages offered by counties.

In reaching its recommendation to use counties as the building block for CBSAs in New England, the committee attached priority to the use of a consistent geographic unit nationwide. Use of a consistent geographic building block offers improved usability to producers and users of data; data for CBSAs in all parts of the country would be directly comparable. In addition, some statistical programs, such as those providing nationwide economic data and population estimates, regard the metropolitan area program's use of minor civil divisions in New England as a hindrance. They have sometimes used the currently available alternative county based areas for New England, known as the New England County Metropolitan Areas (NECMAs), or have minimized the number of data releases for metropolitan areas. Under the current metropolitan area program, then, data producers and users typically choose between (1) adhering to the preferred Metropolitan Statistical Areas, Consolidated Metropolitan Statistical Areas, and Primary Metropolitan Statistical Areas throughout the country and having data that limit comparisons between some areas, and (2) using alternative areas in New England and having more comparable data. The committee's recommendation eliminates the need for this choice.

Demographic and economic data for minor civil divisions in New England are more plentiful, however, than are such data for subcounty entities in the rest of the Nation. In recognition of the importance of minor civil divisions in New England, the wide availability of data for them, and their long-term use in the metropolitan area program, the committee recommends also using minor civil divisions as building blocks for a set of areas for the six New England states. These New England City and Town Areas (NECTAs) would be intended for use in the collection, tabulation, publication, and analysis of statistical data, whenever feasible and appropriate, for New England. Data providers and users desiring areas defined using a nationally consistent geographic building block should consider using the county based CBSAs in New England; however, counties are less well-known in New England than cities and towns.

3. Recommendations Concerning Cores of CBSAs and Central Counties

Census Bureau defined urbanized areas of 50,000 or more population and Census Bureau defined urban clusters of at least 10,000 population should be used as the cores of CBSAs. Identification of ''central counties'' should be based on the locations of the cores.

The recommended use of urbanized areas as cores is consistent with current practice. To extend the classification to areas based on cores of 10,000 to 49,999 population, the committee recommends the use of urban clusters, which the Census Bureau will identify following Census 2000. This change would permit a fuller accounting of the distribution of population and economic activity across the territory of the Nation than is provided by the current metropolitan area standards. Following from this recommendation, an urban area of at least 10,000 population would be required for qualifying a CBSA.

The locations of urbanized areas and urban clusters (referred to collectively as ''urban areas'') should provide the basis for identifying central counties of CBSAs, which are the counties to and from which ties are measured in determining the extent of areas. The committee recommends identifying central counties as those counties that:

(a) Have at least 50 percent of their population in urban areas (urbanized area or urban cluster) of at least 10,000 population; or

(b) Have within their boundaries a population of at least 5,000 located in a single urban area (urbanized area or urban cluster) of at least 10,000 population.

The committee has revised its recommendation concerning criteria for identifying central counties since its initial recommendations were published in the October 20, 1999, **Federal Register** Notice. If a single urban area of at least 10,000 population has at least 5,000 population in a county, the committee recommends that the county qualify as a central county. This recommendation recognizes that a county may contain a portion of an urbanized area or urban cluster of sufficient size to act as an employment center for surrounding populations, but of insufficient size to have accounted for at least 50 percent of the population of a single urbanized area or urban cluster as required under the committee's initial recommendation. The choice of 5,000 as the threshold for central county qualification is consistent with the initial recommendation's minimum requirement for qualification as a central county of the smallest permissible core (*i.e.,* 5,000 is 50 percent of the 10,000 population minimum core size).

4. Recommendations Concerning Criteria for Inclusion of Outlying Counties

Commuting data should be used as the basis for grouping counties together to form CBSAs (*i.e.,* to qualify ''outlying

counties''). Measures of settlement structure, such as population density, should not be used to qualify outlying counties for inclusion in CBSAs. Three priorities guided the committee in reaching these recommendations. The data used to measure connections among counties should (1) describe those connections in a straightforward and intuitive manner, (2) be collected using consistent procedures nationwide, and (3) be readily available to the public. These priorities pointed to the use of data gathered by Federal agencies and, more particularly, to commuting data from the Census Bureau. Commuting to work is an easily understood measure that reflects the social and economic integration of geographic areas.

The recommendation not to use measures of settlement structure represents a change from the 1990 standards. In those standards, varying levels of population density, percentage of total population that is urban, presence of an urbanized area population, and population growth rate are used in combination with varying levels of commuting to determine qualification of outlying counties for inclusion in a metropolitan area. Settlement and commuting patterns, however, have changed over time as a result of improvements to public transportation; more and better-maintained roads; and increasing flexibility of some employers who permit irregular work weeks, flextime, and opportunities to work at home. The Internet, satellite hookups, and other technology also have played a role. The committee concluded that, as changes in settlement, commuting patterns, and communications technologies have occurred, settlement structure no longer is as reliable an indicator of metropolitan character as was previously the case.

An outlying county should qualify on the basis of the percentage of employed residents of the county who work in the CBSA's central county or counties, or on the basis of the percentage of employment in the potential outlying county accounted for by workers who reside in the CBSA's central county or counties. A 25 percent minimum threshold for each of these measures should be used.

The committee observed that the percentage of a county's employed residents who commute to the central county or counties is an unambiguous, clear measure of whether a potential outlying county should qualify for inclusion. The percentage of employment in the potential outlying county accounted for by workers who reside in the central county or counties is similarly a straightforward measure of ties. Including both criteria addresses the conventional and the less common reverse commuting flows.

The committee also noted changes in daily mobility patterns and increased interaction between communities as indicated by increases in inter-county commuting over the past 40 years. The percentage of workers in the United States who commute to places of work outside their counties of residence has increased from a national average of approximately 15 percent in 1960 (when nationwide commuting data first became available from the decennial census) to a national average of nearly 25 percent in 1990. The committee concluded that raising the commuting percentage required for qualification of outlying counties from the 15 percent minimum of the 1990 standards to 25 percent was appropriate against this background of increased overall inter-county commuting coupled with the removal of all settlement structure measures from the outlying county criteria. The 25 percent threshold also stood out as a noticeable divide when reviewing 1990 census data on the percentage of workers who commute outside their counties of residence.

Counties should qualify for inclusion in a CBSA as outlying counties on the basis of commuting ties with the central county (or counties) of that one area only. The committee concluded that outlying counties should not qualify based on total commuting to central counties of multiple CBSAs, because that would result in inconsistent grounds for qualification in an individual area. Throughout its history, the purpose of the metropolitan area program has been to identify individual statistical areas, each containing a core plus any surrounding territory integrated with that core as measured by commuting ties. The committee saw no reason to depart from that approach in defining CBSAs.

5. Recommendation Concerning Merging Adjacent CBSAs

Adjacent CBSAs should be merged to form a single CBSA when the central county or counties of one area qualify as outlying to the central county or counties of another. The committee determined that when the central county or counties (as a group) of one CBSA qualify as outlying to the central county or counties (as a group) of another area, the two CBSAs should be merged. Because a merger recognizes ties similar to the ties between an outlying county and the central counties of a CBSA, the committee recommends that the minimum commuting threshold similarly be set at 25 percent, measured with respect to all central counties of one CBSA relative to all central counties of the other.

6. Recommendations Concerning Identification of Principal Cities

Principal cities in CBSAs should be identified and used to title the areas. Because the procedures recommended by the committee use urbanized areas and urban clusters as the organizing entities for CBSAs, the identification of central cities as required by the 1990 standards for qualifying and defining areas is no longer necessary for that purpose. Also, while still important, central cities have become less dominant in the local context over time. Nevertheless, the committee recognizes that specific cities within individual CBSAs are important for analytical purposes as centers of employment, trade, entertainment, and other social and economic activities. The committee therefore recommends criteria for identifying principal cities and using the principal cities for titling areas.

The committee recommends that the principal city (or cities) of a CBSA include:

(a) The largest incorporated place or census designated place in the CBSA;

(b) Any additional incorporated place or census designated place with a population of at least 250,000 or in which 100,000 or more persons work; and

(c) Any additional incorporated place or census designated place with a population that is at least 10,000 and one-third the size of the largest place, and in which employment meets or exceeds the number of employed residents.

The committee recommends using the term ''principal city'' rather than ''central city.'' The term ''central city'' has come to connote ''inner city'' and thus sometimes causes confusion.

7. Recommendation Concerning Identification of Components within Metropolitan Areas and NECTAs that Contain at Least One Core of 2.5 Million or More Population

Within metropolitan areas that have at least one core with 2.5 million or more population, metropolitan divisions, consisting of one or more counties, should be identified. Urbanized areas with very large populations can extend across multiple counties and even across state boundaries, and can contain several distinct employment and settlement centers. Although these centers are part of a single agglomeration of population and

activity, the degrees of functional integration between them can vary. The provision of data for only the entire metropolitan area based on such large urbanized areas may mask demographic and economic variations that are important for data users and analysts. To represent the social and economic variations found within the largest metropolitan areas, the committee recommends adopting criteria that would identify components called ''metropolitan divisions,'' which would comprise counties or groups of counties that function as distinct areas within the metropolitan area. (Designation of metropolitan divisions would have no effect on the previously defined central counties of the metropolitan area; these counties would remain central to the metropolitan area, regardless of any additional designation they might be given within metropolitan divisions.)

The committee recommends identifying a county as a ''main county'' of a metropolitan division if:

(a) More than 50 percent of its employed residents work within the county;

(b) The ratio of the number of jobs located in the county to the number of employed residents of the county is at least .75; and

(c) The highest rate of out-commuting from the county to any other county is less than 15 percent.

After all main counties have been identified, each additional county that already has qualified for inclusion in the metropolitan area should be included in the metropolitan division associated with the main county to which the county at issue sends the highest percentage of its out-commuters. Counties within a metropolitan division should be contiguous.

Differences in geographic scale between minor civil divisions and counties necessitate the use of a different set of criteria when identifying meaningful divisions within NECTAs that contain at least one core of 2.5 million or more population.

The committee recommends the following criteria for NECTA divisions:

(a) A city or town is identified as a ''main city or town'' of a NECTA division if the city or town at issue has a population of 50,000 or more and its highest rate of out-commuting to any other city or town is less than 20 percent.

(b) After all main cities and towns have been identified, each additional city and town that already has qualified for inclusion in the NECTA should be included in the NECTA division associated with the city or town to which the one at issue sends the highest percentage of its out-commuters.

The committee also recommends that each NECTA division should contain a total population of 100,000 or more. Cities and towns at first assigned to areas with less than 100,000 population subsequently should be assigned to the qualifying NECTA division associated with the city or town to which the one at issue sends the highest percentage of its out-commuters. Cities and towns within a NECTA division should be contiguous.

In recommending these criteria, the committee recognizes that cities and towns of 50,000 or more population represent significant centers around which to organize NECTA divisions; the 50,000 population threshold is consistent with population thresholds used in current and past classifications to identify population centers around which metropolitan area level entities are defined.

These recommendations for identifying metropolitan divisions and NECTA divisions are additions to the committee's initial recommendations.

8. Recommendations Concerning Combining Adjacent CBSAs

CBSAs should be combined when entire adjacent areas are linked through commuting ties. The committee recommends that ties between adjacent CBSAs that are less intense than those captured by mergers (see Section A.5), but still significant, be recognized by combining those CBSAs. Because a combination thus defined represents a relationship of moderate strength between two CBSAs, the areas that combine should retain separate identities within the combined area. Potential combinations should be evaluated by measuring commuting between entire adjacent CBSAs—commuting of all counties, as a group, within one CBSA relative to all counties, as a group, in the adjacent area.

The committee recommends basing combinations on the employment interchange rate between two CBSAs, defined as the sum of the percentage of commuting from the CBSA with the smaller total population to the CBSA with the larger total population and the percentage of employment in the CBSA with the smaller total population accounted for by workers residing in the CBSA with the larger total population. The committee recommends a minimum threshold of 15 for the employment interchange rate but recognizes that this threshold may result in combinations where the measured ties are perceived as minimal by residents of the two areas. The committee therefore recommends combinations of CBSAs, based on an employment interchange rate of at least 15 but less than 25, only if local opinion (as discussed in recommendation 10) in both areas favors the combination. If the employment interchange rate equals or exceeds 25, combinations should occur automatically.

9. Recommendations Concerning Titles of CBSAs, Metropolitan Divisions, NECTA Divisions, and Combined Areas

Each CBSA should be titled using the name of its principal city with the largest population, as well as the names of the second-and third-largest principal cities, if multiple principal cities are present.

Each metropolitan division should be titled using the name of the principal city with the largest population, as well as the names of the second- and third-largest principal cities, if multiple principal cities are present. If there are no principal cities located in the metropolitan division, the title of the metropolitan division should include the names of up to three counties in order of descending population size.

Each NECTA division should be titled using the name of the principal city with the largest population, as well as the names of the second- and third-largest principal cities, if multiple principal cities are present. If there are no principal cities located in the NECTA division, the title of the NECTA division should include the name of the city or town with the largest population.

Combined areas should be titled using the name of the largest principal city in the CBSA with the largest total population that combines, followed by the name of the largest principal city in each of up to two additional CBSAs that combine, provided that the second and third CBSAs in the combined area each have at least one-third of the total population of the largest CBSA.

Titles provide a means of uniquely identifying individual CBSAs, metropolitan divisions, NECTA divisions, and combined areas so that each is recognizable to a variety of data users. As such, the title of a CBSA, metropolitan division, NECTA division, or combined area should contain the names of geographic entities located in the area that are prominent and provide data users with a means of easily identifying the general location of the CBSA, metropolitan division, or NECTA division or extent of the combined area.

Finally, any state in which the CBSA, metropolitan division, NECTA division, or combined area is located also should be included in the title.

10. Recommendation Concerning Use of Statistical Rules and the Role of Local Opinion

Limited use should be made of local opinion in the definition process. Applying only statistical rules when defining areas minimizes ambiguity and maximizes the replicability and integrity of the process. The committee recommends consideration of local opinion only in cases of CBSA combinations where adjacent CBSAs have an employment interchange rate of at least 15 but less than 25.

Local opinion should be obtained through the appropriate congressional delegation. Members of the congressional delegation should be urged to contact a wide range of groups in their communities, including business or other leaders, chambers of commerce, planning commissions, and local officials, to solicit comments on the specific combination at issue. The committee also recommends the use of the Internet to make available information pertaining to the potential combination on which local opinion is sought. After a decision has been made, OMB should not request local opinion again on the same issue until the next redefinition of CBSAs.

11. Recommendation Concerning Settlement Structure within the Core Based Statistical Area Classification

The terms ''urban,'' ''suburban,'' ''rural,'' ''exurban,'' and so forth, should not be defined within the CBSA classification. The committee recognizes that formal definitions of settlement types such as inner city, inner suburb, outer suburb, exurb, and rural would be of use to the Federal statistical system as well as to researchers, analysts, and other users of Federal data. Such types, however, are not necessary for the delineation of statistical areas in this classification that describes the functional ties between geographic entities. These types would more appropriately be included in a separate classification that focuses exclusively on describing settlement patterns and land uses.

The committee recommends continuing research by the Census Bureau and other interested Federal agencies on settlement patterns below the county level to describe further the distribution of population and economic activity throughout the Nation.

12. Recommendations Concerning ''Grandfathering'' of Current Metropolitan Areas

The definitions of current metropolitan areas should not be automatically retained (''grandfathered'') in the implementation of the recommended ''Standards for Defining Metropolitan and Micropolitan Areas.'' The current status of individual counties as metropolitan or nonmetropolitan should not be considered when re-examining all counties using the recommended standards.

In this context, ''grandfathering'' refers to the continued designation of an area even though it does not meet the standards currently in effect. The 1990 standards permit changes in the definitions, or extent, of individual metropolitan areas through the addition or deletion of counties on the basis of each decennial census, but those standards do not permit the disqualification of metropolitan areas that previously qualified on the basis of a Census Bureau population count. To maintain the integrity of the classification, the committee favors the objective application of the recommended standards rather than continuing to recognize areas that do not meet the standards that currently are in effect. The committee recommends that the current status of a county as either metropolitan or nonmetropolitan play no role in the application of the recommended standards.

13. Recommendations Concerning the Schedule for Updating CBSAs

New CBSAs should be designated between decennial censuses on the basis of Census Bureau population estimates or special censuses for places. CBSAs should be updated on the basis of commuting data from the Census Bureau's American Community Survey, scheduled to be available for all counties beginning in 2008. CBSAs should not be reclassified among categories between decennial censuses.

The frequency with which new statistical areas are designated and existing areas updated has been of considerable interest to data producers and users. If revised standards are adopted by OMB, the first areas to be designated using the revised standards and Census 2000 data could be announced in 2003. The sources and future availability of data for updating these areas figured prominently in the committee's discussions. The availability of population totals and commuting data affects the ability to identify new CBSAs, reclassify existing areas among categories (that is, from micropolitan area to metropolitan area, metropolitan area to micropolitan area, or micropolitan area to outside CBSA), and update the extent of existing areas.

The 1990 standards provided for the designation of a new metropolitan area on the basis of a population estimate or a special census count for a city. The use of city special census counts or population estimates for designating new areas between decennial censuses, on an annual basis, would continue to provide the most consistent and equitable means of qualifying new CBSAs in the future because annual population estimates for existing and potential urbanized areas and urban clusters are not currently produced. The committee therefore recommends that a new CBSA should be designated if a city that is outside any existing CBSA has a Census Bureau population estimate of 10,000 or more for two consecutive years, or a Census Bureau special census count of 10,000 or more population. A new CBSA also should be designated if a special census results in delineation of an intercensal urban area of 10,000 or more population that is outside an existing CBSA.

The use of annual population estimates for cities, however, offers an unsatisfactory approach for reclassifying existing CBSAs from one category to another because it does not account for population growth in the unincorporated portions of an urbanized area or urban cluster or in unincorporated territory outside the boundary of an urbanized area or urban cluster. Growth in these settings is likely to be more important around existing, larger areas than around areas of approximately 10,000 population that are on the verge of qualifying as CBSAs; in some instances such growth could account for a large portion of an existing individual urbanized area's or urban cluster's growth. Because patterns of annexation and incorporation vary by state, the amount of incorporated territory within or adjacent to an urbanized area or urban cluster can vary from one state to another. Any approach that would move CBSAs from one category to another based on population estimates for incorporated places, rather than the population of cores in their entirety, would be biased in favor of CBSAs in states in which it is easier for municipalities to incorporate and to annex additional territory.

Adoption of a nationally equitable approach for reclassifying CBSAs from one category to another would require the preparation of population estimates at more detailed levels of geographic resolution (such as census blocks) than are currently produced. Further work is needed to develop methodologies for collecting information necessary for such estimates, and for preparing the estimates.

The composition of all existing CBSAs should be updated in 2008 using commuting data for each county from the Census Bureau's American Community Survey, averaged over five years and centered on 2005.

B. COMPARISON OF 1990 METROPOLITAN AREA STANDARDS WITH THE RECOMMENDED 2000 METROPOLITAN AND MICROPOLITAN AREA STANDARDS

	1990 Metropolitan area standards	Recommended 2000 metropolitan and micropolitan area standards
Levels/Categories and Terminology	Identification of metropolitan areas comprising metropolitan statistical areas, consolidated metropolitan statistical areas, and primary metropolitan statistical areas. Metropolitan statistical areas and primary metropolitan statistical areas are identified as level A, B, C, or D areas based on total populations of at least 1,000,000, 250,000 to 999,999, 100,000 to 249,999, and less than 100,000, respectively. Metropolitan statistical areas of 1,000,000 or more population can be designated as consolidated metropolitan statistical areas if local opinion is in favor and component primary metropolitan statistical areas can be identified. New England County Metropolitan Areas (NECMAs) also defined for the New England states.	Identification of Core Based Statistical Areas (CBSAs) comprising two categories: metropolitan areas, based around at least one Census Bureau defined urbanized area of 50,000 or more population, and micropolitan areas, based around at least one urban cluster of 10,000 to 49,999 population. A metropolitan area with a single core of at least 2,500,000 population can be subdivided into component metropolitan divisions. Counties that are not included in a CBSA are referred to as ''Outside CBSAs.'' New England City and Town Areas (NECTAs) also defined for the New England states
Building Blocks	Counties and equivalent entities throughout the U.S. and Puerto Rico, except in New England, where cities and towns are used to define metropolitan areas. County based alternative provided for the New England states.	Counties and equivalent entities throughout the U.S., Puerto Rico, and the Island Areas. City and town based areas, conceptually similar to the county based areas, provided for the New England states.
Qualification of Areas	City of at least 50,000 population, or Census Bureau defined urbanized area of at least 50,000 population in a metropolitan area of at least 100,000 population.	Census Bureau defined urban area of at least 10,000 population
Qualification of Central Counties	Any county that includes a central city or at least 50% of the population of a central city that is located in a qualifier urbanized area. Also any county in which at least 50% of the population is located in a qualifier urbanized area.	Any county in which at least 50% of the population is located in urban areas of at least 10,000 population, or that has within its boundaries a population of at least 5,000 located in a single urban area of at least 10,000 population
Qualification of Outlying Counties	Combination of commuting and measures of settlement structure. • 50% or more of employed workers commute to the central county/counties of a metropolitan statistical area and: 25 or more persons per square mile (ppsm), or at least 10% or 5,000 of the population lives in a qualifier urbanized area; OR. • 40% to 50% of employed workers commute to the central county/counties of a metropolitan statistical area and: 35 or more ppsm, or at least 10% or 5,000 of the population lives in a qualifier urbanized area; OR. • 25% to 40% of employed workers commute to the central county/counties of a metropolitan statistical area and: 35 ppsm and one of the following: (1) 50 or more ppsm, (2) at least 35% urban population, (3) at least 10% or 5,000 of population lives in a qualifier urbanized area; OR. • 15% to 25% of employed workers commute to the central county/counties of a metropolitan statistical area and: 50 or more ppsm and two of the following: (1) 60 or more ppsm, (2) at least 35% urban population, (3) population growth rate of at least 20%, (4) at least 10% or 5,000 of population lives in a qualifier urbanized area; OR.	At least 25% of the employed residents of the county work in the central county/counties of a CBSA; or at least 25% of the employment in the county is accounted for by workers residing in the central county/counties of the CBSA.

B. COMPARISON OF 1990 METROPOLITAN AREA STANDARDS WITH THE RECOMMENDED 2000 METROPOLITAN AND MICROPOLITAN AREA STANDARDS—Continued

	1990 Metropolitan area standards	Recommended 2000 metropolitan and micropolitan area standards
	• 15% to 25% of employed workers commute to the central county/counties of a metropolitan statistical area and less than 50 ppsm and two of the following: (1) at least 35% urban population, (2) population growth rate of at least 20%, (3) at least 10% or 5,000 of population lives in a qualifier urbanized area; OR. • At least 2,500 of the population lives in a central city located in a qualifier urbanized area of a metropolitan statistical area.	
	If a county qualifies as outlying to two or more metropolitan areas, it is assigned to the area to which commuting is greatest; if the relevant commuting percentages are within 5 points of each other, local opinion is considered.	A county that qualifies as outlying to two or more CBSAs is included in the area with which it has the strongest commuting tie.
Merging Statistical Areas	If a county qualifies as a central county of one metropolitan statistical area and as an outlying county on the basis of commuting to a central county of another metropolitan statistical area, both counties become central counties of a single metropolitan statistical area.	Two adjacent CBSAs are merged to form one CBSA if the central county/counties (as a group) of one CBSA qualify as outlying to the central county/counties (as a group) of the other
Central Cities/Principal Cities	Central cities include the largest city in a metropolitan statistical area/consolidated metropolitan statistical area AND each city of at least 250,000 population or at least 100,000 workers AND each city of at least 25,000 population and at least 75 jobs per 100 workers and less than 60% out commuting AND each city of at least 15,000 population that is at least 1/3 the size of largest central city and meets employment ratio and commuting percentage above AND the largest city of 15,000 population or more that meets employment ratio and commuting percentage above and is in a secondary noncontiguous urbanized area AND each city in a secondary noncontiguous urbanized area that is at least 1/3 the size of largest central city in that urbanized area and has at least 15,000 population and meets employment ratio and commuting percentage above.	Principal cities include the largest incorporated place or census designated place in a CBSA AND each place of at least 250,000 population or in which at least 100,000 persons work AND each place with a population that is at least 10,000 and 1/3 the size of the largest place, and in which employment meets or exceeds the number of employed residents.
Primary Metropolitan Statistical Areas/ Metropolitan Divisions and NECTA Divisions.	Primary metropolitan statistical areas outside New England consist of one or more counties within metropolitan areas that have a total population of 1 million or more. Specifically, these primary metropolitan statistical areas consist of: (A) One or more counties designated as a standard metropolitan statistical area on January 1, 1980, unless local opinion does not support continued separate designation. (B) One or more counties for which local opinion strongly supports separate designation, provided one county has: (1) at least 100,000 population; (2) at least 60 percent of its population urban; (3) less than 35 percent of its resident workers working outside the county; and (4) less than 2,500 population of the largest central city in the metropolitan statistical area. (C) A set of two or more contiguous counties for which local opinion strongly supports separate designation, provided at least one county also could qualify as a primary metropolitan statistical area in section (B), and (1) each county meets requirements (B)(1), (B)(2), and (B)(4) and less than 50 percent of its resident workers work outside the county; (2) each county has a commuting interchange of at least 20 percent with the other counties in the set; and (3) less than 35 percent of the resident workers of the set of counties work outside the area.	Metropolitan divisions consist of one or more counties within metropolitan areas that have a single core of 2.5 million or more population. A county is identified as a main county of a metropolitan division if: (a) greater than 50 percent of its employed residents work within the county; (b) the ratio of its employment to its number of employed residents is at least 0.75; and (c) the highest rate of out-commuting from the county to any other county is less than 15 percent. After all main counties have been identified, each additional county that already has qualified for the metropolitan area is included in the metropolitan division associated with the main county to which the county at issue sends the highest percentage of its out-commuters. Counties within a metropolitan division must be contiguous.

B. COMPARISON OF 1990 METROPOLITAN AREA STANDARDS WITH THE RECOMMENDED 2000 METROPOLITAN AND MICROPOLITAN AREA STANDARDS—Continued

	1990 Metropolitan area standards	Recommended 2000 metropolitan and micropolitan area standards
	Each county in the metropolitan area not included within a central core under sections (A) through (C), is assigned to the contiguous primary metropolitan statistical area to whose central core commuting is greatest, provided this commuting is: (1) at least 15 percent of the county's resident workers; (2) at least 5 percentage points higher than the commuting flow to any other primary metropolitan statistical area central core that exceeds 15 percent; and. (3) larger than the flow to the county containing the metropolitan area's largest central city. If a county has qualifying commuting ties to two or more primary metropolitan statistical area central cores and the relevant values are within 5 percentage points of each other, local opinion is considered.	
	Primary metropolitan statistical areas in New England consist of groups of cities and towns within metropolitan areas that have a total population of 1 million or more. Specifically, these primary metropolitan statistical areas consist of:. (D) Any group of cities and towns designated as a standard metropolitan statistical area on January 1, 1980, unless local opinion does not support its continued designation. (E) Any additional group of cities and/or towns for which local opinion strongly supports separate designation, provided: (1) the total population of the group is at least 75,000;. (2) the group includes at least one city with a population of 15,000 or more, an employment/residence ratio of at least 0.75, and at least 40 percent of its employed residents working in the city;. (3) the group contains a core of communities, each of which has at least 50 percent of its population living in the urbanized area, and which together have less than 40 percent of their resident workers commuting to jobs outside the core; and (4) each community in the core also has: (a) at least 5 percent of its resident workers working in the component core city identified in section (E)(2), or at least 10 percent working in the component core city or in places already qualified for this core; this percentage also must be greater than that to any other core or to the largest city of the metropolitan area, and (b) at least 20 percent commuting interchange with the component core city together with other cities and towns already qualified for the core; this interchange also must be greater than with any other core or with the largest city of the metropolitan area. (F) Any group of cities and towns resulting from merging contiguous component central cores. Such a merging of cores may take place if: (1) section E would qualify the component core city of one core for inclusion in the other core, and (2) there is substantial local support for treating the two as a single core.	New England City and Town Area (NECTA) Divisions consist of one or more cities and towns within NECTAs that have at least one core of 2.5 million or more population. A city or town is identified as a main city or town of a NECTA Division if the city or town at issue has a population of 50,000 or more and its highest rate of out-commuting to any other city or town is less than 20 percent. After all main cities and towns have been identified, each additional city and town that already has qualified for inclusion in the NECTA should be included in the NECTA Division associated with the city or town to which the one at issue sends the highest percentage of its out-commuters. Each NECTA Division must contain a total population of 100,000 or more. Cities and towns at first assigned to areas with less than 100,000 population subsequently will be assigned to the qualifying NECTA Division associated with the city or town to which the one at issue sends the highest percentage of its out-commuters. Cities and towns within a NECTA Division must be contiguous.

B. COMPARISON OF 1990 METROPOLITAN AREA STANDARDS WITH THE RECOMMENDED 2000 METROPOLITAN AND MICROPOLITAN AREA STANDARDS—Continued

	1990 Metropolitan area standards	Recommended 2000 metropolitan and micropolitan area standards
	Each city or town in the metropolitan area not included in the core under sections D through F is assigned to the contiguous primary metropolitan statistical area to whose core its commuting is greatest, if: (1) this commuting is at least 15 percent of the place's resident workers; and (2) the commuting interchange with the core is greater than with the metropolitan area's largest city. If a city or town has qualifying commuting ties to two or more cores and the relevant values are within 5 percentage points of each other, local opinion is considered before the place is assigned to any primary metropolitan statistical area. If primary metropolitan statistical areas have been recognized within a metropolitan area under the above provisions, the balance of the metropolitan area, which includes its largest central city, also is recognized as a primary metropolitan statistical area. Definitions of primary metropolitan statistical areas are based on these standards and a review of local opinion..	
Combining Statistical Areas	Two adjacent metropolitan statistical areas are combined as a single metropolitan statistical area if: (A) the total population of the combination is at least one million and (1) the commuting interchange between the two metropolitan statistical areas is equal to at least 15% of the employed workers residing in the smaller metropolitan statistical area, or equal to at least 10% of the employed workers residing in the smaller metropolitan statistical area and the urbanized area of a central city of one metropolitan statistical area is contiguous with the urbanized area of a central city of the other metropolitan statistical area or a central city in one metropolitan statistical area is included in the same urbanized area as a central city in the other metropolitan statistical area; AND (2) at least 60% of the population of each metropolitan statistical area is urban. (B) the total population of the combination is less than one million and (1) their largest central cities are within 25 miles of one another, or the urbanized areas are contiguous; AND (2) there is definite evidence that the two areas are closely integrated economically and socially; AND (3) local opinion in both areas supports combination..	Two adjacent CBSAs are combined if the employment interchange rate between the two areas is at least 25. The employment interchange rate is the sum of the percentage of employed residents of the CBSA with the smaller total population who work in the CBSA with the larger total population and the percentage of employment in the CBSA with the smaller total population that is accounted for by workers residing in the CBSA with the larger total population. Adjacent CBSAs that have an employment interchange rate of at least 15 and less than 25 may combine if local opinion in both areas favors combination. The combining CBSAs also retain separate recognition.

B. COMPARISON OF 1990 METROPOLITAN AREA STANDARDS WITH THE RECOMMENDED 2000 METROPOLITAN AND MICROPOLITAN AREA STANDARDS—Continued

	1990 Metropolitan area standards	Recommended 2000 metropolitan and micropolitan area standards
Titles	Titles of metropolitan statistical areas include the names of up to three central cities in order of descending population size. Local opinion is considered under specified conditions. Titles of primary metropolitan statistical areas include the names of up to three cities in the primary metropolitan statistical area that have qualified as central cities. If there are no central cities, the title will include the names of up to three counties in the primary metropolitan statistical area in order of descending population size. Titles of consolidated metropolitan statistical areas include the names of up to three central cities or counties in the consolidated metropolitan statistical area. The first name will be the largest central city in the consolidated metropolitan statistical area; the remaining two names will be the first city or county name that appears in the title of the remaining primary metropolitan statistical area with the largest total population and the first city or county name that appears in the title of the primary metropolitan statistical area with the next largest total population. Regional designations can be substituted for the second and third names if there is strong local support.	Titles of CBSAs include the names of up to three principal cities in order of descending population size. Titles of metropolitan divisions include the names of up to three principal cities in the metropolitan division in order of descending population size. If there are no principal cities, the title includes the names of up to three counties in the metropolitan division in order of descending population size. Titles of combined areas include the name of the largest principal city in the largest CBSA that combines, followed by the names of the largest principal city in each of up to two additional CBSAs that combine, provided that the second and third CBSAs in the combined area each have at least one-third the population of the first.
Local Opinion	Consulted when: • A county qualifies as outlying to two different metropolitan statistical areas and the relevant commuting percentages are within 5 points of each other; • A city or town in New England qualifies as outlying to two different metropolitan statistical areas and has relevant commuting percentages within 5 points of each other; • A city or town in New England qualifies as outlying to a metropolitan statistical area but has greater commuting to a nonmetropolitan city or town and the relevant commuting percentages are within 5 points of each other; • Combining metropolitan statistical areas whose total population is less than 1,000,000; • Assigning titles of metropolitan statistical areas, consolidated metropolitan statistical areas, and primary metropolitan statistical areas; and Designating primary metropolitan statistical areas.	Consulted when two CBSAs qualify for combination with an employment interchange rate of at least 15 but less than 25.
Grandfathering	A metropolitan statistical area designated on the basis of census data according to standards in effect at the time of designation will not be disqualified on the basis of lacking a city of at least 50,000 population or an urbanized area of at least 50,000 or a total population of at least 100,000.	Areas that do not meet the standards for designation do not qualify.

B. COMPARISON OF 1990 METROPOLITAN AREA STANDARDS WITH THE RECOMMENDED 2000 METROPOLITAN AND MICROPOLITAN AREA STANDARDS—Continued

	1990 Metropolitan area standards	Recommended 2000 metropolitan and micropolitan area standards
Intercensal Updating	A new metropolitan area can be designated intercensally if a city has a Census Bureau population estimate or special census count of at least 50,000 or if a county containing an urbanized area has a Census Bureau population estimate or special census count of at least 100,000. Outlying counties are added to existing metropolitan statistical areas intercensally only when (1) a central city located in a qualifier urbanized area extends into a county not included in the metropolitan statistical area and the population of that portion of the city in the county is at least 2,500 according to a Census Bureau population count or (2) an intercensally designated metropolitan statistical area qualifies to combine with an existing metropolitan statistical area. New central cities can be designated intercensally on the basis of a special census count..	A new CBSA can be designated if a city has a Census Bureau population estimate of 10,000 or more for two consecutive years or a Census Bureau special census count of 10,000 or more. The geographic extent of each CBSA would be re-examined in 2008 using commuting data from the Census Bureau's American Community Survey.

C. Recommended Standards for Defining Metropolitan and Micropolitan Areas

These standards are for use in defining Core Based Statistical Areas (CBSAs) of which there are two categories: Metropolitan Areas and Micropolitan Areas. A CBSA is a statistical geographic entity associated with at least one core of 10,000 or more population, plus adjacent territory having a high degree of social and economic integration with the core as measured by commuting ties.

The purpose of the Metropolitan and Micropolitan Area Standards is to provide a nationally consistent set of area definitions suitable for collecting, tabulating, and publishing Federal statistics. CBSAs are not designed to serve as a general purpose geographic framework applicable to nonstatistical activities, programs, or funding formulas.

CBSAs consist of counties and equivalent entities throughout the United States, Puerto Rico, and the Island Areas. Because of the importance of cities and towns as the primary units of local government in New England, a set of geographic areas similar in concept to the county based CBSAs also will be defined for that region using cities and towns. These New England City and Town Areas (NECTAs) are intended for use with statistical data, whenever feasible and appropriate, for New England. Data providers and users desiring areas defined using a nationally consistent geographic building block should consider using the county based CBSAs in New England.

The following criteria apply to both the nationwide county based CBSAs and to NECTAs, with the exceptions of Sections 7 and 9, in which separate criteria are applied when identifying and titling divisions within NECTAs that contain at least one core of 2.5 million or more population. Wherever the word ''county'' or ''counties'' appears in the following criteria (except in Sections 7 and 9), the words ''city and town'' or ''cities and towns'' should be substituted, as appropriate, when defining NECTAs.

1. Population Size Requirements for Qualification of Core Based Statistical Areas

Each CBSA must have a Census Bureau defined urbanized area of at least 50,000 population or a Census Bureau defined urban cluster of at least 10,000 population. (Urbanized areas and urban clusters are collectively referred to as ''urban areas.'')

2. Central Counties

The central county or counties of a CBSA are those counties that:

(a) Have at least 50 percent of their population in urban areas of at least 10,000 population; or

(b) Have within their boundaries a population of at least 5,000 that is located in a single urban area of at least 10,000 population.

A central county is associated with the urbanized area or urban cluster that accounts for the largest portion of the county's population. The central counties associated with a particular urbanized area or urban cluster are grouped to form a single cluster of central counties for purposes of measuring commuting to and from outlying counties.

3. Outlying Counties

An outlying county is included in a CBSA if it meets the following commuting requirements:

(a) At least 25 percent of the employed residents of the county work in the central county or counties of the CBSA; or

(b) At least 25 percent of the employment in the county is accounted for by workers who reside in the central county or counties of the CBSA.

A county may be included in only one CBSA. If a county qualifies as a central county of one CBSA and as outlying in another, it will be included in the CBSA in which it is a central county. A county that qualifies as outlying to multiple CBSAs will be included in the CBSA with which it has the strongest commuting tie, as measured by either (a) or (b) above. The counties included in a CBSA must be contiguous; if a county is not contiguous with other counties in the CBSA, it will not be included in the CBSA.

4. Merging of Adjacent Core Based Statistical Areas

Two adjacent CBSAs will be merged to form one CBSA if the central county or counties (as a group) of one CBSA qualify as outlying to the central county or counties (as a group) of the other CBSA using the measures and thresholds stated in 3(a) and 3(b) above.

5. Identification of Principal Cities

The principal city (or cities) of a CBSA will include:

(a) The largest incorporated place or census designated place in the CBSA;

(b) Any additional incorporated place or census designated place with a population of at least 250,000 or in which 100,000 or more persons work; and

(c) Any additional incorporated place or census designated place with a population that is at least 10,000 and one-third the size of the largest place, and in which the number of jobs meets or exceeds the number of employed residents.

6. Categories and Terminology

A CBSA will be assigned a category based on the population of the largest urban area (urbanized area or urban cluster) within the CBSA. Categories of CBSAs are: Metropolitan Areas, based around urbanized areas of 50,000 or more population, and Micropolitan Areas, based around urban clusters of at least 10,000 population but less than 50,000 population.

Counties that are not included in CBSAs will be referred to as being ''Outside Core Based Statistical Areas.''

7. Divisions of Metropolitan Areas and New England City and Town Areas

Metropolitan Areas containing at least one core with a population of at least 2.5 million may be subdivided to form smaller groupings of counties referred to as Metropolitan Divisions.

A county will be identified as a main county of a Metropolitan Division if:

(a) Greater than 50 percent of its employed residents work within the county;

(b) The ratio of the number of jobs located within that county to its number of employed residents is at least 0.75; and

(c) The highest rate of out-commuting from the county to any other county is less than 15 percent.

After all main counties have been identified, each remaining county in the Metropolitan Area will be included in the Metropolitan Division associated with the main county to which the county at issue sends the highest percentage of its out-commuters. Counties within a Metropolitan Division must be contiguous.

NECTAs containing at least one core with a population of at least 2.5 million may be subdivided to form smaller groupings of cities and towns referred to as NECTA Divisions.

A city or town is identified as a ''main city or town'' of a NECTA Division if:

(a) The city or town at issue has a population of 50,000 or more; and

(b) Its highest rate of out-commuting to any other city or town is less than 20 percent.

After all main cities and towns have been identified, each remaining city and town in the NECTA will be included in the NECTA Division associated with the city or town to which the one at issue sends the highest percentage of its out-commuters.

Each NECTA Division must contain a total population of 100,000 or more. Cities and towns first assigned to areas with populations less than 100,000 will be assigned to the qualifying NECTA Division associated with the city or town to which the one at issue sends the highest percentage of its out-commuters. Cities and towns within a NECTA Division must be contiguous.

8. Combining Adjacent Core Based Statistical Areas

Any two adjacent CBSAs will form a Combined Area if the employment interchange rate between the two areas is at least 25. The employment interchange rate between two CBSAs is defined as the sum of the percentage of employed residents of the CBSA with the smaller total population who work in the area with the larger total population and the percentage of employment in the CBSA with the smaller total population that is accounted for by workers residing in the CBSA with the larger total population. Adjacent CBSAs that have an employment interchange rate of at least 15 and less than 25 will be combined if local opinion, as reported by the congressional delegations in both areas, favors combination. The CBSAs that combine retain separate identities within the larger Combined Areas.

9. Titles of Core Based Statistical Areas, Metropolitan Divisions, New England City and Town Area Divisions, and Combined Areas

The title of a CBSA will include the name of its principal city with the largest Census 2000 population. If there are multiple principal cities, the names of the second largest and third largest principal cities will be included in the title in order of descending population size.

The title of a Metropolitan Division will include the name of the principal city with the largest Census 2000 population located within the Metropolitan Division. If there are multiple principal cities, the names of the second largest and third largest principal cities will be included in the title in order of descending population size. If there are no principal cities located within the Metropolitan Division, the title of the Metropolitan Division will include the names of up to three counties in order of descending population size.

The title of a NECTA Division will include the name of the principal city with the largest Census 2000 population located within the NECTA Division. If there are multiple principal cities, the names of the second largest and third largest principal cities will be included in the title in order of descending population size. If there are no principal cities located within the NECTA Division, the title of the NECTA Division will include the name of the city or town with the largest population.

The title of a Combined Area will include the name of the largest principal city in the largest CBSA that combines, followed by the largest principal city in each of up to two additional CBSAs that combine, provided that the second and third CBSAs in the Combined Area each have at least one-third the population of the largest CBSA in the combination.

CBSA, Metropolitan Division, NECTA Division, and Combined Area titles also will include the names of any state in which the area is located.

10. Update Schedule

CBSAs based on Census 2000 data are scheduled to be defined in 2003. Subsequently, new CBSAs will be designated intercensally if:

(a) A city that is outside any existing CBSA has a Census Bureau special census count of 10,000 or more population, or Census Bureau population estimates of 10,000 or more population for two consecutive years, or

(b) A Census Bureau special census results in the delineation of a new urban area (urbanized area or urban cluster) of 10,000 or more population that is outside of any existing CBSA.

In the years through 2007, outlying counties of intercensally designated CBSAs will be qualified, according to the criteria in Section 3 above, on the basis of Census 2000 commuting data.

The definitions of all existing CBSAs will be reviewed in 2008 using commuting data from the Census Bureau's American Community Survey. The central counties of CBSAs identified on the basis of a Census 2000 population count, or on the basis of population estimates or a special census count in the case of intercensally defined areas, will constitute the central counties for purposes of the 2008 CBSA definition review. New CBSAs will be designated in 2008 and 2009 on the basis of Census Bureau special census counts or population estimates as described above; outlying county qualification in these years will be based on 2008 commuting data from the American Community Survey.

11. Local Opinion

Local opinion, as used in these standards, is the reflection of the views of the public and is obtained through the appropriate congressional delegations. Under the Metropolitan and Micropolitan Area Standards, local opinion is sought only when two adjacent CBSAs qualify for combination based on an employment interchange rate of at least 15 but less than 25 (see Section 8). The two CBSAs will be combined only if there is evidence that local opinion in both areas favors the combination. After a decision has been made regarding the combination of CBSAs, the Office of Management and Budget will not request local opinion again on the same question until the next redefinition of CBSAs.

D. Key Terms

(An asterisk (*) denotes new terms defined for the purposes of the Metropolitan Area Standards Review Project. Two asterisks (**) denote terms whose definitions have changed for purposes of the Metropolitan Area Standards Review Project.)

Census designated place—A statistical geographic entity that is equivalent to an incorporated place, defined for the decennial census, consisting of a locally recognized, unincorporated concentration of population that is identified by name.

Central city—The largest city of a metropolitan statistical area or a consolidated metropolitan statistical area, plus additional cities that meet specified statistical criteria in the 1990 metropolitan area standards.

** *Central county*—The county or counties of a core based statistical area containing a substantial portion of an urbanized area or urban cluster or both, and to and from which commuting is measured to determine qualification of outlying counties.

* *Combined area*—A geographic entity consisting of two or more adjacent core based statistical areas (CBSAs) with employment interchange rates of at least 15. CBSAs with employment interchange rates of at least 25 combine automatically. CBSAs with employment interchange rates of at least 15 but less than 25 may combine if local opinion in both areas favors combination.

** *Core*—A densely settled concentration of population, comprising either an urbanized area (of 50,000 or more population) or an urban cluster (of 10,000 to 49,999 population) defined by the Census Bureau, around which a core based statistical area is defined.

* *Core based statistical area (CBSA)*—A statistical geographic entity consisting of the county or counties associated with at least one core (urbanized area or urban cluster) of at least 10,000 population, plus adjacent counties having a high degree of social and economic integration with the core as measured through commuting ties with the counties containing the core. Metropolitan and micropolitan areas are two categories of core based statistical areas.

* *Employment interchange rate*—A measure of ties between two adjacent core based statistical areas (CBSAs) used when determining whether they qualify to be combined. The employment interchange rate is the sum of the percentage of employed residents of the smaller CBSA who work in the larger CBSA and the percentage of employment in the smaller CBSA that is accounted for by workers who reside in the larger CBSA.

Geographic building block—The geographic unit, such as a county, that forms the basic geographic component of a statistical area.

* *Main city or town*—A city or town that acts as an employment center within a New England city and town area that has a core with a population of at least 2.5 million. A main city or town serves as the basis for defining a New England city and town area division.

* *Main county*—A county that acts as an employment center within a core based statistical area that has a core with a population of at least 2.5 million. A main county serves as the basis for defining a metropolitan division.

** *Metropolitan area*—A collective term, established by OMB and used for the first time in 1990, to refer to metropolitan statistical areas, consolidated metropolitan statistical areas, and primary metropolitan statistical areas. Also, as introduced for this Notice, a core based statistical area associated with at least one urban area that has a population of 50,000 or more; the metropolitan area comprises the central county or counties containing the core, plus adjacent outlying counties having a high degree of social and economic integration with the central county as measured through commuting.

* *Metropolitan division*—A county or group of counties within a core based statistical area that contains a core with a population of at least 2.5 million. A metropolitan division consists of one or more main counties that represent an employment center or centers, plus adjacent counties associated with the main county or counties through commuting ties.

Metropolitan statistical area—A geographic entity, defined by OMB for statistical purposes, containing a large population nucleus and adjacent communities having a high degree of social and economic integration with that nucleus. Under the 1990 metropolitan area standards, qualification of an MSA required a city with 50,000 population or more, or an urbanized area of 50,000 population or more and a total population of at least 100,000 (75,000 in New England). MSAs are composed of entire counties, except in New England where the components are cities and towns.

* *Micropolitan area*—A core based statistical area associated with at least one urban area that has a population of at least 10,000 but less than 50,000. The micropolitan area comprises the central county or counties containing the core, plus adjacent outlying counties having a high degree of social and economic integration with the central county as measured through commuting.

Minor civil division—A type of governmental unit that is the primary legal subdivision of a county, created to govern or administer an area rather than a specific population.

New England county metropolitan area (NECMA)—Under the 1990 metropolitan area standards, a county based statistical area defined by OMB to provide an alternative to the city and town based metropolitan statistical areas and consolidated metropolitan statistical areas in New England.

* *New England city and town area* (NECTA)—A statistical geographic entity that is defined using cities and towns as building blocks and that is conceptually similar to the core based statistical areas in New England (which are defined using counties as building blocks).

* *New England city and town area (NECTA) division*—A city or town or group of cities and towns within a NECTA that contains a core with a population of at least 2.5 million. A NECTA division consists of a main city or town that represents an employment center, plus adjacent cities and towns associated with the main city or town, or with other cities and towns that are in turn associated with the main city or town, through commuting ties.

** *Outlying county*—A county that qualifies for inclusion in a core based statistical area on the basis of commuting ties with the core based statistical area's central county or counties.

* *Outside core based statistical areas*—Counties that do not qualify for inclusion in a core based statistical area.

* *Principal city*—The largest city of a core based statistical area, plus additional cities that meet specified statistical criteria.

Urban area—The generic term used by the Census Bureau to refer collectively to urbanized areas and urban clusters.

Urban cluster—A statistical geographic entity to be defined by the Census Bureau for Census 2000, consisting of a central place(s) and adjacent densely settled territory that together contain at least 2,500 but less than 50,000 people, generally with an overall population density of at least 1,000 people per square mile. For purposes of defining core based statistical areas, only those urban clusters of 10,000 more population are considered. (Previous Notices referred to urban clusters as ''settlement clusters.'')

Urbanized area—A statistical geographic entity defined by the Census Bureau, consisting of a central place(s) and adjacent densely settled territory that together contain at least 50,000 people, generally with an overall population density of at least 1,000 people per square mile.

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August 22, 2000

Part III

Environmental Protection Agency

40 CFR Parts 260, 264, and 271
Amendments to the Corrective Action Management Unit Rule; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 260, 264, and 271

[FRL–6850–3]

RIN 2050–AE77

Amendments to the Corrective Action Management Unit Rule

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: In today's action, the Agency is proposing amendments to the regulations governing Corrective Action Management Units (CAMUs) concerning: the types of wastes that may be managed in a Corrective Action Management Unit (CAMU), the design standards that apply to CAMUs, the treatment requirements for wastes placed in CAMUs, information submission requirements for CAMU applications, responses to releases from CAMUs, and public participation requirements for CAMU decisions. In addition, today's proposed amendments would ''grandfather'' certain categories of CAMUs and create new requirements for CAMUs used only for treatment or storage (*i.e.*, those in which wastes will not remain after closure). Today's action also requests comment on a potential change to the staging pile regulations. Finally, today's action proposes an approach to state authorization that would, as part of this rulemaking, grant ''interim authorization'' for today's amendments to most states currently authorized for the CAMU rule and would expedite the authorization process for states authorized for corrective action but not the CAMU rule. Today's proposed amendments are intended to make clearer the Agency's general minimum expectations for CAMUs and to make the CAMU process more consistent and predictable, as well as more explicit for the public.

DATES: EPA will accept public comment on this proposed rule until October 23, 2000.

ADDRESSES: Those persons wishing to submit public comments must send an original and two copies of their comments referencing EPA docket number F–2000–ACAP–FFFFF to: RCRA Docket Information Center (5305W), U.S. Environmental Protection Agency Headquarters (EPA)(5305G), Ariel Rios Building, 1200 Pennsylvania Avenue NW., Washington, DC, 20460. Hand deliveries of comments, including courier, postal and non-postal express deliveries, should be made to the Arlington, VA address below.

Comments may also be submitted electronically through the Internet to: rcra-docket@epa.gov. Comments in electronic format should also identify the docket number F–2000–ACAP–FFFFF. All electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Commenters should not submit electronically any confidential business information (CBI). An original and two copies of CBI must be submitted under separate cover to: RCRA CBI Document Control Officer, Office of Solid Waste (5305W), U.S. EPA, Ariel Rios Building, 1200 Pennsylvania Avenue NW., Washington, DC 20460.

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

FOR FURTHER INFORMATION CONTACT: For general information, contact the RCRA Hotline at (800) 424–9346 or TDD (hearing impaired) (800) 553–7672. In the Washington, DC metropolitan area, call (703) 412–9810 or TDD (703) 412–3323. For more detailed information on specific aspects of today's action, contact Bill Schoenborn, U.S. Environmental Protection Agency (5303W), Ariel Rios Building, 1200 Pennsylvania Ave., NW., Washington, DC 20460, at (703) 308–8483, or e-mail: *schoenborn.bill@epamail.epa.gov.*

SUPPLEMENTARY INFORMATION:

Customer Service

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

- Explain your views as clearly as possible and why you feel that way.
- Provide solid technical and cost data to support your views.
- If you estimate potential costs, explain how you arrived at the estimate.
- Tell us which parts you support, as well as those you disagree with.
- Provide specific examples to illustrate your concerns.
- Offer specific alternatives.
- Refer your comments to specific sections of the notice.
- Make sure to submit your comments by the deadline in this notice.
- Be sure to include the proposal name, date, and docket number with your comments.
- Copies of today's proposal, titled Amendments to the Corrective Action Management Unit Rule, are available for inspection and copying at the EPA Headquarters library, at the RCRA Docket (RIC) office identified in **ADDRESSES** above, at all EPA Regional Office libraries, and in electronic format at the following EPA Web site: http://www.epa.gov/osw/special.htm. Printed copies of the proposal and related documents can also be obtained by calling the RCRA/Superfund Hotline at (800) 424–9346 or (703) 412–9810.

The index and some of the supporting materials are available on the Internet. Follow these instructions to access the information electronically:

WWW: *http://www.epa.gov/epaoswer/....*
FTP: *ftp.epa.gov*
Login: anonymous
Password: Your internet address
Files are located in /pub/epaoswer.

The official record for this action will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into paper form and place them in the official record, which will also include all comments submitted directly in writing. The official record is the paper record maintained at the address in **ADDRESSES** at the beginning of this document.

EPA responses to comments, whether the comments are written or electronic, will be published in a notice in the **Federal Register** or in a response to comments document placed in the official record for this proposed rulemaking. EPA will not immediately reply to commenters electronically other than to seek clarification of electronic comments that may be garbled in transmission or during conversion to paper form.

Outline

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I. Authority

These regulations are proposed under the authority of sections 1006, 2002(a), 3004, 3005(c), 3007 and 3008(h) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, as amended by the Hazardous and Solid Waste Amendments of 1984.

II. Background

A. Purpose and Context for Today's Proposed Rule

Since 1980, the Environmental Protection Agency (EPA) has developed a comprehensive regulatory framework under Subtitle C of RCRA that governs the identification, generation, transportation, treatment, storage, and disposal of hazardous wastes. These regulations center around two broad objectives: to prevent releases of hazardous wastes and constituents through a comprehensive set of management requirements (commonly referred to as hazardous waste ''cradle-to-grave'' requirements); and to minimize the generation of hazardous wastes and to promote their legitimate reuse and recycling. The hazardous waste regulations constitute minimum national standards for management of hazardous wastes and are generally oriented towards ''prevention'' of releases, rather than ''response'' to releases. In general, they apply consistently to all hazardous wastes, regardless of where or how generated, and to all hazardous waste management facilities, regardless of how much government oversight any given facility receives. In order to ensure an adequate level of protection nationally, the RCRA regulations have been conservatively designed to ensure proper management of hazardous wastes over a range of waste types, environmental conditions, management scenarios, and operational contingencies.

During cleanup of contaminated sites,[1] the regulations for the management of hazardous wastes apply to cleanup wastes and contaminated media that meet the definition of hazardous waste under RCRA. EPA has long recognized that the incentives and objectives for the hazardous waste prevention and cleanup programs differ fundamentally. For example, the stringent treatment requirements established by the RCRA land disposal restrictions (LDRs) have encouraged many generators to reduce the amount of hazardous waste they generate. On the other hand, when the LDR requirements are applied in the context of site cleanup, they can act as a disincentive to excavate wastes for cleanup. Similarly, the hazardous waste unit standards and permitting requirements can also act as disincentives to cleanup. Finally, there may be significant physical and chemical differences between ''as-generated'' wastes and cleanup wastes that affect their ability to undergo treatment.

It has been EPA's experience, therefore, that application of the regulations developed for as-generated industrial hazardous wastes, in particular LDRs and minimum technical requirements (MTRs), to cleanup wastes often presents remediation project managers with only two choices: to pursue the legal option of capping or treating cleanup wastes in place, thereby avoiding the LDR and certain other management requirements; or, excavating the cleanup waste and treating it to the full extent required by the LDR requirements and disposing of the waste in compliance with the as-generated hazardous waste disposal unit requirements. EPA has found that this situation has created an incentive at certain cleanup sites to select less permanent remedies that involve leaving the cleanup wastes in place. (For a fuller discussion of this issue, see the preamble discussions accompanying the Land Disposal Restrictions Phase IV rule, 63 FR 28556, 28603–28604 (May 26, 1998), Clarification of the LDR Treatment Variance Standard (the ''environmentally inappropriate'' variance, § 268.44(h)(2)(ii), 62 FR 64504, 64505–64506 (December 5, 1997)), and the HWIR-Media rule, 63 FR 65874, 65876–65878 (November 30, 1998), and sources cited therein).

EPA has developed extensive policies and regulations to address the special circumstances of hazardous cleanup wastes. These regulations and policies are designed to preserve RCRA's goal of protectiveness, while providing oversight agencies the flexibility and tools necessary to develop effective site-specific remedies, including remedial alternatives that are intermediate between the two choices described above (*i.e.,* between leaving cleanup wastes in place or managing such wastes as if they were as-generated industrial wastes). These include, among other policies and regulations, the 1993 ''Corrective Action Management Unit'' (CAMU) regulation, which is the subject of today's proposed amendments; the ''area of contamination'' policy; the ''contained-in'' policy; the ''phase IV'' treatment standards for contaminated soils; and the regulations for ''temporary units.'' Descriptions of these and other policies and regulations, including references, are included in the October, 1998 Memorandum, ''Management of Remediation Waste Under RCRA,'' EPA530–F–98–026, which is in the docket for today's proposed rule. In addition, since this memorandum was issued, EPA promulgated the HWIR-media rule, which addresses permitting and other issues related to management of hazardous remediation waste that results from cleanup actions (63 FR 65874 (November 30, 1998)), and the post-closure rule, which encourages the integration of RCRA closure and cleanup actions (63 FR 56710 (October 22, 1998)). The HWIR-media rule is described later in this section.

Today's proposed amendments to the CAMU rule would leave these policies and regulations untouched, except, of course, the provisions of the CAMU rule being amended.

1. Corrective Action Management Units (CAMUs)

On February 16, 1993, EPA published final regulations for CAMUs (58 FR 8658). The CAMU rule provides considerable flexibility to EPA and implementing States to specify design, operating, and closure/post closure requirements for on-site units used for storage, treatment and disposal of hazardous wastes and media containing hazardous waste that are managed during cleanup. The CAMU rule sets forth decision criteria for the designation of CAMUs that are protective of human health and the environment. The CAMU rule defined wastes (''remediation wastes'') that would be eligible for management in a CAMU. Importantly, under the CAMU rule, consolidation or placement of remediation waste into an approved CAMU is not considered ''land disposal'' and therefore does not trigger RCRA land disposal restriction (LDR) requirements (§ 264.552(a)(1)). Thus, appropriate treatment requirements can be specified by the overseeing Agency on a site- and waste-specific basis. In addition, the CAMU rule provides that consolidation or placement of cleanup wastes into a CAMU does not trigger RCRA section 3004(o) minimum technology requirements (MTRs) (§ 264.552(a)(2)) for hazardous waste unit design. As a result, the CAMU rules provide significant regulatory relief and flexibility for cleanup.

The CAMU rule has received broad support from many affected stakeholders. At the time of promulgation of the CAMU rule, however, the rule was challenged. On May 14, 1993, a petition for review was filed with the U.S. Court of Appeals for the District of Columbia Circuit. Environmental Defense Fund v. EPA, No. 93–1316 (D.C. Cir.). The Petitioners were concerned, among other things, with the provisions stating that LDRs, MTRs and other Part 264 and 265 RCRA

[1] The term ''site'' is used in this proposal as a general term connoting properties where cleanups are taking place.

unit requirements do not apply to CAMUs.

Prior to this challenge to the CAMU rule, EPA created the Hazardous Waste Identification Rule (HWIR) Federal Advisory Committee (discussed in the proposed Requirements for Management of Hazardous Contaminated Media (HWIR-Media) preamble, 61 FR 18780 (April 29, 1996)). As part of the dialogue that prefaced the creation of this committee, which included representatives from environmental groups, regulated industry, the waste management industry, states and EPA, EPA agreed to re-examine the CAMU regulations in the context of developing regulations (the HWIR-Media regulations) to address the management of hazardous remediation waste during cleanups. The litigation to the CAMU rule was stayed pending the outcome of this rulemaking process. In April 1996, EPA proposed the HWIR-media rule, which was a comprehensive proposal addressing the management of hazardous remediation waste. In this notice, EPA proposed to withdraw the 1993 CAMU rule with the reasoning that the proposed rule would offer much of the same flexibility as that available under the CAMU rule, but with a more comprehensive and detailed approach to addressing remediation waste issues.

On November 30, 1998, EPA published the final HWIR-Media rule (63 FR 65874). Because, among other things, of fundamental disagreement with the proposal expressed by various commenters, and concerns expressed by EPA after considering stakeholder comments, EPA decided to promulgate only selected elements of the HWIR-media proposal, rather than a more comprehensive set of standards. In addition, because the specific provisions finalized in the HWIR-media rule do not address the basic concerns that the 1993 CAMU rule addresses, EPA chose to leave the CAMU regulations in place, rather than to withdraw the regulations, as had been proposed.

Following publication of the final HWIR-media rule and EPA's decision not to withdraw the 1993 CAMU rule, EPA and the Petitioners to the CAMU rule entered into discussions in an effort to settle the CAMU litigation. During these discussions, EPA obtained feedback from the regulated community and the states to help inform the settlement process. On February 11, 2000, EPA and the Petitioners reached settlement on the CAMU litigation (the settlement was filed with the U.S. Court of Appeals for the District of Columbia Circuit, and is included in the docket for today's rulemaking). The settlement calls for EPA to propose amendments to the existing CAMU rule by August 7, 2000, and to issue a final rule by October 8, 2001. While not part of the settlement, EPA expressed its intentions at the time of settlement to include in the proposal provisions for expediting state authorization of these amendments (see February 11, 2000 ''Note to Correspondents,'' in the docket for today's rule). Potential amendments to the 1993 rule outlined in the settlement include treatment and design standards specific to CAMUs and the wastes therein and modifications to the definition of wastes that are eligible for management in CAMUs.

Following the approaches outlined in the settlement,[2] EPA is proposing in today's notice to amend the 1993 CAMU rule. This notice seeks comment only on the amendments proposed today; EPA is not reopening for comment any aspects of the 1993 rule not addressed by today's proposed amendments (*e.g.*, the provisions of the rule stating that wastes placed in CAMUs are not subject to LDRs and that CAMUs are not units subject to MTRs). EPA will carefully consider any comments that are submitted in response to today's proposal. Procedures for submitting comments to EPA are described above in the section titled **ADDRESSES**.

B. Why Is EPA Proposing Today's Amendments?

Today's proposed amendments would more specifically define the wastes eligible for management in CAMUs, establish minimum treatment requirements for such wastes, and set minimum technical standards for CAMUs. This is a departure from the 1993 rule, which took a more ''performance-based'' approach to addressing these issues, and left the details of what was necessary to protect human health and the environment to the Regional Administrator to determine based on site-specific circumstances. It was EPA's view in 1993 that this approach would bring more efficiency and speed to cleanups by replacing the more prescriptive RCRA requirements designed primarily for ''process'' wastes (also known as ''as-generated'' wastes) with an approach that allows site-specific decision-making regarding treatment and technical requirements for cleanup wastes[3] managed in on-site units. EPA chose not to impose prescriptive standards tailored to cleanup wastes managed in CAMUs out of a concern that individual sites might present circumstances not contemplated at the time of the promulgation of the rule. EPA feared that such standards might therefore pose a barrier to sensible protective cleanup solutions, engendering the kinds of disincentives to cleanup that the CAMU rule was designed to address.

The Agency believes that the CAMU rule has worked well in practice, resulting in remedies that are protective of human health and the environment. However, as discussed above, the Agency was sued on the rule upon issuance. As described above, at the time the CAMU rule was promulgated and the Petition for Review filed, the Agency was engaged in the HWIR-Media process aimed at developing a more comprehensive regulatory approach to addressing how cleanup wastes should be regulated under RCRA (see discussion of HWIR-Media FACA process and rulemaking above). EPA and Petitioners therefore agreed it was reasonable to stay the CAMU litigation pending the outcome of that process. As explained above, the HWIR-Media rule did not result in the type of comprehensive RCRA regulatory reform that would have eliminated the need for the CAMU rule; therefore, the Agency was faced with the decision of whether to proceed with the CAMU litigation or enter into settlement discussions more directly focused on the CAMU rule.

The Agency decided to enter into settlement discussions and ultimately entered into a settlement agreement that forms the basis for today's amendments and will potentially resolve Petitioner's claims. EPA's decision to enter this settlement was based on a desire to avoid the risks of litigation (and the great disruption such litigation could mean for existing and planned cleanups) and to remove the ''litigation cloud'' that has deterred the use of CAMUs in the field,[4] as well as on a

[2] Note that this settlement agreement does not require that the Agency promulgate today's proposed amendments as final regulations. Instead, it provides that the Petitioners agree to seek dismissal of their petitions for review if (among other things) the Agency finalizes amendments of substantially the same substance as those outlined in the settlement agreement.

[3] The term ''cleanup waste'' is used in today's proposal to express the general concept of wastes that are derived from cleanup. It is not meant as a term of art, nor is it meant to supersede the terms ''remediation waste,'' which is defined at § 260.10, or ''CAMU-eligible waste,'' which is proposed in today's notice. EPA uses this term in today's preamble when using either ''remediation waste'' or ''CAMU-eligible waste'' would be confusing in the discussion context, given the defined nature of these terms.

[4] See General Accounting Office report, ''Remediation Waste Requirements Can Increase the Time and Cost of Cleanups,'' October, 1997, which is included in the docket for today's rule and

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belief that the proposals negotiated during the settlement process were reasonable.

EPA believes that the approach set out in today's proposed rule provides a sound framework for CAMU decision-making. The Agency recognizes the benefits of including minimum standards in a rule of this nature; *i.e.,* such standards can make the process more consistent nationally, and the results more predictable, as well as more explicit for the public. Such standards can also make implementation of the rule less vulnerable to mistakes or abuse. However, the Agency did not want to include more detailed standards if they would result in potentially limiting the usefulness of the rule, thereby delaying or inhibiting cleanups. This is the concern that led the Agency to adopt the largely performance-based rules in 1993.

The Agency believes the proposed amendments achieve an appropriate balance. The detail added is sufficient for providing minimum national standards that realize the benefits outlined above, but is not overly prescriptive such that it would so minimize site-specific flexibility that the CAMU rule would no longer act to remove the disincentives to cleanup that can be created by application of RCRA's land disposal restrictions and minimum technical requirements. Today's proposal reflects the fact that eight years into the CAMU program, and 16 years into the corrective action program, the Agency is now in a much better position than it was in 1993 to define regulatory minimums for hazardous cleanup waste management units (that are used for wastes regulated as hazardous under RCRA) that would result in the benefits outlined above, without sacrificing the site-specific flexibility that is often critical in the cleanup scenario.

In developing today's proposal, and in negotiating the CAMU settlement, the Agency was able to analyze many of the CAMUs that have been implemented over the past eight years both by reviewing the records for such CAMUs and by talking with the Agency staff responsible for overseeing the CAMU decisions, as well as with representatives from states and industry that have experience in both cleanup and implementing CAMUs (the section in today's preamble titled, ''Planning and Regulatory Review Executive Order 12866'' describes the sample of CAMUs used in the analysis of existing CAMUs). The Agency then was able to measure this information against potential standards for applicability at all CAMUs, and against standards that are already in wide use in other waste management unit programs (*e.g.,* the Subtitle C and D programs). The Agency was able to tailor potential standards for CAMUs by identifying circumstances where it might be appropriate to depart from potential minimum standards either on a national or site-specific basis. Identification of these circumstances where flexibility could be built into selection of the appropriate standards was critical to the Agency. EPA believes it is crucial to ensure that any minimum national standards be consistent with the thinking processes of site decision makers who have implemented the existing CAMU rule so as not to recreate the disincentives to cleanup that the Agency sought to remove with the 1993 rule. In addition, in considering potential standards, EPA was mindful of the high degree of oversight associated with CAMU decisions. As explained more fully below, as a result of this process, the Agency believes that it has identified minimum standards that are appropriate for most CAMUs and that accommodate the site-specific complexities encountered at cleanup sites. Indeed, EPA believes that the vast majority of the existing CAMUs could have been approved with few or no changes under today's proposed revisions. The Agency therefore believes that if the amendments are finalized as proposed, the CAMU rule will continue to play an important role in removing disincentives to cleanup that can be caused by application of RCRA's hazardous waste management requirements for as-generated wastes to cleanup wastes, while making the CAMU process more consistent and predictable, as well as more explicit for the public.

The Agency specifically seeks comment on the Agency's conclusions regarding whether the proposed rules would realize the benefits of increased regulatory detail without reinstating the disincentives to cleanup the CAMU rule was originally meant to address. In particular, the Agency seeks comment on the Agency's view that the vast majority of existing CAMUs could have been approved with few or no changes under today's proposed revisions (see the ''Economic Analysis of the Proposed Amendments to the CAMU Rule,'' and the ''CAMU Site Background Document,'' available in today's docket).

C. Approach to Publishing Today's Proposed Amendments

In proposing today's amendments, the Agency has published the entire text of the CAMU rule as it would appear if today's amendments were finalized. EPA took this approach for the sake of clarity. EPA recognizes that it could be difficult for readers of today's proposal to construct the complete rule, as amended by today's proposal, if EPA were simply to publish the amendments by themselves, as EPA typically does when it proposes to modify existing regulations. In addition, to further aid the reader, the Agency has placed a ''redline/strikeout'' version of the CAMU regulations in the docket for today's rulemaking. This document indicates exactly where changes to the current rule are being proposed.

EPA believes this approach to publishing today's regulatory amendments will be clearer than simply publishing the proposed amendments. However, it is important to note that EPA is not seeking comment on CAMU regulatory provisions that are simply repeated from the 1993 rule and are not subject to potential modification by today's proposed amendments.

Note that in many cases, the Agency proposes to incorporate, with appropriate changes, existing requirements from other parts of the RCRA regulations into the CAMU rule. In reviewing today's proposal, commenters may wish to examine the preambles and other supporting materials in the rulemaking dockets for those requirements to help determine whether such existing requirements make sense for the CAMU rule.

III. Section By Section Analysis

A. Grandfathering CAMUs (§ 264.550)

EPA is proposing provisions in today's notice that would allow certain CAMUs to continue to be implemented pursuant to the current rules under which they were approved or planned (*i.e.,* such CAMUs would be ''grandfathered''). Grandfathering of CAMUs is discussed in detail in Section J of today's preamble. EPA has included this discussion at the end of the section by section analysis in order to ensure that readers of today's proposal have the proper context for these proposed provisions.

B. Eligibility of Wastes for Management in CAMUs (§ 264.552(a))

In today's rule, EPA is proposing to modify the regulation that defines which wastes may be managed in a CAMU. Under the current CAMU rule, the definition of ''remediation waste'' at § 260.10 defines the types of wastes that may be managed in a CAMU. This definition (originally promulgated in the 1993 CAMU rule and modified in the

discussed in HWIR-Media rule preamble at 63 FR 65874, 65921 (November 30, 1998).

HWIR-media rule (63 FR 65874 (November 30, 1998)) also serves as the definition for wastes that may be managed pursuant to a Remedial Action Plan (or ''RAP'') (under Part 270, Subpart H), that may be stored in a staging pile (§ 264.554), or that are subject to a site-specific treatment variance from the land disposal restriction standards under § 268.44(h)(2)(ii) (the ''environmentally inappropriate'' variance).

EPA is proposing to modify the definition governing the types of wastes that can be managed in a CAMU, and is not proposing to change, or to otherwise take comment on, the definition of remediation waste as it is applied outside of the CAMU rule. To avoid any confusion on this issue, EPA is proposing to change the name of waste eligible for management in CAMUs from ''remediation waste'' to ''CAMU-eligible waste,'' and to include the definition of CAMU-eligible waste in the CAMU regulations at § 264.552. Note that for CAMUs that would be subject to today's proposed amendments (*i.e.,* that are not grandfathered), EPA is proposing a conforming change to the definition of corrective action management unit currently in § 260.10, changing ''remediation wastes'' to ''CAMU-eligible wastes'' such that the definition would read as follows: ''Corrective action management unit (CAMU) means an area within a facility that is used only for managing CAMU-eligible wastes for implementing corrective action or cleanup at the facility.'' In addition, EPA is proposing to remove this definition from § 260.10 and to place it directly in the CAMU regulations at § 264.552(a). This change is discussed in more detail in the section below on ''Conforming Changes.''

EPA is proposing three changes to the existing CAMU rule that relate to what materials may be managed in CAMUs: (1) Clarifying regulatory language to better distinguish between as-generated and cleanup wastes; (2) a provision preventing certain waste in containers and other non-land based units from being managed in CAMUs; and, (3) a provision allowing non-hazardous as-generated wastes to be placed in CAMUs when they are used to facilitate treatment or the performance of the CAMU.

While the first change listed above is a regulatory change to the specific definition of CAMU-eligible wastes, it is intended merely as a clarification of how EPA generally distinguishes between as-generated versus cleanup wastes. It does not represent a departure from how EPA has generally distinguished or will distinguish between these two categories of wastes in other contexts (*i.e.,* the distinction being made in today's proposal generally holds true in the context of the current remediation waste definition). Conversely, the second proposed regulatory change listed above results in a departure from current definitions (under the 1993 CAMU rule) and interpretations, and narrows the universe of cleanup wastes that are eligible for management in a CAMU. As a result of the second change, the remediation waste definition would be broader than the proposed CAMU-eligible waste definition. The third proposed regulatory change is necessary to address an effect that would be caused by the first change described above—without the third proposed change, a current practice involving the use of non-hazardous as-generated waste during cleanup would be prevented. Each of these proposed changes is discussed below.

1. ''As-Generated'' vs. ''Cleanup'' Wastes.

The existing regulatory definition of ''remediation waste'' in § 260.10, as amended in the HWIR-media rule (63 FR 65874 (November 30, 1998)), limits remediation waste to wastes, media and debris that ''are managed for implementing cleanup.'' The preamble to the 1993 rule explains what was generally meant by this definition: ''[t]oday's definition of remediation waste excludes ''new'' or as-generated wastes (either hazardous or non-hazardous) that are generated from ongoing industrial operations at a facility'' (58 FR 8658, 8664 (February 16, 1993). EPA believes that the intent of this definition, particularly when read in conjunction with the 1993 preamble discussion outlining how the rule generally addresses ''as-generated'' wastes, is very clear: remediation waste includes only wastes that are managed for the purpose of cleanups, and CAMUs thus cannot generally be used to manage ''as-generated'' wastes (which, because they are process wastes, are not generally ''managed for implementing cleanup,'' but are typically managed for the purposes of ultimate disposal). These as-generated wastes are also referred to as ''new'' or ''process'' wastes. In response to requests that the current definition be clarified to better reflect the intent to distinguish between as-generated and cleanup wastes, EPA is proposing to add the following clarifying language from the preamble of the 1993 rule, quoted above, to the regulatory definition of CAMU-eligible waste: ''As-generated wastes (either hazardous or non-hazardous) from ongoing industrial operations at a site are not CAMU-eligible wastes.'' As discussed below, EPA is also proposing certain limited exceptions from this new general prohibition in the regulatory language to preserve legitimate cleanup practices that would otherwise be eliminated by adding this language to the regulation. More specifically, EPA is proposing to allow an exception to be made when non-hazardous as-generated wastes are placed in a CAMU where such waste is being used to facilitate treatment or the performance of a CAMU.

The Agency does not intend for this additional language to result in any change in how the Agency currently distinguishes between as-generated and ''cleanup'' waste (for purposes of a CAMU determination, or remediation waste determination made for RAPs, staging piles or in use of the ''environmentally inappropriate'' LDR treatment variance); it is simply an attempt to better define the original intent of the regulations in the regulatory language itself. ''As-generated'' continues to have the meaning that it did in 1993. For example, hazardous wastes from ongoing industrial processes managed in a routinely operating hazardous waste landfill would be ''as generated'' wastes. Soil that has become contaminated by leachate from this landfill, however, would be CAMU-eligible because it is not ''as-generated'' waste. Similarly, EPA has not changed what the Agency means by ''from ongoing industrial operations.'' This phrase includes not only wastes produced during commercial operations, but also any wastes that are produced during the management of such wastes. For example, hazardous sludges periodically removed from Subtitle C regulated surface impoundments (*e.g.,* during normal waste management routines) are considered ''from ongoing industrial operations,'' not wastes from cleanup, and therefore would not be ''CAMU-eligible.''

EPA believes that placement of the 1993 preamble text into the regulations will make the distinction between as-generated and cleanup wastes clearer. This proposed amendment inserts the existing 1993 CAMU preamble language directly into the regulation with minor edits,[5] preserving and clarifying the

[5] The Agency did not include the word ''new,'' as in ''new or as-generated'' that appears in the preamble language at issue because it is redundant. The Agency also added the phrase ''are not CAMU-eligible'' to the end of the preamble phrase to

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intent of the original definition. In today's proposal, EPA is seeking comment on the appropriateness of moving this particular preamble language into the rule, but is not reopening for comment the issue of whether CAMUs should routinely be used for the treatment or disposal of as-generated wastes. Today's amendments would also not change the eligibility of non-hazardous cleanup wastes for management in a CAMU'such wastes would remain CAMU-eligible.

As stated above, EPA seeks comment on the addition of this 1993 preamble to the CAMU regulation itself. In particular, the Agency requests comment on whether the terms ''as-generated waste'' and ''from ongoing industrial operations at a site'' are helpful in clarifying what wastes would not be considered ''managed for implementing cleanup.'' The Agency also requests comment on whether moving such language from preamble to the regulatory definition in the Code of Federal Regulations would have any unintended effects. In other words, would moving this preamble statement describing what types of wastes will not generally be considered ''managed for implementing cleanup'' into the regulatory language eliminate actual or potential practices where it might be an appropriate cleanup approach to place as-generated wastes in a CAMU? EPA has identified and addressed one such circumstance, described more fully below; that is where nonhazardous as-generated wastes are used to facilitate treatment or the performance of the CAMU. Are there other such circumstances? For example, the Agency limited the one circumstance provided for in today's proposal to nonhazardous as-generated waste, because that was the only common, legitimate practice brought to its attention during discussions with stakeholders. Are there circumstances where hazardous as-generated wastes are also legitimately used during cleanup? In arguing that the Agency should provide for certain practices, the Agency asks that commenters also state how such practices should be addressed in the final rule. For example, should the Agency provide a specific regulatory exception to cover the circumstance?

2. Wastes Managed During Closure

During the course of the Agency's discussions with stakeholders, it became apparent that there is a need for further guidance on when wastes associated with closure of non-permanent hazardous waste units are ''managed for implementing cleanup'' and therefore eligible for management in a CAMU. In the 1993 preamble, the Agency clearly indicated that some wastes managed during RCRA closure of land-disposal units would be eligible for management in a CAMU (58 FR 8658, 8666 (February 16, 1993)). That discussion was premised on the Agency's view that waste removed during RCRA closure at closed or closing permanent land disposal units are wastes ''managed for implementing cleanup.'' ''Closed or closing'' units are those that have received their final volume of waste. ''Permanent land disposal units'' are those for which the regulations provide a closure in place option (*e.g.,* landfills, surface impoundments and land treatment units). In the case of permanent disposal units, EPA considers closure by removal to be cleanup, because the regulations provide an option for closure with wastes in place. In addition, the Agency believes that the ability to place such wastes in CAMUs promotes the Agency's objective of encouraging the removal and/or treatment of wastes during closure of RCRA units. EPA believes that the CAMU regulations provide an incentive for companies to manage such wastes as part of a cleanup, rather than to leave the wastes in place, where appropriate.

Waste ''managed for implementing cleanup,'' on the other hand, does not typically include waste removed during RCRA closure of non-permanent land-based units, such as waste piles. EPA does not generally consider closure of a waste pile or other non-permanent land-based unit to be ''cleanup.'' Removal of wastes from waste piles and from similar land-based storage units is part of the normal course of operation of the unit; these types of units are not intended as the final resting place for wastes. Therefore, EPA believes it would typically be inappropriate to consider removal of wastes from these non-permanent land-based units to be ''cleanup.'' ''Typically'' is intended to indicate the Agency's ability, for example, at abandoned facilities, to place waste found in old piles or similar units in a CAMU, because once they are abandoned, management of wastes they contain is for the purpose of implementing a cleanup.

3. Wastes in Intact or Substantially Intact Containers, Tanks, or Other Non-Land-Based Units (§ 264.552)

EPA is proposing at § 264.552(a)(1)(ii) to further modify the regulations defining the wastes that are eligible for management in a CAMU. This provision would prohibit management in a CAMU of wastes that would otherwise meet the description in § 264.552(a)(1)(i) (*i.e.,* they are materials ''managed for implementing cleanup'') but are found during cleanup in intact or substantially intact containers, tanks, or other non-land-based units, with certain exceptions that are described below. An example of an ''other non-land-based unit'' would be a containment building under Part 264, Subpart DD or Part 265, Subpart DD. Under today's proposal, neither these containers, tanks or other non-land-based units, nor the wastes in them, would be eligible for management in CAMUs. ''Found during cleanup'' is meant to refer to wastes being addressed in the context of cleanup, as opposed to as-generated waste that may also be stored at a site undergoing cleanup.

The issue of whether CAMUs should be used to manage containerized waste that would otherwise be considered ''managed for implementing cleanup'' (*e.g.,* abandoned drums) was raised during discussions with stakeholders. These stakeholders gave the opinion that because such wastes are easily dealt with under Subtitle C requirements, they should not be permitted to be managed in a CAMU. EPA is proposing today's amendment because the Agency believes that these are not the types of wastes for which RCRA is likely to produce the barriers addressed by the CAMU rule. In addition to being easily managed under Subtitle C's hazardous waste requirements, such units do not typically contain the large volumes of waste typically found in land-based units, and *in situ* management is not likely to be a viable remediation option. The Agency also believes that, generally, overseeing agencies would not approve direct disposal of substantially intact drums in a CAMU. In most cases, such drums would be sent off-site for treatment and disposal because cleanup contractors are generally prepared to address drums by removing and packaging them for off-site treatment or disposal. In fact, the Agency's analyses of EPA's CAMUs to date show no evidence that containerized waste was managed in CAMUs (see the ''CAMU Site Background Document,'' available in today's docket). The Agency's conclusions that containerized waste is unlikely to be managed in CAMUs was also echoed by some members of the regulatory and regulated communities during the stakeholder discussions. The Agency seeks comment its conclusions regarding the anticipated management of containerized waste during cleanups.

EPA is proposing that this exclusion from CAMU eligibility for hazardous

establish the proper context for the proposed regulatory text.

wastes found during cleanup in containers, tanks, or other non-land-based units be limited to ''intact'' or ''substantially intact'' units only. Wastes found during cleanup in crumbling or unstable drums, containers, and other non-land based units often cannot be readily managed due to the likelihood of a release from the unstable unit, and should be allowed to be managed in CAMUs. (EPA anticipates, however, that in some cases, the decision will be made site-specifically to manage such unstable units offsite, rather than in a CAMU.) The general principle guiding determinations of what is ''substantially intact'' would be that ''substantially intact'' units, containers and tanks can be removed without likelihood of a significant release; any minor imperfections present would not prevent a unit from being considered ''intact.''

EPA is proposing two exceptions to the exclusion for CAMU-eligibility for substantially intact or intact containers, tanks, or other non-land-based units. The first exception is for cleanup wastes that are first placed in the tanks, containers or non-land-based units as part of cleanup. This provision is necessary to make clear that, if cleanup wastes are removed from the land and placed temporarily in such units, they would not become ineligible for management in a CAMU.

The second exception is specifically for buried containers (not tanks or other units) that are excavated during the course of cleanup. Such wastes cannot always be easily managed in accordance with applicable Subtitle C requirements. In the case of above-ground containers, the integrity of the containers can be generally assessed by visual inspection, and, if they are ''substantially intact,'' the containers will generally either already be in a state to be transported or the waste within them can easily be handled in accordance with Subtitle C requirements. In contrast, buried containers will typically be much more difficult to assess and manage than those found above ground. This provision, by allowing for the disposal in CAMUs of buried containers that are excavated and managed as part of the cleanup, would ensure that today's amendments regarding containers would not create disincentives to excavate the container and its contents. If such containers, and the wastes in them, are disposed in a CAMU, they would of course be subject to all of the CAMU requirements, including today's proposed prohibition against disposal of liquids in CAMUs (discussed in more detail below). As a matter of practice, in many cases, EPA anticipates that the remedy decision for the site will include off-site management, under the full Subtitle C requirements, of excavated containers containing hazardous wastes.

EPA seeks comment on whether the exception proposed for buried containers should also apply to buried tanks that are excavated during the course of cleanup. Buried tanks containing wastes or waste residue are sometimes encountered during the course of excavating contaminated areas or are found disposed in landfills. The practical difficulties associated with assessing the integrity of buried containers and managing the waste contained in such containers can also apply to buried tanks. The ability to manage, in a CAMU, wastes from buried tanks found in the ground or in landfills during cleanup, would ensure that today's proposed amendments concerning tanks would not create disincentives to excavate the tanks, and would allow for the potential treatment of the wastes in a CAMU without having to meet the full subtitle C management requirements for as-generated wastes. One reason for considering this additional exception is that EPA believes it could be difficult in burial situations to always distinguish between tanks and containers; this is particularly so given the diversity of structures that meet the RCRA definition of ''tank.'' Including tanks as well as containers in this exception would remove this potential practical difficulty. Under this option, EPA would not intend that the contents of underground tanks being used to store waste or products would be CAMU-eligible. The Agency seeks comment on these ideas, including whether regulators can readily determine if specific tanks are being used to store waste or products. The Agency seeks general comment on whether the exception proposed for buried containers should also apply to buried tanks that are excavated during the course of cleanup, and whether the situations described above regarding buried tanks excavated during a cleanup are encountered often enough to warrant including them in the buried container exception.

EPA intends that the CAMU framework would provide for the cleanup of ''historic wastes,'' and that today's amendments would not reinstate the disincentives to cleanup of historic wastes addressed by the 1993 CAMU rulemaking. During stakeholder discussions, members of the regulated community asked for clarification on the eligibility of historic wastes left onsite at old facilities in units that arguably could meet the definition of either a non-land-based unit or a ''tank.''

Under the proposed amendments, a historic waste would be CAMU-eligible if it were found in a land-based unit. The most prominent examples, that EPA is aware of, of historic wastes that would serve as a good example of how this amended provision would work at historic sites are ''gas holders'' at manufactured coal gas production facilities that operated before 1950 (information on ''manufactured gas plant'' (MGP) sites is included in the docket for today's rule).[6] In most cases, such historic units would be considered land-based units under RCRA (*e.g.,* old building foundations, which are analogous to concrete vaults) and the waste would be CAMU-eligible. EPA is also aware that some facilities have old units that have not been used in decades, that would arguably meet the definition of a tank, and therefore would potentially not be CAMU-eligible. If such a unit were a tank, the rules would require that the unit be assessed to determine whether it is substantially intact, before determining whether the waste is CAMU-eligible. In some cases, given the age, construction, and size of such units, it would be reasonable to assume that the units are not substantially intact. As a result, the wastes removed from these units would fit the exception described above and would be CAMU-eligible.

EPA seeks comment on all aspects of this proposed amendment. In particular, the Agency solicits comment on the general approach of excluding containers and other non-land based units managed during cleanup from CAMU-eligibility and whether the exceptions EPA is proposing are clear and make sense in light of commenters' experience.

4. Limited Use of ''As-Generated'' Waste in CAMUs

CAMUs are intended to be used for the management of cleanup wastes. As a general matter, EPA does not believe it is appropriate for as-generated wastes to be managed in CAMUs; this applies for non-hazardous, as well as hazardous, as-generated waste (58 FR 8658, 8664 (February 16, 1993)). However, there are accepted practices where non-hazardous as-generated wastes are used in cleanup remedies. As a result of today's

[6] EPA notes that the United States Court of Appeals for the District of Columbia Circuit recently vacated the TCLP rule as it applies to MGP wastes. *Ass'n of Battery Recyclers, Inc.* v. *U.S. EPA,* 208 F.3d 1047 (D.C. Cir. 2000). EPA retains this example (which was included in the settlement agreement) to address situations where MGP wastes are otherwise regulated as hazardous (*e.g.,* MGP wastes have been mixed with a listed hazardous waste) and because it continues to provide useful guidance for similar scenarios at non-MGP sites.

proposed amendments, EPA does not seek to preclude such practices in a CAMU.

Today's proposed amendment in the second sentence of § 264.552(a)(1)(i) adds regulatory language specifically prohibiting placement of as-generated wastes in CAMUs. EPA does not intend, by adding this language to the regulations, to prohibit the use of non-hazardous as-generated waste in a CAMU when it is legitimately being managed in a CAMU to facilitate treatment or the performance of the CAMU. Therefore, EPA proposes the amendment at § 264.552(a)(1)(iii) which reads that ''notwithstanding paragraph (a)(1)(i) of this section, where appropriate, as-generated non-hazardous waste may be placed in a CAMU where such waste is being used to facilitate treatment or the performance of the CAMU.''

The Agency is aware of two common practices that use non-hazardous as-generated wastes to facilitate treatment of cleanup wastes or facilitate the performance of disposal units. The first practice is to use agents such as fly ash or cement kiln dust (CKD) as a stabilization agent to reduce leaching of metals from metal-bearing wastes. The second practice is to use similar agents to provide increased structural stability for wastes, such as sludges obtained from remediation, that do not have sufficient strength to bear their own weight, or the additional weight of a cap, without risk of failure.[7] These practices associated with use of cement kiln dust, fly ash and coal combustion wastes are consistent with EPA's view in today's proposal of facilitating treatment or performance of the CAMU. The Agency seeks comment on today's proposed approach for addressing the use of as-generated non-hazardous wastes in CAMUS.

C. Discretionary Kickout (§ 264.552(a)(2))

RCRA Subtitle C regulations for as-generated wastes ensure that such wastes are handled according to stringent national standards that are designed to ensure protection of human health and the environment and that create significant incentives for process changes to minimize hazardous waste generation. Yet, as discussed above, these same requirements, when applied to existing contamination problems, can provide a strong incentive for leaving wastes in place or for selecting remedies that minimize regulation under Subtitle C. EPA believes that the CAMU regulations, including today's proposed amendments, remove disincentives for clean-ups and allow for implementation of protective remedies at cleanup sites.

It is EPA's intention that CAMUs continue to be a practical option for facilities undergoing cleanup. However, some stakeholders expressed concern that it is less expensive to manage wastes in CAMUs than to manage waste in accordance with as-generated waste requirements, and thus there is a potential incentive for facilities to mismanage as-generated wastes such that they subsequently become eligible for management in a CAMU. EPA does not want the CAMU regulations to create any incentives for non-compliance, whether the non-compliance is intentional to take advantage of alternate requirements in the CAMU rule, or is the result of careless management practices (which could, by example, thereby encourage others to ignore applicable requirements). EPA expects all facilities to be aware of the applicable regulations for managing as-generated wastes and to carefully adhere to those requirements. Therefore, EPA is proposing a ''kick-out'' provision as part of today's amendments. This kick-out provision would provide the Agency with discretion to disallow the management of CAMU-eligible wastes in a CAMU, in appropriate circumstances, as discussed below. EPA believes that this discretion would provide a balance between facilitating cleanups with CAMUs and maintaining incentives for waste minimization and proper waste management in the first instance.

Under today's proposal, the Regional Administrator would be permitted to consider using the kickout provision where there was prior non-compliance with fundamental waste management requirements that are designed to prevent or minimize releases of hazardous waste. Specifically, proposed § 264.552(a)(2) would provide that: ''the Regional Administrator may prohibit, where appropriate, the placement of waste in a CAMU where the Regional Administrator has or receives information that such wastes have not been managed in compliance with applicable land disposal treatment standards of Part 268, or applicable Part 264 or 265 unit design requirements, or that non-compliance with other applicable RCRA requirements likely contributed to the release of the waste.'' The word ''applicable'' before standards or requirements refers to the applicability of the regulations at the time of disposal of the wastes. ''Unit design requirements'' refers to substantive design standards, such as the tank design standards under § 264.192 or the design requirements for waste piles under § 264.251. Maintenance requirements, such as the owner/operator requirement to inspect tanks under § 264.195, are not ''unit design'' requirements. Therefore, a violation of maintenance requirements would be considered in the context of whether ''non-compliance with other applicable RCRA requirements likely contributed to the release of the waste.'' The standard of ''likely contribution'' is intended to address situations where the kickout is being considered for non-compliance with regulations other than the LDRs or unit design regulations.

In today's proposed kickout provision, EPA chose to include three areas where prior non-compliance with waste management requirements would allow the Regional Administrator to consider use of the kickout provision; specifically, land disposal restrictions, part 264 or 265 unit design requirements, and other RCRA requirements where noncompliance likely contributed to the release at issue. EPA addressed these three areas differently. EPA chose to include both the LDR and unit design provisions because they represent fundamental requirements that are aimed at preventing or minimizing releases of hazardous waste. They also represent provisions from which CAMUs provide potential relief. Regarding the third part of this provision (pertaining to ''other'' RCRA requirements), because the relationship between a release and non-compliance with other Subtitle C requirements may be less obvious, EPA chose to propose a different approach (which requires ''likely contribution'') to identifying other instances where the Regional Administrator may consider invoking the discretionary kickout.

As discussed above, this provision should help maintain the current incentives for waste minimization and proper waste management. However, this discretionary authority would not be exercised for each instance of non-compliance with the requirements listed in proposed § 264.552(a)(2); the Agency does not believe it would be appropriate

[7] EPA has recently proposed regulations which would classify CKD as hazardous waste under certain circumstances (64 FR 45632, August 20, 1999). As discussed in that proposal, EPA finds the use of CKD as a stabilizer or solidification agent to be beneficial for cleanups and would not regulate CKD wastes when they are used for such purposes. The proposed CKD regulations would not prevent, restrict, or regulate the use of CKD as a stabilizer or solidifying agent during RCRA cleanups under sections 3004(u), 3004(v), and 3004(h), or when the EPA Region, or, authorized State agency finds that the use of CKD in cleanups is protective of human health and the environment. EPA has also determined that no additional regulations are warranted for coal combustion wastes that are used beneficially other than for mine-filling (see 65 FR 32214, May 22, 2000).

to require the Regional Administrator to exclude such waste from management in a CAMU in all instances where there had been prior non-compliance. Under the proposed rule, in deciding whether to exercise the discretion to disallow management in a CAMU, the Agency would consider the significance of the violation, among other site-specific factors. In cases where the entity seeking the CAMU is not the same entity that mishandled the waste and is not affiliated with the entity that mishandled the waste, EPA would generally not exercise its discretion to disallow placement of those CAMU-eligible wastes in a CAMU.

The proposed provision states that the Regional Administrator may prohibit placement of wastes in the CAMU, under the discretionary kickout provision, when the Regional Administrator ''has or receives'' relevant information about how the waste has been handled. The Agency chose the phrase ''has or receives'' to reflect the common sources of EPA's information at sites that use CAMUs. The Agency routinely has information on the origin and management of cleanup wastes, obtained as part of the cleanup process as the facility approaches the point where a CAMU decision is being considered. For example, such information is typically available from permit applications, cleanup investigation reports, remedial workplans, enforcement actions, or from the general public. In addition, the Agency ''receives'' relevant information during the CAMU approval process. As discussed in the next section of today's preamble, EPA is proposing, in addition to what is already required at § 264.552(d), to add specific information requirements to the CAMU rule to make certain that EPA has sufficient information for making determinations as to whether wastes are CAMU-eligible and whether there is any apparent reason the Agency should disallow CAMU management. EPA seeks comment on today's proposed approach for addressing any potential incentives for mismanagement of as-generated wastes due to the CAMU rule.

D. Information Submission (§ 264.552(d))

The current general requirement for information submission, at § 264.552(d), requires the owner or operator to submit sufficient information to enable the Regional Administrator to designate a CAMU. EPA proposes modifying the existing information requirement under § 264.552(d) to include submission of the specific information listed under proposed § 264.552(d)(1–3). The specific information required would provide the Agency and the public with information on the circumstances surrounding the origin and subsequent management of the waste. The Agency would use this information for the purposes of deciding whether the waste is CAMU-eligible and whether such waste was mismanaged such that the ''kickout'' discretion should be considered.

The modifications in today's proposal are additions to the existing general requirement, and add three specific information submission requirements to directly address the proposed amendments pertaining to CAMU eligibility. EPA is proposing that specific information must be submitted (''unless not reasonably available'') on: ''(1) The origin of the waste and how it was subsequently managed (including a description of the timing and circumstances surrounding the disposal and/or release) [provision § 264.552(d)(1)]; (2) whether the waste was listed or identified as hazardous at the time of disposal and/or release [provision § 264.552(d)(2)]; and (3) whether the waste was subject to the land disposal requirements of Part 268 of this chapter at the time of disposal and/or release [provision § 264.552(d)(3)].'' EPA is not proposing in the regulations a specific level of detail associated with meeting this requirement. The necessary level of information would be determined by the overseeing agency on a site-specific basis, given the specific characteristics of the site and wastes. As explained above, EPA is proposing to retain the general information collection requirement at § 264.552(d), and the information submission required under this provision would not be limited to the three specific types of information required under these proposed amendments.

Proposed provision § 264.552(d)(1) would add a specific requirement for submission of information on the origin of the waste and its subsequent management, where such information is reasonably available (the concept of reasonable availability is discussed below). The proposed language specifically emphasizes waste origins, which is information the Agency needs to be able to distinguish between as-generated and cleanup wastes. EPA seeks to ensure, at all CAMUs, that reasonably available information on the history of the waste will be available to the Regional Administrator and the public so that CAMUs will be restricted to managing wastes resulting from cleanup.

The information that would be submitted in response to (d)(2) and (3) relates specifically to whether the waste was designated as hazardous and was subject to the land disposal restrictions at the time of disposal and/or release. Regarding (d)(2), the Agency would use the information provided to determine whether Subtitle C unit standards applied at the time of the release. EPA took a slightly different approach to (d)(3) because EPA believes that it would be appropriate for the owner/operator to submit information on LDR applicability, because the owner/operator would be most familiar with the circumstances of waste management and would be in the best position to explain whether the disposal and/or release was or was not subject to the land disposal restrictions. The information requested in proposed (d)(2) and (3) would be used by the Regional Administrator for deciding whether such waste is one for which discretionary use of the kickout provision should be considered.

EPA believes that the information that would be required in § 264.552(d)(1)–(3) on wastes potentially being placed in CAMUs will generally be in the facility's or EPA's possession prior to the CAMU approval process. Facilities typically seek the use of a CAMU in cases where they have identified that they are managing hazardous cleanup wastes, and are seeking a compliance alternative to the standards that apply to management of hazardous as-generated wastes. Information on the origin and historical management of wastes is routinely reported in permit applications, RCRA Facility Assessments (RFAs), RCRA Facility Investigations (RFIs) and other cleanup investigative reports, remedial workplans, engineering reports and analyses of remedial alternatives conducted prior to the determination to pursue a CAMU. If this information was previously submitted to the same Agency, and it remains timely and accurate, the owner/operator could simply identify where and when the information had been previously submitted to the Agency, and EPA would generally not expect the owner/operator to resubmit the information as part of its submission under this requirement.

EPA seeks comment on today's proposed information submission provisions. In particular, do they achieve the Agency goals for obtaining the types of information necessary to make CAMU decisions? In addition, EPA specifically seeks comment on the Agency's conclusion that the information that would be required in § 264.552(d)(1)–(3) on wastes potentially being placed in CAMUs will generally

be in the facility's or EPA's possession prior to the CAMU approval process.

1. Availability of Information

Today's amendments would provide that the information in proposed § 264.552(d)(1)–(3) must be submitted to the Agency unless it is ''not reasonably available.'' Under this standard, facilities would be expected to have made or make a good faith effort to gather and provide information meeting the submission requirements in § 264.552(d)(1)–(3). As stated above, EPA believes that most facilities will already be in possession of information necessary to fulfill the requirements of this provision and will be able to readily inform the Agency of the information required under proposed § 264.552(d). In instances where this is not the case, EPA would expect most facilities to be able to gather the information through existing site and waste-specific information such as manifests, vouchers, bills of lading, sales and inventory records, sampling and analysis reports, accident, spill, investigation, and inspection reports, enforcement orders and permits. Reasonably available information also would include information that can be obtained from talking with knowledgeable current and former employees, particularly where documentation is absent. Information that is required to be developed and maintained under applicable statutes and regulations would also be expected to be reasonably available.

EPA believes that the ''reasonably available'' standard is appropriate, because it would allow for circumstances where, for example, the contamination cannot be linked with specific waste management activities that are historically associated with the facility (e.g., characteristically hazardous soils not associated with any hazardous waste unit at the facility). Where information responding to the requirements in § 264.552(d) is not reasonably available, the facility could fulfill these information submission requirements by informing the Regional Administrator on the extent of its knowledge about the waste and releases.

For wastes that were disposed and/or released prior to the enactment of the hazardous waste regulations or the land disposal restrictions, the response to paragraphs (d)(2) and (3) would be to indicate in the submission that the information submitted regarding the origins of the waste in paragraph (d)(1) demonstrate that the wastes were not regulated as hazardous or subject to the LDRs, because those standards did not exist at that time.

2. Ability to Seek Additional Information

EPA is not proposing to alter the general approach to information submission, which requires the owner or operator to submit sufficient information to enable the Regional Administrator to designate a CAMU. It is typical to have a series of back-and-forth discussions, information exchanges, and requests for additional information throughout the CAMU application process. For the purpose of determining CAMU eligibility, the Agency would likewise, where appropriate, seek information regarding waste history beyond that initially submitted pursuant to § 264.552(d). Where there are significant concerns raised about the eligibility or past management of wastes from submitted information, information already in the oversight agency's possession, or from information brought to the Regional Administrator's attention by a citizens group, the Agency would expect the Regional Administrator to seek additional information regarding waste history.

3. Commercial Chemical Products

EPA believes that there could be potential confusion regarding how § 264.522(d) should be applied to P and U hazardous wastes which are discarded (see 261.33) and are undergoing cleanup. The confusion arises because commercial chemical products are not ''wastes'' until they are discarded or intended to be discarded by being abandoned (or used as fuels or in a manner constituting disposal when these are not their normal manner of use). In this context, (d)(2) should be read as ''whether the disposal and/or release of the commercial chemical product occurred before or after the associated listing.'' EPA believes that this reading should make the intention of the original questions clearer as applied to discarded commercial chemical products. For (d)(3), the answer should be that the commercial chemical products were not subject to LDRs because the LDR requirement for the associated listing would not apply at the time of the spill.

4. Alternate Approach to Proposed § 264.552(d)(3)

EPA seeks comment on an alternate approach to seeking information under proposed § 264.552(d)(3). Under this alternate approach, provision (d)(3) would read as ''whether the disposal and/or release of the waste occurred before or after the land disposal restriction requirements of Part 268 of this chapter were in effect for the associated listing.'' This alternate approach would request information relating to an LDR regulation effective date, rather than information on determining whether the waste was ''subject to'' LDR standards. EPA has concerns that assessing whether waste was ''subject to'' certain standards might become complicated for the owner or operator. EPA anticipates that the date approach might be easier for owner/operators to respond to, and would provide oversight agencies with relevant information to understand the compliance history or to seek additional information, if needed.

5. Interpretation of Existing § 264.552(d)

During discussions with stakeholders, EPA became aware of potential confusion regarding the use of the word ''criteria'' in the information submission requirement at § 264.552(d): ''The owner/operator shall provide sufficient information to enable the Regional Administrator to designate a CAMU in accordance with the criteria in § 264.552.'' Although the Agency does not believe the confusion warrants a change in the regulatory language, EPA is using today's proposal as an opportunity to clarify its intent with regard to this provision. Specifically, the word ''criteria'' was described in the 1993 preamble as referring to the ''decision criteria specified in § 264.552(c) as they relate to the implementation of a CAMU at a given facility'' (58 FR 8671). The potential confusion regarding this phrase relates to whether the information submission requirement is restricted to the listed criteria under § 264.552(c). As plainly required by § 264.552(d), EPA has always intended that this provision be read as requiring information relating to all aspects of implementation of the CAMU under § 264.552, including, for example, implementation factors that are not specifically referenced in § 264.552(c), such as information relating to the use of a regulated unit as a CAMU (under § 264.552(b)).

E. Liquids in CAMUs (§ 264.552(a)(3))

EPA is proposing to add a general prohibition, at § 264.552(a)(3), against placement of liquids in CAMUs, with exceptions for liquids that are associated with the remedy selected for the waste. Specifically, EPA is adding four provisions as follows: (1) ''The placement of bulk or non-containerized liquid hazardous waste or free liquids contained in hazardous waste (whether or not sorbents have been added) in any CAMU is prohibited except where placement of such wastes facilitates the

remedy selected for the waste;'' (2) ''The requirements in § 264.314(d) for placement of containers holding free liquids in landfills apply to placement in a CAMU except where placement facilitates the remedy selected for the waste;'' (3) ''The placement of any liquid which is not a hazardous waste in a CAMU is prohibited unless such placement facilitates the remedy selected for the waste or a demonstration is made pursuant to § 264.314(f);'' and, (4) ''the absence or presence of free liquids in either a containerized or a bulk waste must be determined in accordance with § 264.314(c). Sorbents used to treat free liquids in CAMUs must meet the requirements of § 264.314(e).'' Of course, under today's proposal, wastes containing liquids that are placed in a CAMU in accordance with the proposed provisions would remain subject to the CAMU requirements, including today's proposed treatment standards.

These proposed changes essentially adopt the approach that has been taken for hazardous waste landfills, into which the placement of hazardous or non-hazardous liquids is prohibited (at § 264.314), but has been modified for incorporation into the CAMU rule.[8] EPA believes that the general basis for prohibiting placement of liquids in landfills—that liquids fundamentally increase the risk of future releases from a unit—applies equally to CAMUs. The Agency is not aware of any instances of inappropriate introduction or disposal of liquids in existing CAMUs, but believes that the proposed amendment will clarify the Agency's long-standing policy on the general inappropriateness of the disposal of liquids in long-term land disposal units, including CAMUs.

EPA believes there will, however, be instances where it is appropriate to add liquids or wastes containing liquids in CAMUs, when such placement facilitates the remedy selected for the waste being managed in the CAMU. For example, a common practice for management of water-bearing industrial sludges or sediments is to de-water the materials prior to final disposal or treatment. In another example, soils or other contaminated materials can be subjected to a soil washing remedy, either with water or solvents, to remove soluble contamination. The remedy approved by the oversight agency would specify final management of the residual water; typically, in these examples, the residual liquids from de-watering or from soil washing would be containerized and disposed offsite. Another example is bioremediation of wastes, which frequently requires the addition of water or liquid additives to facilitate the biological breakdown process. Management of the CAMU might also require use of water or leachate for dust suppression while the unit is operating or under construction. To accommodate these reasonable clean-up waste management approaches, the Agency has included an exception to the prohibition, where placement of liquids into the CAMU ''facilitates the remedy selected for the waste'' (§§ 264.552(a)(i), (ii), (iii)).

EPA believes this proposed approach for allowing placement of liquids in CAMUs is appropriate, because of the decision process for CAMU designation, which includes, among other factors, an oversight agency's assessment of the need for treatment of CAMU wastes.

1. § 264.314(f) Demonstration

In today's proposal, for liquids that are not hazardous waste, there is a prohibition against placement in a CAMU unless the placement facilitates the remedy selected for the waste or, as in § 264.314, a demonstration is made pursuant to § 264.314(f). Under this demonstration, the Regional Administrator must determine that the only reasonable alternative is placement in a landfill or unlined surface impoundment which contains (or may be reasonably anticipated to contain) hazardous waste, and that placement in the owner or operator's landfill will not present a risk of contamination of any underground source of drinking water (as that term is defined in § 144.3). In general, EPA believes that this demonstration under § 264.314(f) for hazardous waste landfills is also appropriate to apply to CAMUs; EPA does not anticipate circumstances that differ for CAMUs that would prevent the appropriate use of this provision.

F. Amendments to Design Standards for CAMUs

In today's notice, EPA is proposing amendments in three areas to the existing design standards for CAMUs. For CAMUs in which wastes will remain in place after closure, these changes would: establish a minimum liner requirement for new, replacement or laterally expanded CAMUs; provide minimum national design criteria for CAMU caps; and, require notification for releases to groundwater from the CAMU and corrective action of such releases as necessary to protect human health and the environment. EPA believes that the greater specificity in today's proposed amendments on technical standards for CAMU liners and caps is reasonable and consistent to the extent appropriate with the approaches undertaken in the Subtitle C and D programs for long-term disposal of wastes. EPA believes that the groundwater monitoring provisions proposed today would make clearer the Agency's expectation that releases from CAMUs will be addressed as necessary to protect human health and the environment. EPA also believes, that to maintain the CAMU rule's ability to address disincentives to cleanup, today's proposed amendments in these areas must allow for alternatives to the standards to reflect the unique and site-specific circumstances associated with long-term disposal of cleanup wastes; today's proposed amendments were designed with that objective in mind. The proposed amendments are described in the following sections.

1. Liner Standard (§ 264.552(e)(3))

In the existing CAMU rule, the fourth general decision criterion at § 264.552(c)(4) specifies that ''areas within the CAMU, where wastes remain in place after closure of the CAMU, shall be managed and contained so as to minimize future releases, to the extent practicable.'' This standard, in conjunction with the closure and post-closure provisions in § 264.552(e), is intended to ensure that long-term controls adequate to protect human health and the environment are imposed for any wastes remaining within the CAMU. In practice, pursuant to this standard, the Agency has made site-specific determinations that liners should be employed at most new, replacement, or laterally expanded CAMUs to minimize releases and control leachate (see the CAMU Site Background Document in the docket for today's rule). The 1993 rule, however, does not have any explicit minimum liner requirement for CAMUs where waste will remain in place after closure. Today's amendments address the concern that the existing standards are not sufficiently concrete to ensure that a liner will be used, as appropriate, at all new, replacement, or laterally expanded CAMU units.

As stated above, the majority of existing CAMUs with new, replacement, or laterally expanded units have been built with liners; where liners were not used, there were legitimate reasons, related to the cleanup, for that decision. The general practice of using liners in these situations reflects good engineering standards and a preventive approach that, along with other requirements imposed by the Regional

[8] In modifying § 264.314 for potential application to CAMUs, EPA did not include provision § 264.314(a), which pertains to disposal prior to 1985, because it would not apply to future CAMUs.

Administrator, provides long-term protection of human health and the environment when wastes are left in place. EPA recognizes the concern that the current standard is open-ended and might benefit from increased detail to better ensure that liners will be used where appropriate. EPA believes that, consistent with the Subtitle C program for as-generated hazardous waste and the Subtitle D program, a liner requirement and greater specificity on technical standards is reasonable for new, replacement, or laterally expanded CAMUs where waste will remain in place after closure. EPA, however, also believes that any such requirement must allow sufficient flexibility for alternatives to the standard, to reflect the unique and site-specific circumstances associated with locating units at cleanup sites. As described above in the section titled, *Why is EPA Proposing Today's Amendments*?, the Agency crafted today's standard with this goal in mind.

EPA is proposing a minimum national liner standard at § 264.552(e)(3)(i) that is modeled on the uniform design standard at 258.40(a)(2) for use in the municipal solid waste (Subtitle D) program (see Solid Waste Disposal Facility Criteria, 56 FR 50978, October 9, 1991, and supporting materials (docket # F–91–CMLF–FFFFF).

The proposed liner requirement is only for application at CAMUs that are new, replacement, or laterally expanded units. This approach, which recognizes the practical issues of retrofitting existing units (which, if required, could work as a disincentive to cleanup), is consistent with that taken by Congress in RCRA for hazardous waste landfills for as-generated wastes (under § 3004(o)). ''New, replacement, or laterally expanded'' is meant to have the same meaning in today's proposal as in the § 3004(o) context. Guidance on the interpretation of ''new, replacement or laterally expanded'' units already exists and has been placed in the docket for today's proposal.

Under today's proposal, unless the Regional Administrator approves an alternate standard (as discussed below), the rule would require new, replacement, or laterally expanded CAMUs to be constructed with a composite liner and a leachate collection system that is designed and constructed to maintain less than a 30-cm depth of leachate over the liner. The rule would require the composite liner to consist of two components: An upper flexible membrane liner (FML) with a minimum thickness of 30-mil, and a lower component consisting of at least two feet of compacted soil with a hydraulic conductivity of no more than 1x10–7 cm/sec. The rule would require FML components consisting of high density polyethylene (HDPE) to be at least 60 mil thick and would require the FML component to be installed in direct and uniform contact with the compacted soil component. The FML and soil layer function together to retard the migration of contamination into the subsoil. The FML would provide a highly impermeable layer to maximize leachate collection and removal; the compacted clay liner would adsorb, attenuate and retard contamination in the event of FML liner failure. The leachate collection system would remove liquids from the CAMU, which reduces hydraulic pressure and the potential for migration of leachate through the base of the CAMU.

EPA believes that the proposed standard would be an appropriate national minimum standard for new, replacement, or laterally expanded CAMUs, because it would be protective for a wide variety of waste and site conditions. In fact, when liners have been installed at new, replacement or expanded CAMUs under the existing regulations, a Subtitle D-type liner is consistent with what has generally been imposed by regulatory agencies in the absence of specific requirements. The Subtitle D standards also have sufficiently detailed liner and leachate collection provisions to be easily implemented, with the advantage of already being in wide use. In crafting today's rule, the Agency thought it made sense to model the amendments on existing standards where appropriate and available, to avoid the implementation issues that inevitably arise with the promulgation of a novel standard. The other obvious model for a CAMU minimum requirement would be the Subtitle C Part 264 liner requirements for new, replacement, or laterally expanded land disposal units. The Subtitle C standard requires, among other features, two synthetic liners, an underlying three foot thick clay layer and two leachate collection systems (see § 264.301). This option, however, was rejected since it was these standards that, in part, created the disincentive to cleanup meant to be addressed by the CAMU rule.

It is important to note that the proposed rule would establish ''minimum'' national standards, which would allow for the approval of additional features, where appropriate, to ensure protection of human health and the environment. For example, at some existing CAMUs (see the CAMU Site Background Document, available in today's docket), additional groundwater protection features, such as use of slurry walls or engineered inward hydraulic gradients, and features that meet the requirements of the Subtitle C liner standards, have been required.

a. *Alternate Liner Designs (§ 264.552(e)(3)(ii)).* Both the Subtitle C as-generated hazardous waste and Subtitle D regulations contain provisions for the approval of site-specific alternatives to the minimum liner standard under specific circumstances. These provisions provide balance between specific minimum national standards and the need to accommodate site-specific conditions. EPA believes that, in the context of establishing CAMUs, there are additional reasons to provide flexibility for alternate designs. Flexibility will help to counter any incentives to leave wastes in place created by minimum standards that might not be appropriate in a given circumstance, and will allow for more economical and innovative designs that will preserve cleanup resources while still being protective of human health and the environment. In today's rule, EPA is proposing two provisions that would allow the Regional Administrator to approve alternate liner designs.

The first provision, proposed at § 264.552(e)(3)(ii)(A), is patterned on the statutory alternate liner standard for Subtitle C units (at RCRA § 3004(o)(2)), which is written into the Subtitle C program for hazardous waste landfills at § 264.301(d). Under this provision, the Regional Administrator must find that ''alternate design and operating practices, together with location characteristics, will prevent the migration of any hazardous constituents into the ground water or surface water at least as effectively as the [standard liner and leachate collection system].'' This provision would allow for alternative liner designs of equal technical performance, when considered in conjunction with location characteristics, such as cases where the CAMU is located in an area where it is unlikely that releases would reach groundwater. EPA's underlying premise in proposing this alternate liner provision for CAMUs is that designs of equal or superior performance should be acceptable, and that the alternate standard for Subtitle C liners, with its express allowance for consideration of location characteristics, is equally appropriate for CAMUs. Location characteristics are an essential consideration in choosing cleanup remedies, including those involving CAMUs. EPA expects this provision would provide flexibility for designs that take into account local factors,

including state design protocols and availability of construction materials.

The second alternate liner provision, proposed at § 264.552(e)(3)(ii)(B), would provide for flexibility in liner design for CAMUs that are established in significantly contaminated areas. With this provision, the Regional Administrator could specify alternate designs if the CAMU is to be established in an area with existing significant levels of contamination, and the Regional Administrator finds that ''an alternative design, including a design that does not include a liner, would prevent migration from the unit that would exceed long-term remedial goals.'' For example, at some highly contaminated facilities where contamination is pervasive throughout the subsurface, and where either groundwater pump and treat is predicted to be necessary for hundreds of years or high-level subsurface soil contamination is expected to remain as a potential source of groundwater contamination, a liner to reduce migration of constituents from the CAMU into the highly contaminated subsurface would not add a meaningful additional level of protection and would not be the best use of remediation resources. Under this alternate standard, potential migration from the CAMU, even if it is unlined, must be consistent with the remedial goals at the site (for example, not cause cleanup goals to be exceeded at locations where potential receptors would be located). This approach is consistent in principle with site-specific decisions sometimes made in the context of overall remedies, such as where in-situ contamination is determined to require a cap, but not excavation. For example, one existing CAMU, located at a decades-old lead recycling facility, uses a CAMU for permanent disposal of soils containing lead debris. The CAMU does not use a liner, due to the high levels of existing contamination in the soils underlying the CAMU and limited leaching potential of the soils, and it has a perimeter slurry wall and groundwater extraction system that maintains an inward hydraulic gradient within the slurry wall. EPA believes it was reasonable to conclude, at this site, that a CAMU liner would not add a meaningful additional level of protection to groundwater, given the nature of the waste, engineering associated with the unit, and the pervasive contamination underlying the unit.

EPA expects that this alternate provision would also be used when land treatment is conducted in a CAMU. Land treatment is generally not undertaken with the use of liners, because land treatment typically requires that rainwater or introduced liquids percolate through the waste and existing soil column. EPA expects that many land treatment CAMUs would be existing units, which would not be subject to the minimum liner standard proposed today. However, EPA expects that those that are not existing units would typically be located in areas with significant contamination, such that this alternate liner provision could be potentially available and provide for a CAMU land treatment unit without a liner. EPA seeks comment on whether EPA's assumption that land treatment in CAMUs is appropriately accommodated in today's proposal is correct, and if not, what changes would be necessary to do so.

As discussed above, in creating the minimum standard for liners in today's proposal, the Agency sought to provide a generally applicable minimum standard that makes sense in most circumstances in the context of cleanup, and to provide for site-specific flexibility in situations where that standard might not make sense (*e.g.*, where the standard might create a disincentive to cleanup). Today's proposed standard also would stand as a minimum, and additional requirements, such as further reductions in liner permeability, could be required, as appropriate, at some sites. The Agency requests comment on whether the standard promulgated today satisfies these objectives. In particular, the Agency seeks comment on whether there are situations where these standards might act to discourage cleanup, and, if so, how the standards might be modified to address those situations.

The Agency also specifically requests comment on the two provisions for alternate liner standards. Do they sufficiently capture the situations where the general minimum standard might not be appropriate? Are there other ways to achieve similar results? For example, in lieu of proposed § 264.552(e)(3)(i), the Agency considered using the alternative liner design provision for Subtitle D solid waste landfills at 258.40(a)(1)[9]. As discussed below, the Agency is not proposing this approach because it is keyed to a list of constituents that would not be representative of those found at cleanup sites. However, it might be possible to use the general approach of this provision to develop an approach for CAMUs. Under the Subtitle D site-specific liner standard, a demonstration must be made that an alternate design would contain hazardous constituents such that constituent concentrations (those listed in Table I of Subpart D, Part 258) will not be exceeded in the uppermost aquifer at a relevant point of compliance, not to exceed 150 meters from the waste management unit boundary. These constituents represent those that are typically found in Subtitle D landfill leachate. EPA believes that this list would not be representative of the broader array of constituents found in CAMU-eligible wastes from diverse industries and thus would not be appropriate for use as a CAMU standard. EPA recognizes, however, that at individual cleanup sites, the regulator typically identifies site-specific constituents of concern from a groundwater perspective. EPA also recognizes that site-specific points of compliance in groundwater are typically established for these constituents. Therefore, EPA believes that the same basic approach used in the alternate liner standard for Subtitle D landfills, modified to incorporate site-specific data, might be used at CAMUs as a means of setting minimum alternate liner standards. EPA specifically requests comments on the potential adoption of an alternate liner provision that is derived from the Subtitle D alternate liner provision so that relevant site-specific constituents are contained at a relevant point of compliance. The Agency is also requesting comment on an alternative that would allow alternative requirements if liner design and operating practices along with site characteristics would prevent migration that meets long-term remediation goals.

2. Cap Standard (§ 264.552(e)(6)(iv))

In today's notice, EPA is proposing to add detail to the existing requirement for capping of CAMUs closed with waste in place. The existing regulation, at § 264.552(e)(4)(ii)(B), requires capping of CAMUs undergoing closure with wastes remaining in place, but does not specify standards for such caps. EPA recognizes the concern that the current standard is open-ended, and the current standard might benefit from increased detail to better ensure that appropriate cap designs are required. EPA believes that greater specificity on technical standards for CAMU caps is reasonable and consistent with the approaches undertaken in the Subtitle C and D programs for long-term disposal of wastes. EPA, however, also believes that any such requirement must allow

[9] In the August 20, 1999 proposed Standards for the Management of Cement Kiln Dust (64 FR 45632), EPA proposed an alternate liner provision (at proposed § 259.30(c)) modeled on the § 258.40(a)(1) standard.

for alternatives to the standard to reflect the unique and site-specific circumstances associated with long-term disposal of CAMU-eligible wastes. As described in the introductory section to today's proposed design standards, the Agency developed the alternative standard with this goal in mind.

EPA is proposing at § 264.552(e)(6)(iv) to use the existing hazardous waste landfill cap standards at § 264.310(a) as performance criteria for CAMU caps. Under this proposed approach, the cap must be designed and constructed to meet the following performance criteria at final closure of the CAMU, unless an alternate cap design (discussed below) is used: (1) Provide long-term minimization of migration of liquids through the closed unit; (2) function with minimum maintenance; (3) promote drainage and minimize erosion or abrasion of the cover; (4) accommodate settling and subsidence so that the cover's integrity is maintained; and (5) have a permeability less than or equal to the permeability of any bottom liner system or natural subsoils present. EPA believes that these are common-sense standards that are consistent with basic engineering principles and with cap requirements that have been established for existing CAMUs. These standards are also well understood from their application in the field.

Although today's proposed performance criteria are taken from the Subtitle C landfill standards, use of this standard would not generally be expected to result in caps that look like Subtitle C caps constructed on a new Subtitle C unit. This is because the permeability of the cap under either scenario is set in relation to the liner—the cap must be of equal or lower permeability than the liner. The minimum national design standards for liners proposed in today's rule are for a composite liner and leachate collection system, and apply only for new, replacement, and laterally expanding units. Most CAMUs to date have been established at existing units, in which the liner standard would not apply. Existing units vary in their design and in the consequent permeability of their bottom layer; as a result, a cap designed in relation to the liner will not always look like a full Subtitle C cap.

The proposed minimum permeability standard for a cap can be met in a variety of ways, including with systems that are designed to use the water uptake capability of vegetation. As a result, it is not always necessary for the cap to match the construction materials used in the liner. Non-standard caps, such as those that use vegetation, should be carefully designed and reviewed by the oversight agencies to satisfy the design criteria. For more details on construction of alternate cap designs, that are germane to Subtitle D or C-type caps, see the preamble discussion in the July 1997 revised standards for municipal solid waste landfills (62 FR 4708, 40710 (July 29, 1997)).

a. Alternate Cap Design (§ 264.552(e)(6)(iv)(B)). Two existing CAMUs have been designed with caps that allow controlled infiltration of rainwater through the cap into the waste to promote biodegradation of the wastes in the CAMU. The design of such caps take into consideration such factors as constituent concentrations, treatment levels, and time-frames for biodegradation (see the CAMU Site Background Document in the docket for today's rule). EPA believes that such caps can promote greater long-term protection in the event of failure of the unit, by facilitating the continued treatment of waste after disposal. Such designs, however, would not meet today's proposed cap performance criteria to ''provide long-term minimization of migration of liquids through the closed unit'' and ''have a permeability less than or equal to the permeability of any bottom liner system or natural subsoils present.'' Therefore, in today's notice, EPA is proposing an alternate cap standard at § 264.552(e)(6)(iv)(B) which would allow for alternate designs that facilitate treatment or the performance of the cap. EPA believes that these standards would allow for cap designs consistent with the above cited examples. EPA also believes that any such design warrants careful review to ensure that it is protective over the long-term and will meet cleanup goals within a reasonable time frame.

EPA is aware of a CAMU under discussion for approval that would use an existing biological land treatment unit to treat organically contaminated wastes to below health-based levels. Treatment would be complete at this unit when concentrations of constituents are at or below health-based levels and the unit would be closed without a cap or groundwater monitoring. EPA anticipates that other treatment technologies, such as *in situ* methods, could effectively achieve the same result of achieving treatment levels that are below health-based levels applicable to the site. Under today's proposed amendments to the cap standards, such CAMUs would be subject to the requirements for a cap at the time of closure. However, the Agency is concerned that this approach would not generally make sense in these cases where wastes in the unit are treated to below health-based levels, just as a cap requirement would not make sense when wastes derived from cleanup are placed in CAMUs with constituent concentrations at or below protective health based levels (see today's proposed provision at § 264.552(g) for such wastes that meet or exceed health based levels at the time they are placed in CAMUs, discussed below in the section titled: *Constituents at or Below Remedial Levels*). EPA therefore is seeking comment on a modification to today's proposed cap standard at § 264.552(e)(6)(iv)(A) that would potentially address this concern. This modification would insert the phrase ''with constituent concentrations above remedial levels or goals applicable to the site'' as follows: ''At final closure of the CAMU, for areas in which wastes will remain after closure of the CAMU with constituent concentrations above remedial levels or goals applicable to the site, the owner or operator must cover the CAMU with a final cover designed and constructed to meet the following performance criteria* * *''

The Agency requests comment on all aspects of the proposed cap standard. In particular, the Agency requests comment on whether the provision for alternate design adequately provides for cleanup situations where deviation from the national minimum standard would be appropriate.

3. Releases to Groundwater (§ 264.552(e)(5))

In today's notice, EPA is proposing a provision at § 264.552(e)(5) for the Regional Administrator to require notification of releases to groundwater from the CAMU, and corrective action of those releases, as necessary to protect human health and the environment. The 1993 CAMU rule contains a provision for monitoring of existing releases and potential releases from waste remaining in place after closure. However, it does not include a provision specifically providing for notification to the overseeing agency and corrective action as necessary for releases to groundwater from CAMUs.[10]. In the absence of today's proposed amendment, the RA has the authority, in designating a CAMU (see § 264.552(c)(2)), to include requirements to notify the Agency and cleanup any releases, as necessary, that

[10] The preamble to the 1993 rule stated EPA's expectation that the final Subpart S rulemaking would address the issue of when groundwater remediation would be necessary. In October 1999, EPA issued a Federal Register notice withdrawing the majority of that proposal, including provisions pertaining to this issue (64 FR 54604).

emanate from CAMUs. In addition, if the CAMU authorizing document did not include such requirements, the overseeing Agency would also have authority under its cleanup authorities (*e.g.*, Sections 3008(h) and 7003) to require corrective action if there were a release. The Agency is proposing to add these requirements to stress the importance of notifying the Regional Administrator of releases from CAMUs so that prompt action may be taken to address them, where appropriate. Having express corrective action requirements in (or incorporated in) the CAMU authorizing document itself, as opposed to relying on issuance of separate orders, will also accelerate the corrective action process.[11]

The proposed amendment does not change the general performance standard approach to groundwater monitoring for CAMUs, which does not explicate the details of how and when corrective action relating to groundwater contamination from the CAMU will be addressed at the site. The Agency believes that decisions about when and how to clean up groundwater should be made site-specifically in the broader context of the overall site cleanup consistent with the Agency's approaches for cleaning up groundwater in its remedial programs (see Corrective Action for Releases from Solid Waste Management Units at Hazardous Waste Management Facilities, Advance Notice of Proposed Rulemaking, at 61 FR 19432, 19461 (May 1, 1996); Presumptive Response Strategy and *Ex-Situ* Treatment Technologies for Contaminated Ground Water at CERCLA Sites; EPA 540/R–96/023, October 1996, available in the docket for today's rule). Detailed specifications or performance standards to address groundwater and corrective action would be included (or incorporated) in the site permit or order, based on site-specific information and conditions.

The proposed amendment requires ''notification'' as necessary to protect human health and the environment in the event of releases to groundwater from the CAMU. Monitoring and reporting (*i.e.*, notification) frequencies are typically established site-specifically in sampling and analysis plans, and reflect conditions at the site, including such factors as degree of existing contamination, distance to nearest groundwater well, groundwater flow rates, and statistical sampling protocols. As with existing CAMUs, where site-specific groundwater monitoring is required, EPA would expect that notification requirements would be addressed site-specifically and the requirements would be incorporated into appropriate authorizing mechanisms for CAMU designation (*e.g.*, in a sampling and analysis plan that is incorporated into the permit or order).

G. Proposed Approach to Treatment

Treatment of hazardous waste is a critical element of the RCRA hazardous waste management program. Treatment of hazardous wastes that will be placed in ''land disposal units'' is governed by the Land Disposal Restrictions (LDR) program, which sets standards for reduction in toxicity and mobility of specific hazardous constituents. The focus on treatment before land disposal in the RCRA program reflects EPA's and Congress's recognition of the uncertainties that are associated with long-term containment of wastes and the potential for containment to fail and cause future problems.

In developing today's proposal, EPA considered the issue of what level of treatment would be appropriate for CAMU-eligible wastes in the context of the underlying issues that the CAMU rule is intended to address. As EPA has described before, in implementing actual cleanups, it is not always straightforward, possible, or reasonable to require companies to excavate or remove existing cleanup wastes, especially in light of the costs and practical issues associated with application of the Subtitle C treatment and unit design requirements to the excavated wastes, and where often a legally available cleanup option is to leave wastes in place. As discussed in the May 26, 1998 final Phase IV Rule (63 FR 28556, 28603), part of the benefit of the treatment standards under Subtitle C for as-generated hazardous waste is that they create an incentive to generate less of the affected waste. In the remedial context, however, the waste is already in existence, and this incentive, therefore, works against the goal of cleanup, which is often to maximize (as appropriate) the amount of waste managed, in order to remove the threats it poses. In the Agency's several attempts to address these issues, the goal has always been to create a rule that promotes more aggressive cleanups, *i.e.*, those that result in excavation and management, including an appropriate degree of treatment. EPA believes that this approach generally results in more permanent remedies.

The Agency addressed this issue with its original promulgation of the CAMU rule, which removed the LDR and MTR requirements and replaced them with a site-specific flexible framework to encourage removal, excavation, treatment and final placement of wastes in CAMUs. In terms of treatment, the current CAMU rule stresses the importance of treatment for higher risk wastes with decision criterion § 264.552(c)(6), which requires that the CAMU ''enable the use, when appropriate, of treatment technologies * * * to enhance the long-term effectiveness of remedial actions by reducing the toxicity, mobility, or volume of wastes that will remain in place after closure of the CAMU.''

This provision was meant to reflect EPA's repeatedly expressed preference in the cleanup context for treatment of higher risk wastes, rather than excavation and containment of wastes without treatment (note that the term ''higher risk'' wastes is used in a general sense in this proposal to describe the Agency's policies, and does not define a new class of wastes). This preference results from the same concerns regarding the uncertainties associated with long-term containment described above. The most detailed description of EPA's policy on treatment and containment for the RCRA corrective action program can be found in the 1996 Advance Notice of Proposed Rulemaking, Corrective Action for Releases From Solid Waste Management Units at Hazardous Waste Management Facilities (61 FR 19432, 19448 (May 1, 1996)). EPA believes that CAMUs that have been approved to date reflect a reasonable balance between treatment and containment, and more than half of existing CAMUs have involved treatment of hazardous cleanup wastes.

Today's proposal addresses concerns that the 1993 CAMU rule lacks an explicit treatment requirement, which could result in the implementation of CAMUs with waste that is insufficiently treated where treatment is warranted. Stakeholders expressed the concern that a treatment standard is particularly appropriate for hazardous cleanup wastes, which, without management in a CAMU, would be subject to the full LDR treatment requirements. EPA recognizes the concern that the current standards are open-ended, and the current standards might benefit from increased detail to better ensure that treatment will be adequately considered by EPA and authorized state implementors. EPA therefore believes that it is appropriate to propose an approach that will ensure appropriate treatment of higher-risk hazardous cleanup wastes that are permanently disposed in CAMUs. In the process of

[11] Of course, if the CAMU incorporates a hazardous waste regulated unit that is undergoing closure, corrective action to address releases to groundwater may also be addressed under the closure requirements for regulated units.

developing today's proposal, EPA examined existing CAMUs and the type and level of treatment that has been required under the existing rule. Treatment has been used at more than 70% of existing CAMUs. EPA believes that these were good decisions, and designed today's proposed standards to accommodate these types of decisions. EPA's general conclusion in comparing these existing CAMU decisions to today's proposed amendments (see the CAMU Site Background Document in the docket for today's rule) is that existing CAMU remedies involving treatment would still require treatment under today's proposed requirements, and similarly, that existing remedies not involving treatment would also not involve treatment under today's proposed requirements (either because there would likely be no PHCs identified at the site, or because the Regional Administrator would likely have determined that no treatment was required based on one of the adjustment factors discussed below).

EPA believes that today's proposed approach would increase the certainty that CAMU disposal decisions will require treatment of hazardous wastes where it is appropriate to do so, while retaining the flexibility needed to address site-specific circumstances that is generally exercised in EPA's remedial programs. EPA also believes that today's proposed treatment approach, by providing a general minimum national standard, will have the added benefit of providing a benchmark against which the public can review potential treatment decisions.

EPA's proposed approach to treatment for hazardous cleanup wastes disposed in CAMUs is explained in detail in the following sections. In general, EPA is proposing that the treatment requirement would apply to wastes that are determined to contain ''principal hazardous constituents'' (PHCs). The proposed requirement would limit treatment for such waste to any principal hazardous constituents in the waste, rather than to the full suite of constituents under the LDR program that would otherwise be subject to treatment. As proposed, principal hazardous constituents would be the primary ''risk-drivers'' in the hazardous CAMU-eligible waste, and would be determined on a site-specific basis as those constituents that pose a risk that is substantially higher than the cleanup levels or goals at the site. EPA is proposing standards that would require treatment of PHCs in the waste in accordance with either of two approaches: (1) National minimum treatment standards, adapted from the LDR Phase IV soil standards; or (2) factors that allow for site-specific adjustment of the minimum treatment levels in appropriate circumstances. Regarding the latter, in identifying circumstances where it might be reasonable and appropriate for the Regional Administrator to impose an adjusted treatment standard, EPA considered the Agency's long-standing preference for treatment of certain higher risk wastes, its experience in implementing remedies in the RCRA corrective action program (and, most especially, CAMUs that have been used to date), and its experience in implementing the land disposal restrictions program, which allows for variances from the LDR treatment standards (so long as the alternate treatment standard continues to minimize threats posed by land disposal).

The Agency's goals in proposing these treatment requirements for principal hazardous constituents are that they should provide a meaningful level of treatment and be achievable, but should not be so onerous as to discourage cleanup. The Agency believes that the proposed treatment requirements satisfy these objectives.

1. Identification of ''Principal Hazardous Constituents'' (PHCs) (§ 264.552(e)(4)

As described above, the treatment standards in today's proposed rule would only apply to the primary risk drivers, ''principal hazardous constituents'' (PHCs), in the cleanup wastes. This section of today's preamble discusses the approach proposed today, at § 264.552(e)(4)(i), to identify the PHCs in hazardous CAMU-eligible waste that would be subject to the proposed treatment requirements. As described above, the 1993 CAMU rule currently requires, under § 264.552(c)(6), that the CAMU ''enable the use, when appropriate, of treatment technologies * * * to enhance the long-term effectiveness of remedial actions by reducing the toxicity, mobility, or volume of wastes that will remain in place after closure of the CAMU.'' However, the rule does not identify a standard approach or process for identifying wastes or constituents that should be subject to treatment. The general practice in addressing contamination at cleanup sites, including those where CAMUs will be used, is to identify the presence and concentrations of hazardous constituents in cleanup wastes and to use this characterization information in conjunction with risk estimates and site-specific factors to make remedial decisions, including whether and to what extent to treat waste. For the reasons outlined in the previous section, EPA is proposing to add greater specificity to identification of constituents subject to treatment requirements.

a. *Constituents Subject to PHC Analysis (§ 264.552(e)(4)(ii)).* Since one of the primary benefits of the CAMU rule is to provide appropriate relief from RCRA's LDR provisions, it is not EPA's intention with today's proposed amendments to require treatment of more constituents than would be required under the LDR program. In other words, EPA does not intend to promulgate a treatment requirement for solid wastes that would not, absent the CAMU rule, be subject to LDRs if land disposed. Therefore, proposed § 264.552(e)(4)(ii) would require that in designating PHCs in hazardous CAMU-eligible waste, the Regional Administrator must only consider those constituents that would be subject to the LDR treatment requirements if the waste were placed in a land-based unit other than a CAMU. Specifically, the list of constituents would be as follows: for listed wastes (*e.g.*, sludges), ''regulated hazardous constituents'' (see § 268.40, Table ''Treatment Standards for Hazardous Wastes''); for characteristic wastes, all ''underlying hazardous constituents'' (see § 268.40(e), § 268.2(c)); for soil, ''constituents subject to treatment'' (see § 268.49(d)).

EPA expects that, under today's proposal, program implementors would identify PHCs as part of the overall site remedial process. Typically, during the site and waste characterization process and during the assessment of remedial alternatives, owner/operators and oversight agencies identify which wastes are hazardous, which wastes warrant removal, and which constituents will be used to set site cleanup levels. This process results in the identification of the ''risk-drivers'' at a site. EPA fully expects that this typical characterization and analysis process, leading up to the decision to consider the use of a CAMU, will reliably identify PHCs. Therefore, EPA does not believe today's proposal would require greater characterization than what already exists in well-designed cleanups. EPA seeks comment on this conclusion.

b. *Proposed PHC Standard (§ 264.552(e)(4)(i)).* EPA is proposing the following standard at § 264.552(e)(4)(i) for the identification of principal hazardous constituents: ''Principal hazardous constituents are those constituents that the Regional Administrator determines pose a risk

that is substantially higher than the cleanup levels or goals at the site.'' EPA is proposing that: ''In general, the Regional Administrator will designate as principal hazardous constituents: (1) Carcinogens that pose a potential direct risk from ingestion or inhalation at the site at or above 10^{-3}; and, (2) Non-carcinogens that pose a potential direct risk from ingestion or inhalation at the site an order of magnitude or greater over their reference dose. (3) The Regional Administrator will also designate constituents as principal hazardous constituents, where appropriate, based on risks posed by the potential migration of constituents in wastes to groundwater, considering such factors as constituent concentrations, and fate and transport characteristics under site conditions. (4) The Regional Administrator may also designate other constituents as principal hazardous constituents that the Regional Administrator determines pose a risk to human health and the environment substantially higher than the cleanup levels or goals at the site.'' These provisions are discussed in detail below.

EPA believes that this is a reasonable standard for identifying high risk wastes, and is generally consistent with EPA's ''principal threats'' approach (use of the principal threats approach in the RCRA corrective action program is discussed below in this section) and EPA's emphasis on treatment of higher risk wastes. In making any determination of whether PHCs are present in CAMU-eligible waste, treatment of the waste could not be used to avoid a PHC determination that would otherwise be made (*e.g.,* by conducting such treatment prior to examining constituent concentrations in the waste to determine PHCs).

In order to identify higher risk constituents in hazardous CAMU-eligible waste, the proposed PHC approach compares risks posed by the constituents in the waste to the cleanup levels or goals established at the site—*i.e.,* levels of contamination that the oversight agency believes are protective of human health and the environment. In cases where PHCs are being designated, the CAMU will generally be a permanent disposal unit located at the site (see discussion of non-permanent CAMUs below, in the section titled ''Treatment and/or Storage Only CAMUs''); it is therefore appropriate to consider risks from wastes disposed of in the CAMU unit in the context of the cleanup standards set for the site as a whole. By considering disposal risks in the site-wide context, the proposed approach to designating PHCs would make use of the process typically used by EPA or the authorized state for establishing cleanup levels or goals at a site. Cleanup levels or goals typically take into account such factors as reasonably anticipated land use at the facility (*e.g.,* residential, industrial or agricultural) and exposure pathways of concern. At some sites, standard tables are used to determine protective cleanup levels; at others, risk assessment procedures are used to determine risks that are more tailored to the site. In cases where CAMUs are under consideration prior to final determination of tailored site-specific cleanup standards, EPA anticipates that generally the Regional Administrator would, as appropriate, use standard tables as a basis for determining PHCs. EPA seeks comment on other approaches that could be used for designating PHCs in circumstances where final determination of tailored site-specific standards has not been made.

c. *Approach to Identifying PHCs.* EPA is proposing a general approach at § 264.552(e)(4)(i) for determining which constituents ''pose a risk to human health and the environment substantially higher than the cleanup levels or goals at the site'' and should therefore be designated PHCs. First, EPA is proposing that, ''In general, the Regional Administrator will designate as principal hazardous constituents: (1) Carcinogens that pose a potential direct risk from ingestion or inhalation at the site at or above 10^{-3}; and, (2) non-carcinogens that pose a potential direct risk from ingestion or inhalation at the site an order of magnitude or greater over their reference dose.'' EPA believes that following this general approach in the rule would typically result in identification of constituents with risks that are ''substantially higher'' and thereby would screen out constituents posing lower risks, and portions of waste with low concentrations of higher risk constituents. Because there may be situations where using this approach would be inappropriate (see discussion below), EPA is not proposing that constituents meeting this description be identified as PHCs in all cases. This proposed rule would establish a general approach for how PHCs would be designated; as a result, in instances where the Regional Administrator decides not to identify constituents that would otherwise be identified as PHCs by using this approach, EPA would expect the Regional Administrator to explain that decision.

This general approach singles out risks to humans from ingestion and inhalation of constituents. The Agency believes it is appropriate to limit the circumstances where the rule identifies a specific risk level that would generally represent a higher level of risk to inhalation and ingestion, due to the greater variability and uncertainties associated with establishing risks via other routes of exposure. EPA and most states have ''look-up'' tables for soil ingestion that are commonly used in conducting cleanups (the docket for today's rule contains examples; note that the standard 10^{-6} values can be extrapolated to calculate concentrations at 10^{-3} levels); EPA expects that these tables would be used in PHC determinations (*e.g.,* by extrapolating to 10^{-3} levels from the standard 10^{-6} values). EPA also recognizes that such levels are sometimes also derived site-specifically during the cleanup process, and would be appropriate for making PHC determinations (again, by extrapolation). EPA anticipates that numbers derived for potential ingestion of soil will generally serve to identify PHCs. Inhalation numbers are less often the basis for setting cleanup goals, and thus, because PHCs are determined with reference to cleanup goals, EPA anticipates that numbers derived from potential inhalation of contaminants will determine PHCs in a more limited number of cases.

In assessing whether PHCs are present in cleanup wastes, EPA expects that the concentrations present in the wastes would be compared to cleanup levels or goals that assume that an individual is directly exposed to the constituents in the waste; *i.e.,* this comparison would not account for any engineering controls associated with management of the waste. This comparison would assume direct exposure assumptions, consistent with site use as reflected by the site cleanup standards. As described above, EPA and most states have look-up tables for cleanup levels based on direct ingestion or direct contact with soils. Direct exposure in the case of inhalation refers to the location where an individual would be exposed under reasonable exposure assumptions (this is consistent with how inhalation exposure is typically assessed in cleanup programs). The comparison of levels in the waste to site levels or goals would assume fate and transport of constituents only for assessing the potential migration of constituents from waste into groundwater or air, for the purpose of determining the risk posed by direct exposure to the groundwater, or by inhalation of air at points where receptors are located.

EPA expects that the assumption of direct exposure would be maintained for the PHC determination, despite the

fact that CAMUs will be designed such that the wastes subject to disposal will not be available for direct exposure when the CAMU is complete because of engineering and/or institutional controls. As explained more fully above, the intent of this approach is to protect against potential direct exposure to higher risk constituents in the event of failure of the long-term disposal unit.

EPA believes that today's proposed approach for identifying constituents subject to the proposed treatment standard should be readily implementable and provides a reasonable national minimum standard. The approach is designed to be implemented within the context of existing remedial programs and decision making. EPA seeks comment on this conclusion.

d. *Identifying Carcinogenic PHCs Posing a Risk via Inhalation or Ingestion.* The Agency generally sets site-specific risk goals for final cleanup of carcinogenic constituents within the risk range of 10^{-4} to 10^{-6}, with 10^{-6} being the point of departure for establishing carcinogenic risk levels of concern (*e.g.,* see Corrective Action ANPR, at 61 FR 19450). Therefore, EPA is proposing that carcinogenic constituents in CAMU-eligible waste at concentrations that pose potential risks at or above the 10^{-3} level would generally be presumed to pose risks ''substantially higher than the cleanup levels or goals at the site,'' and would therefore typically be defined as principal hazardous constituents. In the rare cases where the final cleanup goal for the site falls at the upper end of the risk range (*e.g.,* at 10^{-4}), EPA believes that it would generally be appropriate for concentrations in CAMU-eligible waste at or above the 10^{-3} level to still define principal hazardous constituents, because of the high level of risk posed at concentrations higher than the 10^{-3} level.

As discussed above, cleanup levels for sites can be set site-specifically or can be obtained from standard tables (*e.g.,* by extrapolation of the standard 10^{-6} values). There may be situations where concentrations in the CAMU wastes are greater than, but near the 10^{-3} potential risk level. In such cases, the Regional Administrator could look closely at such wastes in light of the assumptions that underlie the 10^{-3} determination (*e.g.,* their chemical characteristics and site conditions) prior to determining whether they were principal hazardous constituents. For example, if a constituent posed risks close to a 10^{-3} level, based on conservative default assumptions (*e.g,* promulgated state default tables or generic assumptions used to determine bioavailability), and the underlying assumptions are not appropriate or applicable at the site in question, the Regional Administrator could apply more appropriate site-specific assumptions to determine whether the constituents should be designated as principal hazardous constituents.

The proposed rule's general approach to identifying carcinogenic principal hazardous constituents in CAMU-eligible wastes is generally consistent with the ''principal threats'' approach used by the Superfund and RCRA corrective action programs. The principal threats approach uses a 10^{-3} risk level for carcinogens as one possible benchmark for identifying which wastes should generally be designated as ''principal threat'' source material. More detail on the principal threats approach can be found below, in the treatment section of today's preamble, and in § 300.430(a)(1)(iii)(A) and § 430(f)(1)(ii)(E) (the National Contingency Plan). See also, A Guide to Principal Threats and Low Level Threat Wastes, OSWER Directive 9380.3–06FS, November 1991; Corrective Action for Releases From Solid Waste Management Units at Hazardous Waste Management Facilities, Advance Notice of Proposed Rulemaking, 61 FR 19432, 19448, (May 1,1996); Rules of Thumb for Superfund Remedy Selection, OSWER Directive 9355.0–69, August 1997. EPA requests comment on its proposed approach to identifying carcinogenic principal hazardous constituents.

e. *Identifying Non-Carcinogenic PHCs Posing a Risk via Inhalation or Ingestion.* For non-carcinogens, the Agency generally sets cleanup goals for inhalation or ingestion not to exceed a hazard quotient of one (for individual non-carcinogens). The hazard quotient is defined as the estimated site-specific exposure (dose) over a specified period divided by the reference dose for that substance derived for a similar exposure period. A reference dose is an estimate of a daily exposure to the general population of humans (including sensitive subpopulations) that is likely to be without an appreciable risk of adverse effects during a lifetime. Reference doses typically incorporate safety factors (generally ranging from 10–1000) that address extrapolation of effects from animal studies to humans and other sources of variability. Hazard quotients are used as a measure of unacceptable exposure to non-carcinogens that produce toxic endpoints other than cancer. The hazard quotient is a comparison of a projected dose to a threshold dose above which an adverse effect is anticipated; the magnitude of an adverse effect is not always related directly to the magnitude of the hazard quotient. While a hazard quotient of one for any single constituent is generally considered acceptable, a quotient of greater than one may be cause for concern. The Agency's Integrated Risk Information System (IRIS) database has a more detailed description of reference doses and hazard quotients (see www.epa.gov/IRIS). Therefore, EPA believes that it is appropriate, as a general approach, to propose that constituent concentrations in CAMU-eligible waste that are at 10 times the hazard quotient or greater would pose risks substantially higher than the cleanup levels or goals at the site, and would typically define principal hazardous constituents. EPA requests comment on its proposed approach to identifying non-carcinogenic principal hazardous constituents.

f. *Waste to Groundwater Pathway.* Today's proposed rule also states, at § 264.552(e)(4)(i)(B), that ''the Regional Administrator will also designate principal hazardous constituents, where appropriate, based on risks posed by the potential migration of constituents in wastes to groundwater, considering such factors as constituent concentrations, and fate and transport characteristics under site conditions.'' These site-specific factors would include those that would potentially affect migration of constituents from waste in a CAMU into groundwater, such as location of the CAMU, nature of the waste and constituents (*e.g.,* mobility), how the waste will be managed (*e.g.,* the type of unit that will be used and potential rates of liquid percolation into and out of the unit), factors that affect transport of constituents to groundwater, and beneficial use of groundwater. As a general principle, in situations where cleanup is being conducted at least in part because constituents in soil or waste pose a significant potential threat through the groundwater pathway (*e.g.,* based on fate and transport modeling to potential receptors), and the cleanup waste is excavated for disposal in a CAMU, the Regional Administrator would be expected to strongly consider whether to designate such constituents as PHCs if they are not otherwise designated.

This approach to designating PHCs based on risks from the waste to groundwater pathway differs from the approach taken for inhalation and ingestion in that it does not specify a generally appropriate risk level that would typically define PHCs and it allows for consideration of additional

circumstances that potentially affect exposure. This is because, given the highly site-specific nature of the waste to groundwater pathway, EPA believes that it is not appropriate to propose a standard method or risk level for identifying PHCs based on this pathway. The migration of constituents from soil or wastes to groundwater depends on a large number of factors; as a result, the assessment of this pathway tends to be highly dependent on site-specific factors, and involves more underlying assumptions, than the assessment of risks from direct ingestion or inhalation. As a result of this site-specific complexity, and number of compounded underlying assumptions, standard default tables designed for cleanup that have with soil cleanup numbers for the soil to groundwater pathway tend to have very conservative default concentrations that, if used for assessing potential PHCs under today's proposed rulemaking, would not effectively ''screen out'' the lowest risk constituents. These standard tables typically recognize that the default levels can be overly conservative when applied at individual sites by also providing methods or options for such numbers to be developed through site-specific modeling (examples of state tables and supporting information are included in the docket for today's rulemaking). Accordingly, EPA is not proposing a general standard risk level for identifying PHCs that pose a risk from waste to groundwater out of concern that such an approach would have a high likelihood of identifying constituents as PHCs that do not ''pose a risk to human health and the environment substantially higher than the cleanup levels or goals at the site'' (the PHC standard).

g. *Designation of Other PHCs.* As described above, EPA is proposing an approach where the Regional Administrator designates as principal hazardous constituents those constituents that pose a risk to human health and the environment substantially higher than the cleanup levels or goals at the site. EPA has proposed a general approach to identifying principal hazardous constituents that emphasizes risks of toxicity and carcinogenicity to humans from direct ingestion or inhalation, and has highlighted the waste to groundwater pathway as another basis to site-specifically designate PHCs. In addition, other factors, such as ecological concerns, potential risks posed by dermal contact, or constituent mobility might, on a site-specific basis, be weighed in identifying principal hazardous constituents. For example, the Regional Administrator could determine that constituents posing risks less than 10^{-3} are principal hazardous constituents, such as a highly mobile constituent posing a 10^{-4} potential risk at a site where protection of groundwater is an especially significant concern. EPA therefore included a sentence in the proposed rule language, directly after the discussion of these specific pathways (proposed § 264.552(e)(4)(i)(C), that is intended to counter any implication that the pathways expressly discussed in the rule language occupy the universe of risks that the Regional Administrator should consider in appropriate circumstances. In addition, even if constituents were not designated as PHCs, treatment could be required through use of proposed § 264.552(i) (see the section below titled: *Additional Requirements*) or as otherwise selected during the remedy selection process.

EPA requests comment on its proposed approach to addressing the issue of designating principal hazardous constituents other than those identified by the general approach.

2. Treatment Standards (§ 264.552(e)(4)(iii)).

As provided in § 264.552(a)(1), wastes placed in CAMUs are not subject to the land disposal restriction (LDR) standards. In today's notice, EPA is proposing CAMU-specific treatment standards at § 264.552(e)(4)(iii) for waste determined to contain principal hazardous constituents (PHCs). The proposed provisions would require treatment of PHCs in the waste in accordance with either national minimum treatment standards under proposed § 264.552(e)(4)(iv) or with alternate standards determined pursuant to proposed § 264.552(e)(4)(v) that allow for site-specific adjustment of those minimum treatment levels. The proposed adjustment factors are designed to ensure that the national minimum standards are not required where they are inappropriate. The proposed adjustment factors are discussed in detail in the next section of this preamble.

The treatment standard would apply only to CAMU-eligible wastes that will be permanently disposed in the CAMU, and does not apply to wastes placed in CAMUs that are used only for treatment or storage—that is, CAMUs from which wastes will be removed at closure. Elsewhere in today's notice, EPA is proposing separate amendments for CAMUs that are used only for treatment or storage activities. Also, as discussed later, treatment in permanent CAMUs or in CAMUs used for treatment and/or storage only, can occur either before or after disposal in the CAMU.

a. *National Minimum Treatment Standards.* In today's notice, EPA is proposing to extend the treatment standard established for hazardous contaminated soil in the LDR Phase IV rule (§ 268.49; 63 FR 28556 (May 26, 1998)) to all CAMU-eligible wastes placed in CAMUs for permanent disposal. Under today's proposal, the Phase IV soil standard would apply to non-soil hazardous wastes, including sludges and debris managed in CAMUs, as well as to soils containing hazardous waste. In addition, for both soil and non-soil CAMU-eligible wastes, treatment would only be required for PHCs, not for all hazardous constituents that would be subject to treatment under the LDR requirements if the wastes were managed in land-based units other than CAMUs.

The proposed treatment standard under § 264.552(e)(4)(iv) provides that CAMU-eligible waste that the Regional Administrator determines contains principal hazardous constituents must meet the following treatment standards (or must meet an adjusted level in accordance with § 264.552(e)(4)(v), as discussed in the next section). The proposed standards for metals and non-metals would require 90% reduction in PHCs in the waste or media, measured in total constituent concentration for non-metals and for metals when a metal removal technology is used, or as measured in leachate from the treated waste, tested according to the Toxicity Characteristic Leaching Procedure (TCLP), for metals. The rule would require that the 90% reduction standard in PHCs must be met unless such treatment would result in a concentration less than 10 times the Universal Treatment Standard for that constituent; in such cases, treatment to10 times the Universal Treatment Standard would be required. This standard, as used in the Phase IV LDR regulations for contaminated soils, is commonly referred to as ''90% capped by 10×UTS;'' for details on implementation of this standard, see the description in the Phase IV preamble (63 FR 28605). The Universal Treatment Standards, which are used in the hazardous waste land disposal treatment program, are identified in § 268.48 Table UTS.

EPA is also proposing, consistent with the Phase IV requirement, that for waste exhibiting the hazardous characteristic of ignitability, corrosivity or reactivity, the waste must meet the treatment standard for metals or non-metals that are PHCs and also be treated to

eliminate any such hazardous characteristic that is present. EPA is also proposing that principal hazardous constituents in hazardous debris would have to be treated in accordance with § 268.45, the standard for debris containing hazardous waste, or by the proposed methods or to the proposed levels established for CAMU-eligible wastes containing metals or non-metals, whichever the Regional Administrator determines appropriate. These provisions are discussed below in more detail.

As discussed in the treatment overview section of this preamble, the Agency's goal in designing these treatment requirements for principal hazardous constituents is that they should provide a meaningful level of treatment and be achievable, but should not be so onerous as to discourage remediation. The Agency also sought to ensure that it would not require treatment to levels significantly below those that are necessary to protect human health and the environment. The Agency is proposing to extend the Phase IV soil standards to CAMU-eligible wastes, because, in conjunction with the proposed treatment adjustment factors, they satisfactorily meet these objectives. The Agency believes that the 90%/10xUTS standard would generally result in meaningful treatment, since 90% is a substantial level of constituent reduction or immobilization and ''10xUTS'' is a small increment over constituent concentrations based on a very stringent ''Best Demonstrated Available Technology'' (BDAT) standard. The Agency also believes the proposed standards are achievable by means other than combustion and will not discourage cleanup (see 63 FR 28556, 28603–4 (May 26, 1998)). The Phase IV soil standards were promulgated in part because of the disincentive to cleanup posed by technical difficulties of meeting treatment standards in soils without resorting to combustion. The Agency demonstrated in the Phase IV rulemaking that the ''90% reduction capped at 10xUTS'' standard is generally achievable for contaminated soils by methods other than combustion. In general, as discussed in the Phase IV rule, soil contaminated with hazardous wastes is more difficult to treat than hazardous wastes alone (63 FR 28556, 28603 (May 26, 1998)). Consequently, EPA believes that the treatment standards proposed today will typically be achievable for non-soil CAMU-eligible wastes by methods other than combustion. In situations where this general finding regarding achievability does not hold, the Agency is proposing an adjustment factor (discussed more fully below) allowing the Regional Administrator to impose a different treatment standard when achieving the proposed minimum treatment standards is ''technically impracticable.''

As discussed above, in determining minimum treatment standards, the Agency, in addition to other goals, sought to ensure that it would not require treatment significantly below levels that are necessary to protect human health and the environment. EPA therefore is proposing a factor to allow the Regional Administrator to adjust the standard ''where the levels or methods [established using the proposed treatment standard] would result in concentrations of hazardous constituents that are significantly above or below cleanup standards applicable to the site.'' This adjustment factor, along with other adjustment factors that are not directly tied to technical issues associated with the proposed minimum standards, are discussed in more detail below.

The Agency seeks comment, in general, on today's proposed minimum treatment standard for wastes determined to contain PHCs. In particular, the Agency seeks comment on the conclusion that today's standard will typically be achievable for non-soils managed in CAMUs.

b. *Debris.* In today's proposal, EPA is proposing to require the current LDR hazardous debris treatment standard at § 268.45 for debris placed in CAMUs for permanent disposal (applied, however, only to PHCs), and is also proposing, at § 264.552(e)(4)(iv)(E), to also allow treatment of debris using the standards applicable to other CAMU-eligible waste, whichever the Regional Administrator deems appropriate. Debris is defined under § 268.2(g) as solid material exceeding 60 mm in size that is intended for disposal and that is a manufactured object, or plant or animal matter, or natural geologic material, that is otherwise not excluded under the provisions of 268.2(g).

The Agency believes that the LDR debris standard at § 268.45 will be appropriate for most debris waste streams containing PHCs that are destined for disposal in a CAMU. Unlike the LDR standards for other wastes, these standards were developed taking into consideration that debris is frequently a cleanup waste, rather than an as-generated waste (57 FR 37194, 37222 (August 18, 1992). However, there are site-specific circumstances under which the Agency believes that it might be appropriate for the option to be available for such debris to meet the treatment standard for non-debris waste containing PHCs instead of that at § 268.45. For example, at some sites, debris is mixed with other cleanup waste, and separation of the debris is difficult, expensive, or would require setting up additional treatment processes. It may make sense for the debris to remain mixed with the other cleanup waste that will be placed in the CAMU and to go through the treatment process designed for the other waste, provided that the treatment is capable of accepting or treating the debris. For example, the remedy chosen for metal-contaminated soil at a site might require the soil to be processed in a pug mill prior to its being subject to solidification. In this example, most of the soil to be treated is composed predominantly of soil, with a batch of debris consisting of broken cement pieces contaminated with metals. The soil treatment train might effectively address the soil and debris components at the same time, as well as any loads that predominantly contain debris. In the latter case (loads that predominantly contain debris), if the cement were to be treated under the § 268.45 debris standards, the likely treatment would involve separation of the soil from the debris, followed by physical treatment, such as sandblasting, immobilization or chemical extraction. In other cases, where debris is not mixed with other cleanup waste, the debris might be adequately treated if it is included in the treatment process associated with the non-debris waste. In another example, contaminated organic matter, such as trees or boards, might be amenable to shredding and mixing with soils undergoing biodegradation, and achieve the 90%/10x UTS treatment requirement. In any case, the decision to use such treatment would be made as part of the overall remedy decision for the CAMU-eligible waste. The Agency seeks comment, in general, on today's proposed approach for debris.

c. *CAMU-Eligible Wastes Exhibiting the Characteristics of Ignitability, Corrosivity, or Reactivity.* EPA is proposing that any CAMU-eligible wastes subject to today's treatment requirement for metals and non-metals (*i.e.,* that contains PHCs) must, if exhibiting the hazardous characteristics of ignitability, corrosivity or reactivity, also be treated to eliminate these characteristics. This approach is an extension of the LDR Phase IV standards for soils where, in addition to treatment of all underlying hazardous constituents, characteristic soil must also be treated to remove the characteristic property. EPA believes

removal of such characteristics is appropriate in ensuring a protective CAMU, because not only do these characteristics pose a hazard if there is direct exposure to the waste, but they can potentially affect the integrity of the liner and other engineered systems of the unit. The Agency seeks comment, in general, on today's proposed approach for wastes that exhibit the hazardous characteristic of ignitability, corrosivity or reactivity.

d. *How is 90% Reduction Assessed?* As discussed in the preamble to the Phase IV rule, EPA would expect that under today's proposed rule, normal soil characterization techniques and procedures for representative sampling would be used to determine 90% reduction in constituent concentrations (63 FR 28556, 28605 (May 26, 1998)). In the context of the Phase IV rule, the Agency is developing guidance on establishing and validating the 90% reduction levels for contaminated soil. EPA intends to issue this guidance shortly as interim guidance, with an opportunity for public comment. EPA views these issues as equally pertinent to use of the 90% reduction standard for CAMU wastes, and intends to recommend the same approaches for CAMU wastes (if the Agency finalizes the 90%/10xUTS standard) when the guidance is available. In general, when assessing whether 90% reduction has been achieved, if the contaminating hazardous waste has a treatment standard that is measured by total constituent concentrations (*i.e.,* organics and cyanide), then the 90% reduction would be measured using total constituent concentrations. If the treatment standard for the contaminating waste is measured by the TCLP (*i.e.,* metals), then the 90% reduction would also be measured using the TCLP. Exceptions would be if soils contaminated with metal constituents were treated using a technology which removed, rather than stabilized metals. In such a case, the 90% reduction would be measured using total constituent concentrations.

The Agency seeks comment on today's proposed approach for assessing constituent reduction after treatment.

e. *Use of the TCLP to Assess Treatment.* EPA is proposing that the Toxicity Characteristic Leaching Procedure (TCLP) be used for assessing whether the 90%/10xUTS standard under § 264.552(e)(4)(iv)(B) and (C) has been met for metals. The TCLP test was designed to model the mobility of both organic and inorganic analytes present in liquid, solid, and multiphasic wastes, and simulates leaching of industrial solid waste (5%) with co-disposed municipal waste (95%) (see 55 FR 11798 (March 29, 1990)). Based on existing CAMUs and EPA's experience more generally in its remediation programs, the Agency expects that co-disposal of hazardous cleanup waste with municipal solid waste will not generally occur in CAMUs. As a result, EPA believes that the TCLP may not always be the most appropriate predictor of waste behavior in CAMUs. In addition, the Agency believes that the circumstances associated with disposal at a CAMU site will be well defined, and that tests other than the TCLP might be better suited on a site-specific basis to model the behavior of waste disposed in a CAMU unit. Of tests currently available, a plausible alternative may be the Synthetic Precipitation Leaching Procedure (SPLP; SW–846 Method 1312) which is identical to TCLP (SW 846 Method 1311) but uses a weak, unbuffered leaching fluid composed of nitric and sulfuric acids to simulate acid rain instead of the acetic acid leaching medium used in the TCLP. Information on the SPLP and other leaching procedures is available in the docket for today's rule. Other testing approaches may become available in the future. EPA is seeking comment on the appropriateness of using tests other than the Toxicity Characteristic Leaching Procedure (TCLP), including the SPLP, for assessing whether the 90%/10xUTS standard under § 264.552(e)(4)(iv)(B) and (C) has been met for metals.

3. Adjustment Factors to the Treatment Standard (§ 264.552(e)(4)(v))

EPA is proposing standards at § 264.552(e)(4)(v) (paragraph ''V'' in the following discussion) to provide the Regional Administrator with the discretion, when certain site-specific circumstances are present, to reduce or increase the minimum level of treatment that would be established in § 264.552(e)(4)(iv) (the national minimum standards in paragraph ''IV''). Under the proposed rule, any adjustment to treatment made when these circumstances are present would be required to be protective of human health and the environment. As discussed above, EPA believes that this approach strikes a reasonable balance between minimum national standards and flexibility to account for site and waste conditions that make meeting the national treatment standard unachievable, unnecessary, or inappropriate at the site in question.

As discussed in the introduction to the treatment section, in identifying circumstances where it would be reasonable and appropriate for the Regional Administrator to consider approving an adjusted treatment standard, EPA considered the Agency's long-standing preference for treatment of certain higher risk wastes, its experience in implementing remedies in the RCRA corrective action program (including where CAMUs are used), as well as its experience in implementing the land disposal restrictions program, which sets treatment standards primarily for as-generated wastes. The proposed adjustments also reflect EPA's experience in overseeing cleanup programs, and the recognition that cleanups are complex and varied, and that there are legitimate circumstances when treatment to the levels proposed as minimums in today's rule might not be appropriate, as well as where the minimum standard does not adequately protect human health and the environment.

In general, in determining adjustment factors, EPA sought to identify circumstances where it may be appropriate to allow for reduced treatment based on site circumstances. Of course, increased treatment may always be required at individual facilities by oversight agencies where it is considered necessary to protect human health and the environment. However, some of the circumstances identified in the adjustment factors that EPA is proposing today could be used to justify additional treatment, as well as reduced treatment. EPA has explicitly included the discretionary ability in the proposed regulations to require more treatment on the basis of certain adjustment factors as a reminder that additional treatment may be required in some circumstances.

As noted above, the proposed rule would require that, where the circumstances outlined in the adjustment factors are present, any alternative treatment standard imposed must be ''protective of human health and the environment.'' EPA included this provision as a reminder that the overall CAMU decision must be protective of human health and the environment, including where the Regional Administrator imposes an adjusted level. An example of how this would be implemented is a site where there are two technologies that are available to treat the CAMU waste. Technology A, although it would technically meet the proposed generic standards, presented an unacceptable risk to site workers (*e.g.,* because of risks of explosion). Technology B, on the other hand, did not present that risk, but could only achieve a 75% reduction in PHC concentrations. In this case, because the factors associated with adjustment factor D (''short-term risks,''

discussed below) were present, the Regional Administrator could consider an alternate standard; such standard could only be imposed where the alternate level (75% reduction) was protective. EPA expects that the Regional Administrator would undertake this assessment of protectiveness of the alternate standard as part of the overall remedy and CAMU decision process. In judging protectiveness of the alternate standard, the Agency would expect the Regional Administrator to consider, as appropriate, the characteristics of the waste, including such factors as concentrations and mobility, how the wastes will be managed (*e.g.,* the type of unit), and site characteristics, such as depth to groundwater and factors that affect fate and transport to potential receptors. Note, as discussed below under adjustment factor E, that protection offered by the engineering of the unit as the initial basis for considering an alternate standard is limited to a specific set of circumstances.

EPA is proposing the following five treatment adjustment factors at § 264.552(e)(4)(v), which can be used singly or in combination (descriptions of these proposed factors and proposed regulatory citations are given in the following discussion).

(A) Technical impracticability

(B) Consistency with site cleanup-up levels

(C) Community views

(D) Short-term risks

(E) Protection offered by engineering controls under specified circumstances:

(E)(1): Treatment standard is ''substantially met'' and the PHCs are of very low mobility

(E)(2): Treatment standard is not ''substantially met'' and cost-effective treatment used, if reasonably available, and:

(E)(2)(i): Subtitle C liner and leachate collection system; or

(E)(2)(ii): Wastes are treated and PHCs are of very low mobility; or

(E)(2)(iii): Wastes are not treated and PHCs are of very low mobility and special liner requirements are met.

Note that the proposed treatment adjustment provision in paragraph V provides that the Regional Administrator may adjust the treatment ''level or method'' in paragraph IV. In cases where the treatment under paragraph IV is to the standard of 90%, capped at 10xUTS, the Regional Administrator would be adjusting the ''level;'' in cases where the treatment is to remove a hazardous characteristic, or is a method for debris obtained from § 268.45, the Regional Administrator would be adjusting the ''method.''

a. *Adjustment Factor A. Technical Impracticability (264.552(e)(4)(v)(A)).* EPA is proposing at § 264.552(e)(4)(iii)(B)(*l*) that the Regional Administrator may, where appropriate, adjust treatment to a lower, but still protective, level based on the technical impracticability of treatment in accordance with the minimum standard in paragraph IV. In some cases, a facility owner or operator may find that it is not technically practicable to achieve specified treatment levels, or to conduct meaningful treatment at all, because of factors relating to technologies or cost. Some of the circumstances when these factors would be appropriately considered as reasons for imposing an alternate standard have been addressed in several contexts: in the land disposal restrictions program for as-generated wastes, in the form of variances, and in the remedial context, as technical impracticability determinations or waivers. Factors of cost and technical capability are also routinely discussed in the remedy decision process under Federal and State cleanup programs in cases where regulatory treatment levels are not required, but program implementors are seeking remedies that provide the most appropriate balance among remedy selection factors. Today's proposed adjustment factors borrow from these established concepts and practices (primary references are cited below).

It is EPA's intention that proposed adjustment factor A would include the concepts contained in the current ''unachievable'' LDR variance, at § 268.44(h)(1), and the ''technically inappropriate'' variance, at § 268.44(h)(2)(i). The variance at § 268.44(h)(1) provides that the Administrator may approve a site-specific variance from an applicable treatment standard if it is not physically possible to treat the waste to the level specified in the treatment standard, or by the method specified as the treatment standard (preamble discussion of this variance is at 53 FR 31138, 31199 (August 17, 1988)). EPA believes the underlying concept contained in this variance—that it is appropriate to obtain a variance when it not physically possible to meet a specified treatment level—is equally appropriate for use in adjusting from today's proposed CAMU treatment standards. In particular, attempting to require compliance with a standard that is impossible to meet would likely result in less permanent containment remedies that would not involve treatment.

The variance at § 268.44(h)(2)(i), commonly referred to as the ''technically inappropriate'' variance, provides that the Administrator may approve a site-specific variance from an applicable treatment standard if it is inappropriate to require the waste to be treated to the level specified in the treatment standard or by the method specified as the treatment standard, even though such treatment is technically possible. One example of a technically inappropriate standard would be where it would result in ''combustion of large amounts of mildly contaminated environmental media where the treatment standard is not based on combustion of such media.'' The technically inappropriate variance was promulgated August 17, 1988 (53 FR 31138, 31199 (August 17, 1988)) and is discussed further in the December 5, 1997 final rule issuing clarifying amendments to this variance (62 FR 64504 (December 5, 1997)). EPA believes the underlying concept contained in this variance, that alternate treatment should be considered when a prescribed treatment level or method is technically inappropriate, is also equally appropriate for use in adjusting from today's proposed CAMU treatment standards. Combustion of large volumes of contaminated soil remains the primary example that EPA has in mind for the use of this variance, although, as discussed in the Phase IV LDR rule (63 FR 28556, 28603 (May 26, 1998)), EPA believes that the 90%/10xUTS standard, which is also applicable under today's proposal, is achievable at most sites with non-combustion technologies. This fact will likely reduce the number of circumstances where use of this reasoning for imposing an alternate standard could be considered. Regarding both of the above LDR variances, it is important to note that EPA intends only to import the general concepts underlying the variances, not the mechanics (*i.e.,* specific demonstration and other procedural requirements), into this adjustment factor. It is also important to note that the CAMU designation process provides for oversight and public involvement in the assessment of potential adjustment factors.

EPA also intends that the proposed technically impracticable adjustment factor would include the general concepts of ''technically infeasible'' and ''inordinately costly'' that are used in the remedial context. As explained in the Superfund National Contingency Plan (NCP) preamble, technical impracticability in the Superfund context should be based on

''engineering feasibility and reliability, with cost generally not a major factor unless compliance would be inordinately costly'' (55 FR 8666, 8748 (March 8, 1990)). These concepts, which are also relevant to the selection of remedies under the RCRA corrective action program, are described further in the Corrective Action for Releases from Solid Waste Management Units at Hazardous Waste Management Facilities, Advance Notice of Proposed Rulemaking (61 FR 19432 (May 1, 1996)), and in the ''Role of Cost in the Superfund Remedy Selection Process'' (Publication 9200.3–23FS, September 1996).

EPA seeks comment on its proposed approach to adjusting treatment based on the technical impracticability of treatment in accordance with the minimum requirements in paragraph IV.

b. *Adjustment Factor B. Consistency with Site Cleanup Levels (§ 264.552(e)(4)(v)(B)).* EPA is proposing at § 264.552(e)(4)(v)(B) that the Regional Administrator may adjust treatment to a higher or lower level in instances where the levels or methods in paragraph IV would result in concentrations of hazardous constituents that are significantly above or below cleanup standards applicable to the site (established either site-specifically or promulgated under state or federal law). As described below, this comparison to cleanup standards would assume that there is direct exposure of a receptor to the principal hazardous constituents in the waste.

Typically, EPA or state regulators establish cleanup levels at sites where a CAMU is under consideration. As discussed above, cleanup levels incorporate various assumptions regarding exposure, and may be based on residential, industrial or other uses. The objective in setting cleanup levels is to ensure protection of human health and the environment. In some cases, treatment of PHCs in the waste at these sites to below the national minimum standard of 90% capped at 10xUTS could result in concentration levels significantly below the cleanup level. In such cases, the treatment required in paragraph IV would be more than is necessary to ensure protection of human health and the environment. Using proposed adjustment factor B, the Regional Administrator could adjust the PHC treatment level to a level that does not implicate the situation addressed by the adjustment factor (i.e., it is not significantly below the cleanup level or goal at the site). This approach addresses similar concerns to those addressed by the current ''site-specific minimize threat'' LDR variance (Section 268.44(h)(3)), which allows for a variance from the LDR treatment requirement on the basis of a comparison to site-specific health-based levels in certain circumstances (see 63 FR 28556, 28606–28608 (May 26, 1998)).

As discussed above, the Agency also believes it is important to provide in the adjustment factors for cases where the concentration of constituents that result from application of the generic minimum standards remains significantly above site standards; in such cases, the treatment levels that result from the application of the generic levels in paragraph IV might not be sufficiently protective. For example, it may be appropriate to adjust the treatment level under this factor when the reasonably anticipated land use at the facility has been determined to be residential and the initial concentrations are sufficiently high, such that, when they are reduced by 90%, they remain at levels that are significantly above the site cleanup levels.

As an implementation matter, EPA intends that the approach in using this adjustment factor would be to compare levels that would be attained through treatment to the generic standards to site cleanup levels that would customarily be established for the site. EPA expects that when applying this adjustment factor, comparisons would be to site levels (either established site-specifically or promulgated under state or federal law) that assume there is direct exposure of a receptor to the constituents. As explained above, site-specific cleanup standards are typically derived after consideration of factors that influence the risk potential at the site, including fate and transport considerations (e.g., in setting levels in soils that are protective of groundwater), distinctions between residential, industrial and other types of land use, and location of potential receptors. In the use of this adjustment factor, however, protection offered by the engineering of the CAMU itself would not be included in the calculation of adjusted treatment standards. In other words, in determining whether imposition of the generic standards would result in concentrations significantly above or below cleanup standards, the Regional Administrator will compare the risks associated with the site levels or goals based on direct exposure, to the risks expected under the same direct exposure scenario for levels that would be attained under the generic standards. This direct exposure assumption is similar to that used in the current ''site-specific minimize threat'' LDR variance (Section 268.44(h)(3)). Because the Agency believes cleanup programs routinely establish site goals based on direct exposure scenarios (without consideration of the engineered unit), the Agency did not specifically make the use of a direct exposure scenario a condition in the adjustment factor B language. The Agency requests comment on the accuracy of its beliefs as to how cleanup programs set site goals or levels and whether there is enough uncertainty to warrant an express requirement for use of direct exposure assumptions in the regulations.

c. *Adjustment Factor C. Community Views (§ 264.552(e)(4)(v)(C)).* EPA is proposing at § 264.552(e)(4)(v)(C) that the Regional Administrator may adjust treatment to a higher or lower level based on the views of the affected local community on the treatment levels or methods to be potentially employed to meet the generic treatment standard in paragraph IV. At some sites, communities express concerns regarding such factors as long-term reliability of remedies, worker safety associated with technologies, cross-media transfer of pollutants, and interference with their day-to-day lives (*e.g.,* from traffic, odors or noisy remedies). EPA anticipates that such community concerns could, in many circumstances, appropriately provide the impetus to either reduce or increase treatment. EPA believes that, consistent with the remedy selection process for RCRA corrective action and for CAMU determinations, the public should have the opportunity to participate through the notice and comment process in the selection of the treatment or remedy, which includes selection of treatment levels.

The public participation provisions of the CAMU rule, as they would be amended under today's proposal (discussed in detail below) provide for public input on all aspects of the CAMU decision for all CAMUs. EPA believes it is reasonable to include public views as an explicit criterion to justify adjustment from the treatment requirement where appropriate, because, in the Agency's experience, treatment has been an area of specific concern to the public. A notable example is local concerns regarding the use of combustion technologies.

Under today's proposed amendments, the community would be given the opportunity to weigh in on the treatment decision as part of the notice and comment process when the CAMU is proposed, prior to its final designation. In addition, at some sites, prior to proposal of the CAMU, owners

or operators or the oversight agency may be aware of community concerns associated with cleanup sites and would take these into account in developing CAMU proposals. EPA seeks comment on its proposed approach to adjusting treatment based on views expressed by the community on the treatment levels or methods to be potentially employed to meet the proposed generic treatment standard.

d. *Adjustment Factor D, Short-Term Risks (§ 264.552(e)(4)(v)(D)).* EPA is proposing at § 264.552(e)(4)(v)(D) that the Regional Administrator may adjust treatment to a higher or lower level based on the short-term risks presented by the on-site treatment method necessary to achieve the levels or treatment methods in the generic treatment standard in paragraph IV. Certain technologies are capable of achieving treatment levels but in doing so, may present unacceptable risks in the short term to workers or the public. In other cases, the analysis necessary to determine if the treatment standard has been met might present unacceptable hazards, such as for soils containing explosive materials.

Short-term risks associated with remedies and proposed treatment technologies are routinely considered during the remedy selection process under the RCRA corrective action program and may form the basis for determining that certain methods of treatment are not appropriate (Corrective Action for Solid Waste Management Units (SWMUs) at Hazardous Waste Management Facilities, Proposed Rule, 55 FR 30798, 30824 (July 27, 1990)). Today's proposed adjustment factor would allow for the same considerations in the context of adjusting treatment levels for principal hazardous constituents in CAMU-eligible wastes. EPA seeks comment on its proposed approach to adjusting treatment based on the short-term risks presented by the on-site treatment method necessary to achieve the levels or treatment methods in the generic treatment standard.

e. *Adjustment Factor E. Engineering Design and Controls (§ 264.552(e)(4)(v)(E)).* EPA is proposing at § 264.552(e)(4)(v)(E) that the Regional Administrator may, under certain defined circumstances, adjust treatment of CAMU-eligible waste to an alternative level, or in some cases, to not treat at all, based on the long-term protection offered by the engineering design of the CAMU and related engineering controls. This adjustment factor defines the circumstances, taken in the context of the facility setting, under which the Regional Administrator could consider reducing the treatment standard based on the features of CAMU design and related controls.

As described above, EPA's approach to treatment in today's proposal reflects uncertainties associated with long-term reliability of containment units. The most difficult issue discussed during discussions with stakeholders was how to identify the circumstances under which adjustments to treatment could be justified based on the design of the CAMU alone (*i.e.,* without other extenuating circumstances, as provided for in the other adjustment factors). EPA examined the Agency's past CAMU decisions, and Agency experience in the land disposal restrictions (LDR) program and in overseeing the RCRA corrective action program, and, based on this evaluation, is proposing an adjustment factor which limits the situations where the Regional Administrator may approve a reduced treatment standard, based on the logic that the engineered design makes the generic treatment standard inappropriate. EPA seeks comment on the appropriateness of these factors and whether there are other circumstances where design of the unit would warrant adjustment, on a site-specific basis, from the generic treatment standard.

Today's proposal limits the consideration of the design of a unit to justify a change from the generic treatment standard to two scenarios: first, under factor E(1), situations where the generic treatment standard has been ''substantially met;'' second, under factor E(2), situations where the generic treatment standard has not been ''substantially met,'' but cost-effective treatment has been used, unless, after review of appropriate treatment technologies, cost-effective treatment is not reasonably available. In addition, for adjustment factor E to be used, PHCs in the wastes generally must be of ''very low mobility,'' which, as is explained more fully below, EPA believes is appropriate, because this adjustment factor relies on the ability of engineering controls to contain waste. The exception to the restriction to ''very low mobility'' constituents is adjustment provision E(2)(i), where the wastes are to be disposed in a unit that provides superior protection (*i.e.,* meets the Subtitle C liner and leachate collection requirements for new Subtitle C units). Finally, factor E(2)(iii) allows protection offered by the engineering design of the unit to justify a decision to require no treatment at all only for very low mobility wastes where there is no cost-effective treatment reasonably available; under these circumstances, proposed factor E(2)(iii) includes specified unit design conditions or equivalent protection to ensure a minimum level of protection for long-term containment of the wastes.

The exact language in proposed adjustment factor E is repeated here to assist the reader in following the discussion of each provision:

§ 264.552(e)(4)(v)(E) the long-term protection offered by the engineering design of the CAMU and related engineering controls:

(1) where the treatment standards in 264.552(e)(4)(iv) are substantially met and the principal hazardous constituents in the waste or residuals are of very low mobility; or

(2) where cost-effective treatment has been used, or where, after review of appropriate treatment technologies, the Regional Administrator determines that such treatment is not reasonably available, and:

(i) The CAMU meets the Subtitle C liner and leachate collection requirements for new land disposal units at § 264.301(c) and (d), or

(ii) The principal hazardous constituents in the treated wastes are of very low mobility, or,

(iii) Where wastes have not been treated and the principal hazardous constituents in the wastes are of very low mobility, and either the CAMU meets the liner standards for new, replacement, or laterally expanded CAMUs in paragraph (e)(3)(i) and (ii) of this section, or the CAMU provides substantially equivalent protection.

In addition, to assist the reader with following this adjustment factor, the following chart describes the potential availability of proposed adjustment factor 264.552(e)(4)(v)(E):

If	And if	And if	Then
Treatment standards in § 264.552(e)(4)(iv) are *not* substantially met.	Cost-effective treatment has *not* been used.	RA has *not* determined that cost-effective treatment is not reasonably available.	You may *not* consider adjusting based upon the ''long term protection offered by the engineering design of the CAMU and related controls.''

If	And if	And if	Then
Treatment standards in § 264.552(e)(4)(iv) are substantially met.	The PHCs in the waste are of very low mobility.	.....	You may consider adjusting based upon the ''long term protection offered by the engineering design of the CAMU and related controls.'' § 264.552(e)(4)(v)(E)(*1*)
Cost-effective treatment has been used.	The CAMU meets the Subtitle C liner and leachate collection requirements for new land disposal units at § 264.301(c) and (d).	.....	You may consider adjusting based upon the ''long term protection offered by the engineering design of the CAMU and related controls.'' § 264.552(e)(4)(v)(E)(*2*)(*i*)
Cost effective treatment has been used.	The PHCs in the waste are of very low mobility.	.....	You may consider adjusting based upon the ''long term protection offered by the engineering design of the CAMU and related controls.'' § 264.552(e)(4)(v)(E)(*2*)(*ii*)
The RA determines that cost-effective treatment is not reasonably available.	The CAMU meets the Subtitle C liner and leachate collection requirements for new land disposal units at § 264.301(c) and (d).	.....	You may consider adjusting based upon the ''long term protection offered by the engineering design of the CAMU and related controls.'' § 264.552(e)(4)(v)(E)(*2*)(*i*)
RA determines that cost-effective treatment is not reasonably available.	PHCs in the waste are of very low mobility.	Either the CAMU meets or exceeds the liner standards for new, replacement, or laterally expanded CAMUs in paragraph (e)(3)(i) and (ii) of this section, or the CAMU provides substantially equivalent or greater protection.	You may consider adjusting based upon the ''long term protection offered by the engineering design of the CAMU and related controls.'' § 264.552(e)(4)(v)(E)(*2*)(*iii*).

(1) Assessment of Long-Term Protection Offered by the Unit. When the waste and site circumstances provided for in adjustment factor E are present, the Regional Administrator would have the discretion to adjust treatment based on the long-term protection offered by the engineering design of the CAMU and related engineering controls when such adjustment is protective of human health and the environment (§ 264.552(e)(4)(v)). In general terms, such an assessment of long-term protection would focus on the protectiveness offered by the unit and any associated systems over the long-term, considering such appropriate factors as unit reliability, characteristics of the waste and constituents (*e.g,* mobility, concentrations, associated matrix), and the geologic setting of the CAMU unit. This assessment would be made in the context of the cleanup standards specific to the site. EPA intends that the phrase ''engineering design of the CAMU and related engineering controls'' would include the design of the unit itself (*e.g.,* presence and type of liner, leachate collection, cap), as well as any associated engineering systems, such as slurry walls, systems that produce inward hydraulic gradients in the vicinity of the unit, French drains, associated pump and treat systems and groundwater monitoring systems.

Along with looking at the unit that the waste will be disposed in, any assessment of long-term protection in the context of adjustment factor E (*i.e.,* in the Regional Administrator's determination that an alternate standard is protective of human health and the environment under § 264.552(e)(4)(v)) would include consideration of whether the waste and constituents pose any potential for unacceptable releases over the long-term. This consideration would include examination of such factors as the concentration and mobility of the PHC constituents in the disposal matrix and site environment, and how the wastes might be affected by potential liquid infiltration into the unit.

f. *Adjustment Factor E(1). Treatment That is Substantially Met (§ 264.552(e)(4)(v)(E)(1)).* With this provision, EPA is proposing that the Regional Administrator may adjust treatment to an alternative level based on the long-term protection offered by the engineering design of the CAMU and related engineering controls where the generic treatment standards are ''substantially met'' and ''the principal hazardous constituents in the hazardous waste or residuals are of very low mobility.'' EPA included this proposed provision to address concerns raised by stakeholders that, in certain situations where the generic minimum requirements will be substantially met, it might not make sense to impose strict adherence to the minimum standard given the level of protection offered by ''substantial'' compliance with the treatment standards and the added protection offered by a specific CAMU design. EPA's discusses the term ''substantially met'' in more detail below.

(1) Very Low Mobility. EPA believes that consideration of adjustment from the generic standard in paragraph IV where the standards have been ''substantially met'' may be appropriate only in cases where the principal hazardous constituents (PHCs) or residuals are of ''very low mobility.'' The general concept embraced by ''very low mobility'' is that, although PHCs of very low mobility may present significant risks upon direct exposure, such constituents have very little ability to migrate from the waste to receptors through media such as air, soil or water at levels that are of concern to human health and the environment. Under these circumstances, even if there is an unanticipated failure of the unit, the constituents that have not been as

aggressively treated will be those that have the least potential to migrate to a receptor.

The ability of constituents to migrate is a function of the physical and chemical properties of the constituents themselves, and of site-specific conditions, including the nature of the waste that the constituents are in, conditions associated with the unit itself and of the media surrounding the CAMU unit. As a result, determination that a constituent is of ''very low mobility'' is a site-specific determination.

Given the site-specific nature and the complexity of determining whether constituents are of very low mobility, the Agency does not believe that it is appropriate to propose a quantitative approach for designating a constituent as being of ''very low mobility.'' However, the following examples serve to further illustrate the general concept embodied in this proposed adjustment factor. One example of immobile constituents are certain metals, such as lead, that have a strong affinity for organic matter and can, under proper site conditions (which are typically strongly affected by pH conditions), demonstrate very low mobility. Another common example is polyaromatic hydrocarbons (PAHs), such as benzo(a)anthracene and benzo(a)pyrene. PAHs can reliably be considered non-mobile constituents (with the notable exception of when the PAHs are concentrated to the extent that they are in a free-phase—*i.e.,* as non-aqueous phase liquids (NAPLs)—or when they are dissolved in a mobile substrate, such as oil). PAHs can be present as a direct result of historical industrial processes, or may be found as a residuum of formerly more complex mixtures of organic contamination that have been exposed to breakdown processes in the environment, or as a result of applying biological treatment technologies to the wastes. At some sites, such as petroleum refineries, where PAHs can be found in high concentrations in old refinery wastes and contaminated soils, PAHs tend not to be found in significant concentrations in groundwater, because of their low solubility and tendency to adhere to organic matter in soils and sludges.

(2) Substantially Met. EPA interprets ''substantially met'' as follows, for the purposes of this proposed adjustment factor. Some treatment technologies will ''substantially,'' but not precisely, attain 10 × UTS or 90% treatment of all principal hazardous constituents in the waste. For example, the most appropriate technology at a site for wastes containing organic contaminants that have low migration potential (*e.g.,* certain polyaromatic hydrocarbons) might be biodegradation. This technology might come close to, but not achieve, 10 x UTS for the constituents with low migration potential. Given that the contaminants have a low migration potential, the Regional Administrator could assess site-specific factors that affect mobility, including the geologic setting, precipitation and evaporation, and make the determination that an alternate treatment standard based on this technology would provide long-term protection of human health and the environment. In another example, the treatment standards would be substantially met where the overwhelming majority of constituents have been treated to meet the treatment standards, but a very few immobile constituents do not meet the standards.

g. *Adjustment Factor E(2). Use of Cost-effective Treatment (§ 264.552(e)(4)(v)(E)(2)).* EPA is proposing at § 264.552(e)(4)(v)(E)(2) that the Regional Administrator may adjust treatment to an alternate level based on the long-term protection offered by the engineering design of the CAMU and related engineering controls ''where cost-effective treatment has been used, or where, after review of appropriate treatment technologies, the Regional Administrator determines that such treatment is not reasonably available.'' This proposed adjustment factor, when used to make an adjustment from the generic treatment standard based on protection offered by the unit, would require that cost-effective treatment be used, if it is reasonably available. This approach addresses the Agency's concerns regarding the uncertainties of long-term containment.

Adjustment factor E(2) contains three provisions that could potentially be used (E(2)(i), (ii), and (iii)), depending on whether cost-effective treatment is reasonably available. Adjustment factor E(2)(i) would be available where the CAMU meets the Subtitle C liner and leachate collection requirements for new land disposal units at § 264.552(e)(3). This factor would be available in cases where cost-effective treatment is used and where the Regional Administrator determines cost-effective treatment in not reasonably available. Adjustment factor E(2)(ii) would be available where cost-effective treatment is used, and the principal hazardous constituents in the treated waste are of very low mobility. Adjustment factor E(2)(iii) would be available where cost-effective treatment is not reasonably available, the PHCs in the untreated wastes are of very low mobility, and certain specified liner requirements have been met.

(1) What is ''Cost-Effective Treatment?'' The concept of ''cost-effectiveness,'' as used in this proposed adjustment factor, would mean that additional cost from potentially increased treatment should provide a proportionate increase in protection by virtue of that increased treatment. Under the proposed approach, EPA would intend that any assessment of cost-effectiveness be made based on a reasonable review of the costs and the effectiveness of the treatment and on best professional judgement of the oversight agency. Of course, the Agency does not intend that cost considerations would allow an unprotective CAMU to be approved.[12]

(2) What Does a Review of Appropriate Treatment Technologies Constitute? EPA is proposing under adjustment factor § 264.552(e)(4)(v)(E)(2), that any determination that cost-effective treatment is not available would be made after a review of appropriate treatment technologies. To meet this criterion, EPA would expect that the level of effort would be similar to that typically used in the remedy selection process when the oversight agency requires identification of treatment technologies that are able to meet specified levels as part of the remedy. The level of effort involved in this review would be waste- and site-specific, depending on such factors as the waste types, constituents present, and waste volumes. As in all CAMU decisions, the review of appropriate treatment technologies should be documented.

(3) What Does it Mean That Cost-Effective Treatment is ''Not Reasonably Available?'' Today's proposed treatment adjustment factor § 264.552(e)(4)(v)(E)(*2*) contains the presumption that treatment will be employed if it is reasonably available and cost-effective. In theory, an individual treatment technology may appear to be cost-effective and capable of achieving a treatment standard. However, if such a technology is not ''reasonably available,'' the Agency does not believe it would be appropriate to require the use of it. An assessment of whether potential treatment

[12] As discussed in the 1996 corrective action ANPR, cost-effectiveness is considered as a factor during corrective action remedy selection to choose between alternative remedial options that meet the protectiveness criteria for a remedy at the site. Used in this context, cost-effectiveness does not equate to ''less expensive,'' but is one of several factors used to guide remedy selection (61 FR 19432, 19449 (May 1, 1996)).

technologies are reasonably available for use is commonly conducted by cleanup programs as remedial alternatives are considered. EPA intends to use the general considerations used in the remedy selection process, as appropriate, in considering whether treatment technologies are ''reasonably available'' under this adjustment factor. These considerations include availability and timing of goods and services, technical feasibility and reliability, and administrative feasibility.

(4) Adjustment Factor E(2)(i). Subtitle C Standards (§ 264.552(e)(4)(v)(E)(2)(i)). This proposed provision, at § 264.552(e)(4)(v)(E)(2)(i), would allow the Regional Administrator to consider adjusting treatment in cases where cost-effective treatment will be used, if it is reasonably available, and the CAMU is constructed to meet the liner and leachate collection requirements for new, replacement, or laterally expanded Subtitle C units at § 264.301(c) and (d).

This provision of adjustment factor E is not limited to PHCs of very low mobility. When PHCs are not of very low mobility, and therefore have a greater chance of reaching a receptor if containment fails, EPA believes it is appropriate to propose to require as a minimum these Subtitle C liner and leachate collection standards, because they offer a high degree of protection. When Subtitle C compliant designs are used, EPA would generally expect such units to provide adequate long-term protection. As discussed above, EPA is also proposing performance criteria for caps, including the requirement that the permeability of the cap be less than or equal to that of the liner system, that would further add to the protectiveness provided by units that meet the Subtitle C liner and leachate collection standards. In addition, Subtitle C liner and leachate collection system designs are well established from their use in the as-generated hazardous waste program. EPA believes that they should therefore be readily implementable for CAMUs, when their use is warranted.

As a general matter, EPA does not expect that CAMUs would typically be constructed to meet the Subtitle C requirements for new units; however, units meeting Subtitle C design standards could be appropriate for CAMUs under site-specific circumstances, particularly where the treatment requirements were reduced. To date, several existing CAMUs have incorporated such design standards (see CAMU Site Background Document, included in the docket for today's rule).

(5) Adjustment Factor E(2)(ii). Cost Effective Treatment Reasonably Available (§ 264.552(e)(4)(v)(E)(2)(ii)). This proposed provision, at § 264.552(e)(4)(v)(E)(2)(ii)), would allow the Regional Administrator to consider adjusting treatment based on unit design where cost-effective treatment will be used and the PHCs in the waste are of very low mobility. EPA provided for this adjustment factor to address situations where cost-effective treatment is available for the low mobility constituents, but the treatment will not meet or substantially meet the generic treatment standards in paragraph IV (and thus could not potentially use proposed adjustment factor E(1)).

EPA's justification for including the limitation to very low mobility constituents in adjustment factor E(2)(ii) is consistent with that described above for adjustment factor E(1), where the treatment standards for very low mobility constituents are substantially met. The Agency believes that it is reasonable for the Regional Administrator to make such an adjustment where it can be found that the containment system offers adequate protection, with the knowledge that, if there is unexpected containment failure, the constituents have been treated to a meaningful extent (although not to the generic minimum standards) and are unlikely to reach a receptor because they are of very low mobility.

(6). Adjustment Factor E(2)(iii). Cost-Effective Treatment is Not Reasonably Available (§ 264.552(e)(4)(v)(E)(2)(iii)). This adjustment factor, proposed at § 264.552(e)(4)(v)(E)(2)(iii), would allow the Regional Administrator to potentially adjust treatment based on unit design in cases where cost-effective treatment is not reasonably available and the principal hazardous constituents in the waste are of very low mobility. In this case, the CAMU would be required to, at a minimum, be designed in accordance with the liner standards proposed today for new, replacement, or laterally expanded CAMUs in § 264.552(e)(3) (that is, the modified Subtitle D standards), or provide equivalent protection.

As discussed above, EPA is proposing that when PHCs in the waste are of ''very low mobility,'' it may be appropriate, under several circumstances, for the Regional Administrator to consider adjustment to the treatment standards for CAMU wastes based on unit design. In the two cases discussed above addressing low mobility PHCs (*i.e.*, either where the generic minimum treatment standards have been ''substantially met,'' under adjustment factor E(1) or where cost-effective treatment has been used, under adjustment factor E(2)(ii), EPA did not choose to add further conditions on the CAMU unit itself. Additional conditions are appropriate under E(2)(iii), however, because there would be no treatment of PHCs. Although the very low mobility constituents are unlikely to reach receptors, the risks to such receptors if there were such exposure are greater because there has been no treatment. The Agency therefore believes it would be appropriate to require an additional measure of assurance regarding containment. The Agency selected the standards proposed today for new CAMUs, or equivalent, because EPA believes they would offer that greater assurance without recreating disincentives to cleanup that the CAMU rule is meant to address.

(7). Liner Standards for Adjustment E(2)(iii). The proposed minimum liner requirement in adjustment factor § 264.552(e)(4)(v)(E)(*2*)(*iii*) can be met in two ways. The first is to meet the minimum liner standard proposed today at § 264.552(e)(3) for CAMU units that are new, replacement, or lateral expansion units. The § 264.552(e)(3) standard has two provisions—a detailed composite liner standard (proposed § 264.552(e)(3)(i), based on the Subtitle D standards for municipal solid waste landfills), and a provision with two options for alternate designs (proposed § 264.552(e)(3)(ii)(A) and (B)). These provisions are described above in detail in the section titled Liner Standard.

The second way to meet the minimum liner requirement under proposed adjustment factor E(2)(iii), is to meet an alternate standard, provided that ''the CAMU provides substantially equivalent protection'' to the proposed liner standards at § 264.552(e)(3). EPA intends that this alternate standard would allow for the consideration of the entire CAMU unit as well as location features in making a determination that the CAMU provides ''substantially equivalent protection.'' For example, if an existing unit without a liner were to be potentially used for a CAMU under the conditions of this adjustment factor, the Regional Administrator could examine the protectiveness offered by the CAMU components (*e.g.*, cap, groundwater monitoring, ancillary engineering features), as well as mobility of constituents in the waste within the unit (which will be very low), and geology associated with the unit, in assessing equivalent protection. In another example, soils contaminated with PAHs, with no cost-effective method of treatment reasonably available, are proposed to be disposed in an existing unit with a liner that does not meet the § 264.552(e)(3) standards. Given the very low mobility of these

constituents and the calculated infiltration rate of rainwater into the unit, it might be calculated that only very low concentrations of constituents would potentially migrate from the unit, that any migration would be for a very short distance, and that the CAMU would provide substantially equivalent protection to the liner standard under § 264.552(e)(3).

4. Request for Comment on Treatment Standard Approach

The Agency requests comment on the above approach to treatment and adjustment factors in general. As described above, the adjustment factors were designed to identify circumstances where requiring compliance with the generic minimum standards might be inappropriate. Has the Agency captured the appropriate range of circumstances? Do the proposed factors appear flexible enough to address all such circumstances?

Also, in crafting these factors, the Agency looked for guidance to existing exceptions in the Agency's Subtitle C regulations that are specific to cleanup wastes. In particular, the Agency examined the cleanup-related treatment variance provisions in the LDR program and incorporated some of the concepts there into today's proposed adjustment factors (see discussion above). The Agency did not, however, specifically incorporate the ''environmentally inappropriate'' variance at § 268.44(h)(2)(ii). This variance is meant to provide relief in circumstances where imposition of an LDR standard would likely discourage aggressive remediation. The Agency did not include a comparable adjustment factor in today's proposal because the proposed adjustment factors are intended to more specifically identify circumstances that might, among other things, create that same disincentive. The Agency requests comment on this conclusion.

5. Treatment Within a Reasonable Time (§ 264.552(e)(4)(vi))

In today's proposal, CAMU wastes can be treated prior to or after placement in the CAMU. EPA is proposing, at § 264.552(e)(4)(vi), that treatment must be completed prior to, or within a ''reasonable time'' after placement of the waste in the CAMU. During discussions with CAMU stakeholders, the concern was raised that because the 1993 CAMU rule does not set a standard for the duration of treatment, a remedy could in effect become sham treatment that might go on for many years with little prospect of success. A primary example of post-disposal treatment is biotreatment, which EPA expects would typically achieve its goals within a single season, or at most, within a few seasons. Under today's proposal, EPA would expect treatment to be completed within months or years, not decades, except in very unusual circumstances. Interpretations of ''reasonable time'' would be made site-specifically in the context of the remedy selected for the waste. The Agency seeks comment on its proposed approach to addressing when treatment may be conducted within a CAMU.

6. Assessing Compliance with the Treatment Requirement (§ 264.552(e)(4)(vii))

EPA has included a provision in today's proposed treatment requirement at § 264.552(e)(4)(vii) to allow, on a discretionary basis, for the analysis of a subset, rather than the complete set, of principal hazardous constituents present in the waste to assess whether treatment standards have been met. EPA believes that it would not be necessary in many cases to require analysis of all constituents being treated to accurately assess whether the treatment standards have been met for all constituents. EPA believes that this flexibility is appropriate, where applicable on a waste-and site-specific basis, to avoid unnecessary analysis, which can be expensive.

The strategy of analyzing a subset of constituents in cleanup wastes to assess the efficacy of treatment is commonly used in cleanups. This approach follows common-sense scientific principles and involves consideration of such factors as difficulty of treatment, and grouping of constituents with similar treatment properties. EPA has included these two considerations in the proposed rule language. Of course, in selecting the constituents to be used for analytical purposes, the Regional Administrator would also consider the ability to analyze the constituents.

A general strategy is to analyze, within a group of constituents with similar treatment properties, the most difficult constituents to treat, following the reasoning that treatment of the most difficult to treat constituents will result in treatment of the other constituents as well. For example, when wastes containing mixtures of organic molecules are subjected to bioremediation, certain compounds tend to be more recalcitrant and take longer to treat. It might be reasonable to focus analysis on measurement of the compounds that are most resistant to biodegradation to assess whether the treatment standard had been met. Any determination that such a treatment analysis approach can be used at a CAMU would be made by the oversight agency on a site-specific basis, in consideration of factors such as those described above, and would be documented in the decision document (*e.g.*, workplan) and incorporated into the permit or order. EPA seeks comment on allowing, on a site-specific basis, for analysis of a subset of principal hazardous constituents to assess whether treatment standards have been met.

H. Constituents at or Below Remedial Levels (§ 264.552(g))

EPA is proposing, at § 264.552(g), that ''CAMUs into which wastes are placed where all wastes have constituent levels at or below remedial levels or goals applicable to the site do not have to comply with the requirements for liners at § 264.552(e)(3)(i), caps at § 264.552(e)(6)(iv), groundwater monitoring requirements at § 264.552(e)(5) or the design standards at § 264.552(f) for treatment and/or storage-only CAMUs.'' The basic reasoning behind this provision is that, if constituent levels in wastes placed in a CAMU are at or below levels that are considered protective at the facility, it is not necessary to require that the wastes be disposed within an engineered unit or to have associated groundwater monitoring. Under the current CAMU rule, the flexibility exists to make disposal decisions consistent with this approach. However, because today's proposed amendments would require minimum design requirements for CAMUs, EPA is proposing provision § 264.552(g) to retain this flexibility.

EPA anticipates that proposed § 264.552(g) would be applicable under circumstances where owners or operators seek a CAMU because, without use of a CAMU, the RCRA land disposal restrictions would continue to apply to the CAMU-eligible waste, even where the CAMU-eligible waste is no longer otherwise considered hazardous. This would occur, for example, in certain cases where a ''contained-in'' decision (see discussion below) has been made because the hazardous constituents are at concentrations below health-based levels, but the concentrations remain above land disposal restriction treatment standards. EPA also anticipates that proposed § 264.552(g) would be used for ''non-media'' (*e.g.*, CAMU-eligible sludges) for which a contained-in determination cannot be made.

EPA included ''at or'' before the word ''below'' in this proposed provision because it is not always necessary to

treat ''below'' a goal to achieve the goal. In addition, EPA has included the phrase ''where all wastes'' to make clear that if an existing unit is used as a CAMU that has wastes with concentrations above remedial levels or goals applicable to the site, this provision would not be applicable, because, among other requirements, such a unit should remain subject to today's proposed capping requirement at § 264.552(e)(6)(iv).

Today's proposed approach is consistent with the current ''contained-in'' policy, under which contaminated environmental media (e.g., soil or water) are not considered to ''contain'' hazardous waste when concentrations of hazardous constituents are below heath-based levels appropriate to the site. The determination that contaminated media do not contain hazardous waste is commonly referred to as a ''contained-in determination.'' A general description of the contained-in policy, with references, is given in the October 1998 memorandum, ''Management of Remediation Waste Under RCRA'' (EPA530–F–98–026).

EPA seeks comment on its proposed approach to address situations where wastes are placed in CAMUs with constituents at or below remedial levels or goals applicable to the site.

I. Treatment and/or Storage Only CAMUs (§ 264.552(f))

In today's notice, EPA is proposing amendments that make distinctions between CAMUs that are used for treatment and/or storage activities only and CAMUs in which wastes will remain in place after closure. Under today's proposal, treatment and/or storage only CAMUs would not be subject to the treatment requirements or the minimum technical standards for liners and caps (described above), with certain exceptions for longer-term treatment or storage activities. Specifically, EPA is proposing to replace certain provisions of the CAMU rule with certain design, operating, and closure standards provisions from the staging pile regulations at § 264.554 (finalized under the HWIR-media regulations (63 FR 65874 (November 30, 1998))), for CAMUs that are used for treatment and/or storage only. Although today's proposed treatment standards would not apply to CAMUs used for treatment and/or storage only, the Regional Administrator would not be prevented from requiring such treatment for waste in such a CAMU as part of the overall CAMU or remedy decision.[13]

EPA believes it is necessary to propose amendments that are specific to treatment or storage-only CAMUs. This is because today's proposed amendments, discussed above, that provide for minimum treatment and design requirements, were designed with the typical CAMU in mind—that is, a CAMU that will be used for long-term, permanent management of cleanup wastes. Without the provisions being proposed here, the standards for permanent management would remove certain flexibility that is present in the existing CAMU rule for treatment and/or storage only activities. The design, operation and closure standards that EPA is proposing to adopt from the staging pile regulations are specifically tailored for shorter-term waste management activities, and are therefore typically better suited for treatment and/or storage only CAMUs, than are the proposed regulations that would apply to long-term, permanent management.

1. Current CAMU Regulations for Treatment and/or Storage only CAMUs

Under the existing CAMU rule, the Regional Administrator may approve CAMUs solely for the treatment and/or storage of cleanup wastes. Many cleanups require non-permanent disposal waste management, such as pre-treatment or staging of cleanup wastes prior to additional management on- or off-site, or storage (for a longer period than allowed under the staging pile regulation) prior to treatment in a non-land-based unit. The existing CAMU rule does not contain standards that are specific to non-permanent CAMUs. The CAMU designation factors at § 264.552(c) address the design, operation and closure of any CAMU—those that are used for permanent waste disposal as well as CAMUs that are used for treatment or storage activities only. The existing rule, does, however, recognize the distinction between temporary and permanent CAMUs in that several provisions apply solely to CAMUs where waste remains in place after closure. For example, two of the CAMU designation factors, (c)(4) and (c)(7), and certain closure standards at § 264.552(e)(4) apply solely to permanent CAMUs where waste remains in place after closure.

2. Staging Pile Standards

EPA promulgated standards for staging piles on November 30, 1998 (63 FR 65874) at § 264.554. Staging piles consist of accumulations of solid, non-flowing remediation waste that is used only during remedial operations for temporary storage at a facility. EPA promulgated these standards to provide greater flexibility for the protective storage of remediation wastes prior to completion of remedial activities. Staging piles are subject to design, operation and closure standards that were specifically designed with short-term waste management in mind, and without extensive, prescriptive standards such as are required for units involved in longer term use. Accordingly, staging piles are restricted to an operating term of two years, unless an extension of up to 180 days is approved. In addition, treatment is not allowed in staging piles. As EPA explained in issuing the staging pile regulations, owners or operators who sought to treat wastes in a staging pile, or who needed to store wastes for more than two years, could seek a CAMU (63 FR 65874, 65918 (November 30, 1998).

Under the current regulations, cleanups that necessitate storage for more than the staging pile time limit, or that require treatment, could do so under a CAMU (or use tanks or containers, which are frequently not an economic option, as is discussed in the staging pile preamble (63 FR 65874, 65908 (November 30, 1998))). However, today's proposed standards for CAMUs where waste will remain in place after closure would largely eliminate the CAMU as a practical option for undertaking these treatment or storage only activities, unless special provisions are proposed for treatment and/or storage only CAMUs. EPA believes that certain provisions of the staging pile regulations, supplemented as described below, are appropriate for this purpose.

3. Proposed Standards for Treatment and/or Storage CAMUs

Under today's proposed changes, CAMUs that are used for treatment and/or storage only would be subject to the staging pile performance criteria at § 264.554(d)(1)(i)–(ii) and § 264.554(d)(2) in lieu of the CAMU designation criteria at § 264.552(c). The staging pile performance criteria at § 264.554(d)(1)(i)–(ii) and § 264.554(d)(2) require the Regional Administrator to establish standards and design criteria for a staging pile that facilitates a reliable, effective and protective remedy that is designed to prevent or minimize releases and

[13] Note that wastes managed in treatment and/or storage-only CAMUs would not have to meet the treatment requirements for the limited time while wastes are in the CAMU. For example, if such wastes are subsequently managed off-site, they would be subject to applicable LDRs. If they are subsequently managed in a permanent CAMU at the site, they would be subject to the treatment requirements proposed today for such units.

minimizes or controls cross-media impacts. The Regional Administrator is required to set these standards and design criteria by considering several factors, including, length of operation, volumes of wastes, physical and chemical properties of wastes, potential for releases, environmental factors that may influence migration of any potential release, and potential for human and environmental exposure to potential releases from the unit. EPA believes it makes sense to replace the § 264.552(c) CAMU designation criteria, which place emphasis on factors that do not apply to shorter-term CAMUs (see, *e.g.*, § 264.552(c)(4) and (7), pertaining to closure of CAMUs with wastes in place) with the design criteria in the staging pile rule. By focusing on, among other things, ''reliable'' and ''protective'' remedies, the staging pile requirements embrace the general concepts in the CAMU criteria, but with a more direct focus on factors specific to short-term waste management. (See, e.g., § 264.554(d)(2), which focuses the Regional Administrator on issues such as ''the length of time the pile will be in operation.'').

EPA is proposing that the staging pile standards at §§ 264.554(e), 264.554(f), 264.554(j) and 264.554(k) also apply to CAMUs that are used for treatment and/or storage only.

The § 264.554(e) and (f) standards, respectively, as applied to CAMUs, would address management of ignitable, reactive, or incompatible cleanup wastes. These standards were promulgated for staging piles and, in EPA's view, are reasonable management practices that are applicable for similar wastes in non-permanent CAMUs.

The staging pile standards at §§ 264.554(j) and 264.554(k), under today's proposal, would be the closure standards for treatment and/or storage only CAMUs that are located in previously contaminated areas or uncontaminated areas, respectively. These standards would be used instead of the CAMU closure standards at § 264.552(e)(6). EPA believes that the circumstances associated with closure of staging piles, which are restricted to non-permanent waste management activities, are the same as those for CAMUs undertaking non-permanent waste management activities.

EPA is also proposing that treatment and/or storage only CAMUs that comply with the time limits established under the staging pile regulations (at §§ 264.554(d)(iii), 264.554(h), and 264.554(i); the time limit is two years, plus a potential 180 day extension) would be subject to the performance and technical standards for staging piles in lieu of the permanent CAMU liner or groundwater monitoring requirements under proposed § 264.552(e)(3) and (5), respectively. However, treatment and/or storage only CAMUs that are in existence for longer than these time limits would be subject to the proposed § 264.552(e)(3) and (5) liner and groundwater monitoring requirements including corrective action, for CAMUs that are used for permanent disposal. EPA believes that the use of CAMU units for treatment and/or storage only activities for longer than these time limits raises concerns about potential impacts to groundwater similar to those raised by CAMU units that are designed for permanent disposal.

EPA believes that today's proposed approach to groundwater monitoring and liner requirements for CAMUs exceeding the staging pile time-frame is consistent with that described in the preamble to the staging pile regulations. The preamble recommends (63 FR 65918) that CAMUs be considered in cases where there is an anticipated need for additional time beyond the time limits for staging activities. In such cases, the preamble recommends that for an existing staging pile converted to a CAMU for longer-term staging activities, modifications might be needed to the staging pile design to address longer-term storage, including leak detection systems, run-off controls, air emissions controls, ground water monitoring systems, and leachate collection systems.

In proposing this liner requirement for treatment and/or storage only CAMUs, EPA is not envisioning typical landfill cell designs that would be used for permanent disposal (i.e., that partially surround a large volume of waste), but rather, that composite liner systems would generally be installed. EPA also anticipates that it would be appropriate at many sites conducting treatment and/or storage activities to consider use of the alternate liner standards under proposed § 264.552(e)(3)(ii). This is because treatment and/or storage activities will only be undertaken for a temporary period, and there will be significant opportunities for operating practices to be employed that affect potential migration of contaminants to groundwater; such practices could potentially be factored into the assessment of whether an alternate liner approach could be used. For example, a roof constructed over the stored wastes or treatment area could be as effective as the CAMU liner standard, based on conditions at the site and operating practices. At many sites, EPA anticipates that, although the CAMU may be in use for more than two or two and a half years, potential migration to the ground or surface water might be significantly reduced if, as an operating practice, wastes are intermittently placed in the CAMU. EPA also anticipates that if a storage and/or treatment only CAMU is placed in an existing area with significant contamination, given the time frame of the CAMU, operating practices, and site-specific factors, it could be appropriate at some facilities for the Regional Administrator to approve alternate requirements under the alternate liner provision for new, expansion, or lateral replacement CAMUs proposed at § 264.552(e)(3)(ii)(B).

The administrative mechanism for the CAMU (i.e., permit or order) would be required to specify the time limit for the CAMU. The regulations would provide that this time limit could be no longer than necessary to achieve a timely remedy selected for the waste. The Agency's general expectation is that even the longest remedies involving storage or treatment activities in such non-permanent CAMUs would be completed within years not decades, except in very unusual circumstances. The Agency would expect that storage and/or treatment CAMUs would only go beyond the several-years life-span if they were being used to stage cleanup wastes. A reasonable example would be a large facility in a phased, multi-year cleanup that will be using the CAMU for storage and treatment of cleanup wastes that are obtained during different phases of cleanup. Under this circumstance, there is not long-term stockpiling of cleanup wastes; rather, cleanup wastes are placed temporarily in the CAMU as part of the cleanup, and subsequently moved out of the CAMU for final appropriate disposal or treatment elsewhere. Under today's proposed approach, such a facility would not have to undergo repeated unit startup and closure during each phase of the cleanup. Just as for staging piles under § 264.554(d)(iii), the operating term of the CAMU used for storage and/or treatment would start when waste is first placed in the CAMU, regardless of whether any increment of waste would be in the CAMU for less than the time allotted.

EPA seeks general comment on its approach to incorporating the staging pile regulations for treatment and/or storage only CAMUs. In particular, EPA seeks comment on an alternate option of modifying the staging pile regulations, rather than the CAMU regulations, to allow for waste management activities in staging piles that are consistent with today's proposed standards for

treatment and/or storage only CAMUs. Under this option the CAMU rule would not draw a distinction between CAMUs used for treatment/and or storage only and those used for permanent disposal, nor would the rule contain separate standards for design, operation and closure of treatment and/or storage only CAMUs. Owners or operators seeking treatment or lengthier storage of cleanup wastes, but not permanent disposal of the waste, would be able to undertake such activities in staging piles.

EPA also seeks comment on retaining today's proposed approach to treatment and/or storage only CAMUs, but also implementing it by amending the staging pile regulations to allow treatment of remediation waste in staging piles. In the final HWIR-media rule, EPA prohibited waste treatment in staging piles in part based on concerns regarding the risks of treatment (e.g., from possible air emissions) (November 30, 1998, 63 FR 65911). Industry representatives, however, have since argued that the staging pile regulations provide adequate protection against threats from air emissions (e.g., staging piles be designed to ''prevent or minimize releases of hazardous waste or hazardous constituents into the environment'' and to ''minimize or adequately control cross-media transfer'' (40 CFR 264.554(d)(1)(ii)). Furthermore, industry representatives have repeatedly expressed the concern that the prohibition on treatment in staging piles severely limits the usefulness of these units—particularly because some form of ''pre-treatment'' is often associated with staging remediation wastes before final RCRA treatment. For example, contaminated soils may be consolidated into piles during remediation and then sized or blended to enhance subsequent treatment. These sizing or blending operations could, depending on site-specific circumstances, meet the definition of ''treatment'' under RCRA, in which case the operations would not be allowed under the staging pile regulations.

EPA has acknowledged industry's concerns on this issue, but it generally believed that it had addressed them in the settlement leading to today's proposal. Under today's proposal, a facility owner/operator wishing to treat eligible cleanup waste in temporary piles could seek a treatment and/or storage only CAMU. In this case, the pile would be regulated under the same substantive standards as a staging pile, and treatment would be allowed. Industry stakeholders, however, continue to raise concerns, arguing that CAMU approvals are likely to be more difficult to obtain—even if the technical standards are the same—because of the high degree of attention and analysis that has typically accompanied CAMU decisions. Industry also expressed concerns that some states may be interested in picking up staging pile requirements, but will not seek authorization for the revised CAMU rule (or may do so on a slower schedule). At the same time, other stakeholders have suggested that treatment is inappropriate in staging piles because these units were intended solely to allow consolidation of remediation wastes before full treatment on-site or shipment off-site—that is, they are ''staging'' piles, not ''treatment'' units. Allowing treatment in such a unit, in their view, could be misleading to the public (unless the name of unit were changed) and raise a whole range of issues better addressed through the CAMU process; while this process might draw more attention or entail more analysis, that could well be appropriate where treatment was involved.

EPA seeks further comment on issues raised by treatment in staging piles and whether it should make regulatory changes to the current prohibition. In particular, EPA seeks comment on the option of amending the staging pile regulations to allow treatment, as well as narrower approaches that might reconcile the differing views of stakeholders. For example, the staging pile regulations might explicitly allow mixing, sizing, blending, or similar physical operations, as long as they were intended to prepare wastes for subsequent management or treatment. EPA encourages commenters to provide their views on these or other options.[14]

J. Grandfathering CAMUs (§§ 264.550 and 264.551)

At the time of today's notice, there are a considerable number of CAMUs either approved or under consideration. It is important to EPA to keep these cleanups going and to avoid disrupting on-going activities. EPA believes that there will be little incremental gain in redirecting resources to re-analyzing CAMU decisions in light of the new standards. Further, EPA analyzed these CAMUs in developing these proposed revisions and concluded that the CAMU decisions would generally have been the same, or similar, to those that might have been made under the proposed requirements. The Agency therefore is proposing provisions that would allow certain CAMUs to continue to be implemented pursuant to the current rules which are the rules under which they were approved or planned.

EPA is proposing an approach, at § 264.550, under which two classes of CAMUs would remain subject to the 1993 CAMU regulations following final issuance of the CAMU amendments (i.e., would be ''grandfathered''). These classes are: (1) CAMUs that are approved prior to the effective date of the final amendments; and (2) CAMUs which were not approved prior to the effective date of the final amendments but for which substantially complete applications (or equivalents) were submitted to the Agency on or before 90 days after the publication date of the proposed rule (i.e., today's **Federal Register** notice). To continue to operate pursuant to the requirements of the current CAMU rules, CAMUs that fall into either of these classes would be required to operate within the general scope of the originally issued CAMU authorizing document (e.g., permit). If the CAMU changes in a way that exceeds the general scope of its original approval, those changes would be implemented in accordance with the amended CAMU rule. ''Approved'' means that the decision to designate a CAMU is final (e.g., the Agency issues a final permit authorizing a CAMU). The Agency included ''(or equivalent)'' after the word ''application'' to address the situation where it is not the responsible party for the cleanup that is requesting a CAMU—e.g., where the Agency imposes such a requirement as part of the remedy in a section 3008(h) unilateral order.

If EPA were not to include this provision, CAMU owner/operators who obtained approval prior to the amendments would be subject to re-evaluation in light of the new CAMU standards when the permit was up for renewal, during Agency-initiated proceedings to specifically include new requirements, or when the contemplated activities otherwise required a modification of the permit or other enabling mechanism, such as an enforcement order. EPA does not believe that this is an efficient use of cleanup resources. Similarly, EPA believes that it would also be a poor use of cleanup resources to require re-evaluation of such CAMUs that are substantially in the approval process. The Agency therefore has proposed to grandfather CAMUs that have, in the judgement of the oversight agency, substantially complete applications (or equivalents) within three months of publication of this proposal. The Agency does not want owners or

[14] The Agency seeks comment solely on the issue of amending the staging pile regulations to allow treatment and/or longer-term storage, not any other aspect of those regulations.

operators, or the oversight agencies, to disrupt or slow down the cleanup process by re-visiting prospective CAMUs under a new set of standards where there has been a substantial commitment to the process. EPA believes that it will be disruptive for facilities that are within 90 days of a substantially complete CAMU application (under the 1993 rule) at the time this proposal is issued to stop and conduct analyses in an effort to assess whether modifications would be warranted because of this proposal; EPA also believes that the three-month period from proposal would provide a reasonable time for owners or operators significantly invested in applying for a CAMU under the existing regulations to work with oversight agencies to ensure that a substantially complete application is submitted if they wish to obtain a CAMU under the existing CAMU regulations.

Under the proposed approach, EPA would interpret ''substantially complete application'' to mean that an application reflects that enough good-faith work has been done on it that imposition of the new requirements would be an inefficient use of a facility's and the Agency's cleanup resources. The Agency would expect, at the least, that the application is at a point at which it thoroughly and carefully addresses the main elements of CAMU designation that address long-term protectiveness, including the location of the CAMU, wastes proposed for management, technical design elements, and description of anticipated treatment, if any, of the wastes. This does not mean, however, that the application would have to be at a point where it would be deemed ''complete'' under the permitting requirements of § 270.10(c), which generally means that it be ready for proposal and public comment. For example, EPA would generally expect a substantially complete application, at a CAMU where wastes were to be left in place, to include a reasonable approach for groundwater monitoring that addresses site-specific conditions, but would still consider the application ''substantially'' complete where the Agency intends to further discuss the details of the groundwater monitoring system. EPA expects that where there has been substantial input by the Agency into the application by the 90th day, there would be a higher likelihood that the application would be found to be ''substantially complete.'' However, there may also be situations where the Agency has yet to engage with the owner or operator by the 90th day, but where the owner or operator has done such a thorough job analyzing the appropriate elements that the Agency would find it ''substantially complete.'' Of course, any CAMU that has been proposed by the Agency by the 90th day would have a ''substantially complete application.''

EPA expects that many, if not most, CAMUs that are substantially in the approval process by the 90th day after this proposal would be approved by the effective date of the CAMU amendments. For such CAMUs, the proposed provision for ''substantially complete'' applications would not be needed. EPA anticipates that there will be cases, however, where CAMUs with substantially complete applications within 90 days of publication of this proposed rule will not receive final Agency approval of their application prior to the effective date of the final CAMU amendments. Reasons for delay could relate to such factors as ongoing administrative processes, including administrative appeals, time involved in receiving and responding to public input, and time needed to work out technical details, such as those involving monitoring well placement and design. In addition, as owner/operators and regulatory agencies might do in preparing for the promulgation of any new regulation applicable to its activities, for those CAMUs with applications that are not expected to be approved by the effective date of the CAMU amendments or to meet the proposed ''substantially complete'' test by the proposed deadline, EPA suggests using the proposed amendments as guidance (prior to finalization of the amendments) in developing CAMU proposals, as appropriate. This approach would minimize the risk of having to make significant changes to CAMU plans at the time of the final rule. EPA is aware that the proposed amendments may change prior to the final rule; EPA intends to therefore keep the regulated community and oversight agencies apprised of any likely changes. EPA seeks comment on its approach to address the timing of CAMU applications and grandfathering of CAMUs.

Under today's proposal, to avoid the disruptions discussed above, CAMUs that are ''grandfathered'' would remain subject to the current standards for the life of the CAMU, as long as the ''waste, waste management activities, and design of the CAMU remain within the general scope of the CAMU as approved.'' EPA anticipates two types of circumstances—subject to site-specific determination by the Agency—that generally would be considered ''within the general scope of the CAMU as approved.'' First, changes to waste, waste management activities, and design that can be made without modification of the approved CAMU conditions in the permit would be considered ''within the general scope of the CAMU as approved,'' and would therefore be grandfathered. The same general principal would apply for non-permit decision documents such as enforcement orders. These changes would typically include such activities as modifying sampling and analysis plans or adjusting a treatment technology, based upon implementation in the field. Second, certain circumstances that might require modification of the terms of the CAMU could still remain within the general scope of the originally approved CAMU. Examples of such activities include adding more volume of essentially the same waste (same or similar constituents and origin) that was originally approved, or retaining the same basic design but enlarging a CAMU to accommodate the extra volume of wastes. However, the new amendments would apply under circumstances that are outside of the scope of the originally approved CAMU, such as different types of wastes slated for disposal in the CAMU, or substantial lateral expansion of a CAMU at the site.

1. Documentation of ''Substantially in the Approval Process.''

EPA is not envisioning any formal process for documenting that CAMUs are ''substantially in the approval process'' by the proposed deadline. Of course, EPA would, if the proposed grandfathering provisions are finalized, expect the Regional Administrator to record and justify this finding in the administrative record for the proposed and/or final CAMU approval. EPA would generally expect that, in addition to filing proper documentation in the administrative record, if requested, the Agency would notify the owner or operator in writing of the Agency's view of the completeness of the application before or shortly after the time of the proposed deadline so that the owner or operator would be on notice of what standards will apply to them if the proposed amendments are finalized and if they do not obtain CAMU approval prior to such finalization.

K. Public Participation (§ 264.552(h))

Today's proposal would expand on the requirements providing for public input into the establishment of CAMUs by making prior public notice and opportunity to comment on CAMU decisions mandatory. With these changes, the public would be better

assured of the opportunity for pre-decisional involvement in final CAMU determinations, whether the CAMU is authorized under a permit, order or other mechanism. In addition, EPA is proposing rule language that would expressly require the Regional Administrator to include in the public notice the rationale for any proposed application of the adjustment factors to the treatment requirement. These changes are consistent with EPA's long-standing policy for public involvement in major cleanup activities and are consistent with the implementation of the CAMU rule to date.

The existing CAMU rule, under § 264.552(f), requires the Regional Administrator to document the decision rationale for the CAMU and to make such documentation available to the public. The existing rule, under § 264.552(g), also requires, in cases where the CAMU is being implemented through a permit, that the CAMU be incorporated into an existing permit in accordance with the permit modification procedures in §§ 264.270.41 and 264.270.42 of this chapter, which require public notice and comment. EPA is concerned that, under the current regulations, CAMUs might undergo approval under orders without the public having the opportunity to comment on the proposal. In addition, EPA is concerned that the wording of the current CAMU rule, stating the Regional Administrator's duty to document and make available to the public the ''rationale'' for designating a CAMU, might imply that other aspects of the CAMU decision need not be presented to the public for comment (e.g., specific CAMU design details). EPA believes that this proposed change will remove any such potential omission.

Because of these concerns, EPA is proposing to replace the existing requirement at § 264.552(f) with the following requirement (proposed at § 264.552(h)): ''The Regional Administrator shall provide public notice and a reasonable opportunity for public comment before designating a CAMU. Such notice shall include the rationale for any proposed adjustments under § 264.552(e)(4)(iii)(B) to the treatment standards in § 264.552(e)(4)(iv).'' EPA believes that this proposed modification is consistent with existing policy and practices (see the September, 1996 RCRA Public Participation Manual, especially Chapter 4; this manual is in the docket for today's rule), will increase the certainty that public involvement will occur for all CAMUs, and will provide for flexible approaches to implementation.

In general, as articulated in the above cited guidance, EPA believes that under today's proposed modifications, the public should have an opportunity, early on, to become involved in the process and provide input into remedial decision-making, including CAMU decisions. Today's proposed standard of ''reasonable opportunity'' provides for flexibility that EPA believes is necessary for public involvement concerning the CAMU decision to be implemented within the broader context of the facility cleanup; as a general minimum, in accordance with the above-cited guidance, a reasonable opportunity should include informing the public about a prospective CAMU, and providing meaningful opportunity for the public to comment prior to the final agency determination to approve a CAMU.

In addition to proposing a general performance standard of ''reasonable opportunity'' for public comment in CAMU determinations, EPA is also proposing to add a specific requirement that the description of the proposed CAMU include the rationale for any adjustments to the treatment requirement. The Agency chose to highlight the importance of the proposed treatment adjustment factors because this is an area that can be of especially great interest to the public at cleanup sites. The Agency's general experience with remediation sites in the RCRA corrective action and Superfund programs is that there is often a high level of interest shown by the public on treatment issues.

EPA is seeking comment on whether to apply the public participation procedures in the ''RCRA Expanded Public Participation Rule,'' which was published in 1995 (60 FR 63417), to all CAMU decisions. In other words, should the Agency extend this rule, which already applies to CAMU permit decisions, to CAMUs included in orders. Prior to issuance of that rule, formal public involvement was required at two points in the permitting process—when the permitting agency announced its intent to grant or deny a permit, and when a facility requested a modification of an existing permit. The Expanded Public Participation Rule added the following requirements: 1) Permit applicants must hold an informal meeting to inform community members of proposed hazardous waste management activities before applying for a permit to conduct these activities; 2) the permitting agency must announce to the public when a permit application is submitted; 3) the permitting agency may require a facility to set up an information repository; and, 4) the permitting agency must notify the public prior to trial or test burns at combustion facilities. After issuing the rule, EPA issued guidance providing more detail on public involvement in corrective action (see the September, 1996 RCRA Public Participation Manual, especially Chapter 4; this manual is in the docket for today's rule; this manual and the 1996 Expanded Public Participation Rule are also available at www.epa.gov/epaoswer/hazwaste/permit/pubpart.index). This guidance states that, in general, the principles in the rule are appropriate for RCRA corrective action undertaken pursuant to either permits or orders.

If EPA were to adopt today's proposed amendments to the CAMU rule, the ''permit applicant'' in requirement 1, referred to above, would be read as the facility receiving an order for a CAMU; the ''permitting agency,'' referred to above in requirements 2–4 would be read as the ''Regional Administrator.'' EPA is seeking comment on whether to apply these public participation procedures to all CAMU decisions.

Public involvement in the overall RCRA corrective action program is currently being discussed as part of EPA's RCRA Cleanup Reforms. EPA intends that its approaches to public participation for the designation of CAMUs will be informed by this initiative. Currently, representatives from community and environmental groups have expressed their views to EPA concerning public involvement in RCRA Corrective Action cleanups. To date, the groups have expressed concerns regarding EPA and state authority for public involvement in RCRA Corrective Action, consistent application of public involvement across state and EPA programs, options for public involvement assistance to communities around sites undergoing RCRA Corrective Action, and the role of the EPA Ombudsman in public involvement activities.

EPA continues to seek feedback from all stakeholders on the RCRA Cleanup Reforms. The Agency welcomes additional feedback on ways to enhance community involvement including greater public access to information on cleanup progress. Additional information on the Reforms is available at <*www.epa.gov/epaoswer/osw/cleanup.htm*> or by calling the RCRA Hotline at 800–424–9346

L. Additional Requirements (§ 264.552(i))

EPA is proposing at § 264.552(i) that the Regional Administrator may impose

requirements in addition to those specified in the CAMU regulations. Specifically, proposed § 264.552(i) reads: ''(i) Notwithstanding any other provision of this section, the Regional Administrator may impose additional requirements as necessary to protect human health and the environment.'' The existing CAMU rule provides the ability to require any additional requirements, as necessary to protect human health and the environment. Because EPA is proposing detailed minimum technical standards in several areas in today's rule, EPA believes that it is appropriate to include this specific provision to clarify within the regulations that requirements beyond those specifically provided for in the rule may be necessary on a site-specific basis at a CAMU. This provision would recognize the ability of the Regional Administrator to impose requirements relating to any element of CAMUs, including: requirements for additional treatment of PHCs beyond the minimum standards; requirements for additional engineering or monitoring specifications; and prohibition of specific wastes from inclusion in a CAMU.

IV. Relationship Between Today's Proposed Action and Other Regulatory Programs

A. Impact of Today's Amendments.

Today's proposed amendments would not change the relationship between other state and federal programs and the CAMUs regulations. These amendments would solely affect the way hazardous cleanup wastes are managed in corrective action management units. These rules would set standards for hazardous waste management units when EPA or a state chooses to take advantage of the flexibility provided by the CAMU rule, but they would not affect, in any way, other aspects of RCRA cleanups, e.g., how cleanup levels are set or when treatment is required at RCRA corrective action facilities. Although these standards borrow, as appropriate, from approaches in current remediation programs (including RCRA corrective action for SWMUs), they were not designed for making remedial decisions outside the CAMU context, such as in state or federal cleanup programs, where program-specific remedial decision-making processes are already in use. Today's rule would leave in place, and would leave untouched, all of EPA's current policies and regulations covering hazardous waste cleanups, including such familiar policies as the ''area of contamination'' concept, ''contained-in'' decisions, the regulatory definition of ''remediation waste,'' and the various remediation-specific LDR variances. For a discussion of these and other policies, see the May, 1996 Corrective Action ANPR (61 FR 19432), the October 1998 Memorandum, ''Management of Remediation Waste Under RCRA,'' EPA530–F–98–026, and the preamble discussion to the HWIR-media rule at 63 FR 65874, 65877-65878 (November 30, 1998) (these references are in the docket for today's rule). The preamble to the 1993 CAMU rule discusses the relationship between the CAMU rule and other regulatory programs, including CERCLA (see 58 FR 8658, 8679 (February 16, 1993)).

V. How Would Today's Proposed Regulatory Changes Be Administered and Enforced in the States?

A. Applicability of Federal Rules in Authorized States

Under section 3006 of RCRA, EPA may authorize qualified States to administer the RCRA hazardous waste program within the State. A State may receive authorization by following the approval process described under § 271. See 40 CFR part 271 for the overall standards and requirements for authorization. Following authorization, the State requirements authorized by EPA apply in lieu of equivalent Federal requirements and become Federally enforceable as requirements of RCRA. EPA maintains independent authority to bring enforcement actions under RCRA sections 3007, 3008, 3013, and 7003. Authorized States also have independent authority to bring enforcement actions under State law.

After a State receives initial authorization, new Federal requirements promulgated under RCRA authority existing prior to the 1984 Hazardous and Solid Waste Amendments (HSWA) do not apply in that State until the State adopts and receives authorization for equivalent State requirements. In contrast, under RCRA section 3006(g) (42 U.S.C. 6926(g)), new Federal requirements and prohibitions imposed pursuant to HSWA provisions take effect in authorized States at the same time that they take effect in unauthorized States. As such, EPA carries out HSWA requirements and prohibitions in authorized States, including the issuance of new permits implementing those requirements, until EPA authorizes the State to do so.

Authorized States are required to modify their programs when EPA promulgates Federal requirements that are more stringent or broader in scope than existing Federal requirements. RCRA section 3009 allows the States to impose standards more stringent than those in the Federal program. See also § 271.1(i). Therefore, authorized States are not required to adopt Federal regulations, both HSWA and non-HSWA, that are considered less stringent than existing Federal requirements.

B. Authorization of States for Today's Proposal

Today's proposal would be primarily implemented pursuant to sections 3004(u) and (v) of RCRA, which are HSWA provisions. This statutory authority also formed the statutory basis for the original federal Corrective Action Management Unit (CAMU) regulations (see 58 FR 8658, 8677 (February 16, 1993)). Therefore, when promulgated, the Agency would add the rule to Table 1 in § 271.1(j), which identifies the Federal program requirements that are promulgated pursuant to HSWA. States may apply for final authorization for the HSWA provisions in Table 1, as discussed in the following section of this preamble.

Today's proposed amendments to the CAMU regulations would be more stringent than the existing federal CAMU regulations, although EPA believes that the current CAMU practices are similar to those that would be required under the proposed amendments. Thus, States that have already been granted authorization for the existing 1993 CAMU rule would be required to revise their programs so that they are not less stringent than the Federal program, including the new amendments. Further, because today's proposed amendments to the CAMU rule would be promulgated under HSWA authority, after the amendments become effective, EPA would implement them in States authorized for the 1993 CAMU rule until these States receive interim or final authorization for the final rule. EPA would also continue to implement the amended CAMU regulations in those States that have not received authorization for corrective action, consistent with State law. As explained in the 1993 CAMU rule preamble (see 58 FR 8658 (February 16, 1993)), the CAMU rule is integral to the HSWA corrective action program, and where EPA implements the corrective action requirements, EPA also implements the CAMU rule (consistent with state law). Note that state laws or regulations may be more stringent or broader in scope than the Federal regulations.

States that are authorized for corrective action but have not received

authorization for the existing CAMU rule would not be required to seek authorization for the amended CAMU regulations because those States' authorized regulations for corrective action and Land Disposal Restrictions (LDRs) are more stringent than the Federal regulations that include CAMUs. Because CAMUs are used as part of a corrective action and they are often integral to the implementation of corrective action at individual facilities, States are strongly encouraged to adopt and seek authorization for the CAMU regulations. After publication of the final CAMU amendments, States would no longer be able to seek authorization solely for the 1993 CAMU rule without the amendments.

C. Interim Authorization-By-Rule for States Currently Authorized for the CAMU Rule

Currently, 21 States are authorized for the existing CAMU regulations and are responsible for their implementation, including reviewing applications for CAMUs from facilities and overseeing the operation of approved CAMUs. These States are also authorized for corrective action. In addition, EPA is aware of 16 States that have adopted CAMU regulations, but that have not yet received authorization for them. One of EPA's goals regarding the implementation of today's proposed rulemaking is to enable CAMU-authorized States to continue to implement the CAMU regulations after these proposed amendments are finalized. States authorized for the 1993 CAMU rule would continue to implement unmodified provisions in that rule, but because today's proposed rulemaking is more stringent and would be promulgated as a HSWA rule, until those States receive authorization for the amendments, EPA would have regulatory authority over requirements added by these amendments. This would result in a situation where there would be two direct implementers of the CAMU regulations over a single unit. This situation would be extremely disruptive to the operation of the ongoing regulatory program for CAMUs because there would be redundant regulatory oversight of these units. One result would be the inevitable delay in the implementation of CAMUs at individual facilities. Because the management of CAMU-eligible waste in these units expedites the completion of the clean-up process at individual facilities, these potential delays would be counter to the RCRA clean-up goals, and could interfere with the goal of protecting human health and the environment.

To address these concerns, EPA is today proposing to grant eligible CAMU-authorized States interim authorization for the proposed CAMU rule amendments as part of today's proposed rulemaking through a new process. EPA is calling today's proposed interim authorization of eligible States ''interim authorization-by-rule'' because it would occur as part of the rulemaking process for the CAMU amendments. The interim authorization-by-rule would be effective for all qualifying States on the same date that the CAMU amendments, when promulgated, become effective, rather than on a State-by-State basis through a separate interim authorization process that would occur after these amendments are promulgated. Only those States that are authorized for the 1993 CAMU rule at the time the final rule for these proposed amendments is signed and that meet the other criteria set forth in proposed § 271.27 (described below) would be eligible to receive interim authorization-by-rule.

This interim authorization-by-rule would expire three years after the effective date of the CAMU amendments. Therefore, these States would need to receive final authorization for the rule to continue to implement the amendments after the expiration of interim authorization. The proposed interim authorization-by-rule requirements would be located in new § 271.27, and would apply only to the amended CAMU regulations. Because the interim authorization of States for these proposed amendments would be integral to today's proposed interim authorization-by-rule process, EPA is requesting comments on both aspects of this proposal.

1. Description of the Basis for Interim Authorization-By-Rule

States can currently receive interim authorization for rules that have been federally promulgated under HSWA statutory authority (see section 3006(g) of RCRA). This statutory provision directs EPA to grant States interim authorization if the State regulations are substantially equivalent to the Federal provisions. This requirement for interim authorization differs from the provisions in RCRA section 3006(b) for final authorization, which require that State programs be fully equivalent to the Federal program. The differences between the statutory requirements for interim authorization and final authorization exist because Congress intended interim authorization to be a mechanism to allow existing State programs to continue functioning without disruption for a limited period of time, during which States would amend their programs to be equivalent to the Federal program.

Today's proposed interim authorization-by-rule process is based upon the statutory authority for interim authorization in section 3006(g) of RCRA. Using this authority, EPA is proposing a rule granting interim authorization for the CAMU amendments to States that are already authorized for the 1993 CAMU rule and that meet the criteria specified in § 271.27(a), without the need for a State-specific determination. These proposed criteria are described below. Thus, as part of EPA's promulgation of the CAMU amendments, EPA would also grant interim authorization-by-rule to States for the amendments once these criteria are met. EPA requests comment on whether these proposed criteria would suffice as the basis for granting interim authorization to eligible States as part of these amendments.

EPA believes that further review of these States' CAMU programs is not necessary to determine that these States meet the statutory standard for interim authorization because of: (1) the type of amendments to the CAMU regulations being proposed today; (2) the restrictions on State eligibility in proposed § 271.27; (3) the fact that States' existing CAMU regulations have already been through the authorization process for those regulations; (4) the fact that States will use the amendments as guidance under their existing regulatory authority until they receive final authorization; and (5) EPA's oversight of State implementation of their authorized CAMU regulations.

2. Eligibility of States for the Proposed Interim Authorization-By-Rule Process

In order for States to receive interim authorization for the CAMU amendments, States would have to have regulations that are substantially equivalent to the amended Federal CAMU regulations. Proposed § 271.27(a)(1), would restrict the eligibility for interim authorization-by-rule to those States that are authorized for the 1993 CAMU rule (58 FR 8658, February 16, 1993). Due to the nature of the proposed amendments, EPA believes that States which have received authorization from EPA for the existing 1993 CAMU rule have regulations that are substantially equivalent to today's proposed amended CAMU regulations. Specifically, the CAMU amendments are not generally designed to produce different site-specific CAMU standards than would be imposed under the current rules, but instead are meant to make clearer the Agency's general minimum expectations for CAMUs and

to make the CAMU process more consistent and predictable, as well as more explicit for the public. In fact, as described elsewhere in this proposal, in an assessment of approved CAMUs which was developed as background for today's proposal, EPA found that in general, the CAMUs that have been approved by EPA and the States authorized for the CAMU rule are consistent with the standards in today's proposed CAMU amendments. Thus, States are implementing the current CAMU waste management standards in a way that is substantially equivalent to those standards that would be set under today's proposed amendments.

Another restriction on the eligibility of States for interim authorization-by-rule is that, under proposed § 271.27(a)(2), eligible States cannot have audit privilege and immunity laws that raise EPA concerns about whether the State provides for adequate enforcement as required for authorization under RCRA section 3006(b). EPA believes that audit privilege and immunity laws undermine the enforcement authority that a State must possess as a condition of being authorized to implement federal environmental programs.[15] Generally, State audit privilege laws grant information, that is generated through a facility self-audit, a privilege against disclosure in an administrative or judicial proceeding, including the investigation of criminal activities. Generally, State audit immunity laws eliminate fines or penalties if a facility discloses the audit results. EPA believes that State audit privilege laws restrict information that State regulatory agencies must have access to in order to determine environmental compliance and perform emergency actions, as required under federal environmental law. EPA believes that State immunity laws restrict the ability of States to assess appropriate penalties and injunctive relief for environmental violations, as required under federal environmental law. For example, audit privilege laws undermine the ability of States and the public to access information necessary to determine environmental compliance, as required under federal environmental law. Immunity laws undermine the ability of States to assess appropriate penalties for environmental violations, as required under federal environmental law.

EPA has worked successfully with many States that have enacted audit privilege and immunity laws to reach agreements so that such laws do not preclude authorization of States for federal environmental programs. Among the States authorized for the 1993 CAMU rule, Illinois, Nevada, and Oregon are currently discussing with EPA enforcement issues raised by these States' audit privilege and/or immunity laws. Under proposed § 271.27(a)(2) these States would not currently qualify for interim authorization-by-rule.

EPA is not making any assessments regarding these States' audit privilege laws and their laws' effects on the adequacy of each States' enforcement authority as part of today's proposed rule. General EPA oversight and the authorization processes provide EPA and these States with procedures to discuss and resolve audit privilege and/or immunity issues that affect a State's authority to enforce federal environmental programs. In contrast, the proposed interim authorization-by-rule process would be appropriate only in circumstances where detailed evaluation by EPA or in-depth discussion with the State is not necessary for EPA to determine that the State meets the requirements for interim authorization.

EPA hopes that the audit privilege law issues in these States will be resolved by the time the final CAMU amendments rule is signed. Resolution of all outstanding audit privilege law issues would make these States eligible for interim authorization-by-rule. The final rule will indicate whether this resolution has occurred. In addition, if other States that would currently be eligible for interim authorization-by-rule under this proposal enact audit privilege or immunity laws prior to final rule promulgation, those States will lose their eligibility for interim authorization-by-rule until enforcement issues raised by those laws are resolved.

Under proposed § 271.27(a)(3), any eligible State that wanted to receive interim authorization-by-rule for the CAMU amendments would have to notify EPA within 60 days after publication of the final CAMU amendments that the State intends to, and is able to (*i.e.,* does not have any existing laws that would prevent the state from implementing these amendments), use these amendments as guidance until it adopts equivalent provisions. During the 60 days after publication of the final rule, States may evaluate the final provisions and decide whether they can and want to gain interim authorization-by-rule for the CAMU amendments. EPA is proposing this 60 day deadline to enable EPA to promptly publish an additional **Federal Register** document before the effective date of the CAMU amendments rule, which would be 90 days after its publication. This FR notice would inform the public which States have submitted the notification to EPA and thus, have interim authorization for the CAMU amendments. EPA requests comment on whether 60 days is a sufficient amount of time for States to decide to notify EPA of their intentions and submit the notification to EPA. EPA also requests comment on whether eligible States should be able to submit the notification in proposed § 271.27(a)(3) after the 60 day deadline and gain interim authorization-by-rule, as long as the notification was submitted before interim authorization expires for the CAMU rule amendments.

Note that eligible States could choose not to commit to this interim authorization-by-rule process. If they are not able to, or choose not to seek interim authorization-by-rule, they can follow the process outlined in Section D below for States that are authorized for corrective action, but not the 1993 CAMU rule.

3. Interim Authorization Process Time Line

The timing of events in today's proposed interim authorization-by-rule process differs from the existing interim authorization process in §§ 271.24 and 271.21. Under the existing process, EPA first promulgates a rulemaking, after which a State may amend its regulations to reflect the Federal rulemaking, and then submit an application to EPA seeking interim authorization for that rule. EPA then would review the application and subsequently reach a decision on the application, which EPA publishes in the **Federal Register** in accordance with the procedures in § 271.21.

In today's proposed interim authorization-by-rule process, States would receive interim authorization upon the effective date of the final regulations being proposed today, as long as they meet the conditions set out in today's proposal, rather than through a separate rulemaking action after their promulgation. The effective date of interim authorization for those eligible States that submit the notification required by proposed § 271.27(a)(3) would be the effective date of the CAMU amendments.

Eighteen States have received authorization for the 1993 CAMU rule,

[15] "Statement of Principles: Effect of State Audit Immunity/Privilege Laws on Enforcement Authority for Federal Programs," Memorandum from Steven A. Herman, Assistant Administrator for Enforcement and Compliance Assurance; Robert Perciasepe, Assistant Administrator for Water; Mary Nichols, Assistant Administrator for Air and Radiation; and Timothy Fields, Acting Assistant Administrator for Solid Waste and Emergency Response (February 14, 1997).

and currently do not have an unresolved audit privilege and immunity law. EPA is proposing that these States would be eligible for today's proposed interim authorization-by-rule process. These 18 States are: Alabama, Arizona, Delaware, Georgia, Idaho, Indiana, Louisiana, New York, North Carolina, North Dakota, Oklahoma, South Dakota, Texas, Utah, Vermont, Washington, Wisconsin, and Wyoming. EPA recently proposed to grant Virginia authorization for the 1993 CAMU rule (July 31, 2000, 65 FR 46681). EPA expects that when the CAMU amendments are promulgated, Virginia will be authorized for the 1993 CAMU rule, and thus would be eligible for interim authorization-by-rule. Note that although all these States would be eligible for interim authorization, not all these States may actually submit the notification required by proposed § 271.27(a)(3) after the publication of the final CAMU amendments rule to gain interim authorization.[16] Additional States may receive authorization for the 1993 CAMU rule after the date of today's proposed rule, up until the time today's proposed CAMU amendments are signed. Authorization for the 1993 CAMU rule would normally be granted by EPA through a **Federal Register** document, which is then subject to public comment. If EPA decides to authorize any additional States for the 1993 CAMU rule after today's proposal, in the **Federal Register** document that requests comment on that authorization. EPA will indicate that the authorization of the State for the 1993 CAMU rule will result in the State becoming eligible for interim authorization-by-rule for the CAMU amendments.

Therefore, when EPA publishes the final CAMU amendments, EPA will provide a full list of States that will receive interim authorization-by-rule if the States subsequently notify EPA within 60 days after that publication that the State intends to, and is able to implement those amendments. As noted above, EPA will publish a subsequent notice in the **Federal Register** that will inform the public which States did notify EPA under proposed § 271.27(a)(3) that they are able to and intend to use the CAMU amendments as guidance and thus have interim authorization.

[16] For the purposes of commenting on this proposal, commenters should recognize that under the interim authorization by-rule approach proposed today, any state that meets the conditions outlined in the proposed rule (current CAMU authorization, no unresolved audit law issues, and notification of desire and ability to use the final amendments as guidance), would obtain interim authorization without a separate individual notice and comment process on that authorization.

4. Expiration of Interim Authorization

Under proposed § 271.27(b) and amended § 271.24(c), interim authorization for the amended CAMU regulations would expire three years after the effective date of these amendments. These provisions would extend the time period for interim authorization for these CAMU amendments from the period allowed by the current expiration date of interim authorization for regulations promulgated under HSWA statutory authority in § 271.24(c), which is January 1, 2003. The reason for this extension to the expiration of interim authorization for the CAMU amendments rule is to provide States sufficient time to amend their regulations so they are equivalent to the federal CAMU regulations, and then to go through the final authorization process in § 271.21. EPA believes that three years is a reasonable period of time for States to complete this action and is consistent with the deadlines in § 271.21(e) which in some cases, provide States with almost three years to modify their programs to reflect Federal program changes, and allow for extensions to the deadlines. EPA believes that a longer period of time for interim authorization does not conform to its temporary nature. EPA specifically requests comment on this deadline.

If a State does not receive final authorization before its interim authorization expires, EPA would then be responsible for implementing the new CAMU amendments in these States. (EPA would not implement the provisions in the 1993 CAMU rule that were unaffected by the amendments; the authorized States would continue to implement them.) EPA believes that this potential reversion of the implementation authority to EPA would act as a strong incentive for States with interim authorization to expeditiously seek final authorization. Further, EPA does not believe that this final authorization process will be particularly difficult. See below for additional detail regarding EPA's intention to expedite the authorization of States for the CAMU rule amendments.

5. Conditional Interim Authorization

One alternative to today's proposed interim authorization-by-rule process that EPA is also considering is to grant interim authorization concurrently with the promulgation of the CAMU amendments to those States that meet criteria such as those proposed today in § 271.27(a), on the condition that after publication of the final rule they submit a notification as proposed in § 271.27(a)(3). Under this approach, EPA would follow the usual authorization procedures in § 271.24 where EPA determines whether each State meets the interim authorization requirements, except that this determination would occur concurrently with the promulgation of the CAMU rule amendments. Once States met the deadline for notifying EPA that they intend to and are able to use the CAMU amendments as guidance, EPA would publish a notice in the **Federal Register** listing the States that submitted the notification. Interim authorization would then be effective on the same date as the CAMU amendments.

EPA does not believe that regulatory amendments would be necessary to implement this conditional authorization process because of the flexibility within the existing procedures. Section 271.21 gives EPA discretion to initiate program revision and to require only those application documents it deems necessary to make an authorization decision. EPA is proposing to grant interim authorization to States that meet the criteria in proposed § 271.27, because such States will be implementing the CAMU amendments in a manner substantially equivalent to the Federal regulations, based on the knowledge EPA already has about these States' CAMU regulations and on the notification States would submit. The only regulatory amendments that would be made would be the extension of the expiration date for interim authorization for the CAMU amendments in proposed § 271.27(b) and amended § 271.24(c).

EPA requests comments on its proposal to grant interim authorization for the proposed amendments, when promulgated, to Alabama, Arizona, Delaware, Georgia, Idaho, Indiana, Louisiana, New York, North Carolina, North Dakota, Oklahoma, South Dakota, Texas, Utah, Vermont, Washington, Wisconsin, and Wyoming. EPA recently proposed to grant Virginia authorization for the 1993 CAMU rule (July 31, 2000, 65 FR 46681). EPA expects that when the CAMU amendments are promulgated, Virginia will be authorized for the 1993 CAMU rule, and thus requests comment on its tentative determination to grant interim authorization for the proposed amendments, when promulgated, to Virginia.

D. Authorization of States Currently Authorized for Corrective Action, But Not the Existing CAMU Rule

When EPA promulgates the proposed CAMU amendments, there will be a number of States authorized for corrective action that will not be authorized for the 1993 CAMU rule. Currently, there are 13 States in this situation. They are: Arkansas, California, Colorado, Guam, Kentucky, Maine, Missouri, Mississippi, Montana, New Hampshire, New Mexico, Ohio, and South Carolina. In addition to these States, there may be States authorized for the 1993 CAMU rule that did not receive interim authorization-by-rule. Because CAMUs expedite clean-ups, EPA will encourage all of these States to seek final authorization for the CAMU regulations, including today's proposed amendments as soon as possible. (Alternatively, States could request and receive interim authorization under § 271.24.) EPA also believes that the authorization process for the CAMU regulations can and should be completed expeditiously.

1. Content of a State's Application for Final Authorization

The State authorization revision procedures in § 271.21(b) provide EPA with the discretion to consider the circumstances of individual States when determining what the content of a State's application for final authorization should be. EPA believes that States that are authorized for corrective action and are seeking authorization for the amended CAMU rule generally would not need to submit a revised Program Description (PD) and Memorandum of Agreement (MOA) to EPA, where the program seeking authorization for the CAMU regulations is the same program that is authorized for corrective action.

The implementation of the CAMU regulations requires States to make clean-up decisions that are in effect the same types of decisions States already implement through their corrective action programs. Therefore, EPA believes that the adoption and implementation of the CAMU regulations requires the same technical and resource capability that States already have to operate the corrective action program. Generally, no changes to the MOA between the State and EPA should be necessary as a result of the CAMU regulations because Agency coordination issues would have been addressed during the authorization process for corrective action. However, EPA would have the discretion to request these documents or other information, if necessary.

EPA does believe that States seeking final authorization should address the CAMU regulations in a revised Attorney General's (AG) statement of authority. The CAMU regulations create a new type of waste management unit that can be used only in certain situations after a facility application and Agency review process. Thus, States may need to establish new statutory authority, or interpret their existing authorities to determine that they can approve and regulate these units.

2. Authorization Approach for States That Adopt the CAMU Regulations by Reference or Verbatim

Many States often adopt Federal regulations verbatim or incorporate them by reference into their regulations. It is likely that many States will adopt the CAMU regulations in this manner. When States adopt Federal regulations using these methods, it is not difficult for EPA to determine whether the State regulations are equivalent to their Federal counterparts. Because of this ease of review, and the high priority of State authorization for the CAMU regulations, the Agency believes that the authorization process for these States under § 271.21 should be quick. Thus, once EPA receives an acceptable authorization application, including a revised AG Statement, from a State which incorporates the CAMU amendments by reference or adopts them verbatim, EPA would immediately proceed to publish a FR notice which grants final authorization to that State. An exception to this expectation would be cases where in EPA's judgment, known issues with the existing State program greatly affect the program's prospects for authorization. An example of such issues would be questions regarding a State's enforcement authority (e.g., audit law issues), or capability (e.g., resource issues). It should also be noted that EPA expects to process all State authorization applications for the CAMU regulations as quickly as possible, regardless of the method of State adoption.

VI. Effective Date

Regulations promulgated pursuant to RCRA Subtitle C generally become effective six months after promulgation. RCRA section 3010(b) provides, however, for an earlier, or immediate, effective date in three circumstances: (1) Where the industry regulated by the rule at issue does not need six months to come into compliance; (2) the regulation is in response to an emergency situation; or (3) for other good cause.

EPA is proposing that today's rule become effective within 90 days after promulgation of the amendments. Because today's proposal would ''grandfather'' CAMUs (see discussion above in ''Grandfathering CAMUs''), a 90-day effective date would only affect any unapproved CAMUs that do not meet the criteria for grandfathering. Thus, EPA believes that because there would be ample time for facilities to adjust to the new procedural changes and waste management standards, the regulated community would not need the full six months to come into compliance with the final rule. However, EPA believes that a time period shorter than 90 days would not enable States that are currently authorized for the CAMU rule to gain interim authorization, even under today's proposed interim authorization-by-rule approach. EPA requests comment on whether a 90-day effective date is appropriate.

VII. Conforming Changes (40 CFR Subpart S, §§ 260.10)

Today's proposal would change the title of 40 CFR Part 264 Subpart S from ''Corrective Action for Solid Waste Management Units'' to ''Special Provisions for Cleanup.'' The current title reflects the Agency's intention in 1993, when it was added to the CFR, to finalize the comprehensive corrective action regulations for solid waste management units proposed in September 1990. 58 Fed. Reg. 8658 (February 16, 1998). As discussed more fully above, in the section titled ''Releases to Groundwater (§ 264.552(e)(5),'' the Agency withdrew the majority of that proposal in October, 1999. In addition, the current and proposed provisions of Subpart S address CAMUs, temporary units, and staging piles, which are all units which may only be used for the management of cleanup wastes, and which, in some instances, may be used at sites not subject to RCRA corrective action. EPA therefore believes that this change will ensure that the title of Subpart S more accurately conveys the provisions that are contained within it.

The conforming changes to § 260.10 are made to implement the distinction being drawn in today's proposed rule between CAMUs that would be grandfathered and CAMUs that would be subject to today's proposed standards at § 264.552. As discussed above in the section titled ''Eligibility of Wastes for Management in CAMUs,'' EPA is proposing to modify the definition governing the types of wastes that can be managed in a CAMU, and is proposing to change the name of waste

eligible for management in CAMUs from ''remediation waste'' to ''CAMU-eligible waste.'' This revised definition would apply to new CAMUs but not to CAMUs that qualify to continue implementation under today's proposed ''grandfathering'' provisions (see proposed § 264.550). EPA is making two conforming changes as a result of modifying the definition of remediation waste in this fashion. The first change is to remove the existing definition of CAMU at § 260.10 and to include it directly in § 260.551(a) (the introductory paragraph to the 1993 CAMU provisions, which would become, as a result of the regulations proposed today, the regulations applicable to grandfathered CAMUs). The second change would be to modify the existing definition of CAMU at § 260.10 by changing ''remediation wastes'' to ''CAMU-eligible wastes,'' and to place the definition directly in the amended CAMU regulations at § 264.552(a).

EPA also changed the term ''remediation waste'' to ''CAMU-eligible waste'' throughout the CAMU regulatory language.

VIII. Analytical and Regulatory Requirements

A. Planning and Regulatory Review Executive Order 12866

Under the Planning and Regulatory Review Executive Order 12866 (58 **Federal Register** 51,735 (October 4, 1993)), an agency must determine whether the regulatory action is ''significant'' and therefore subject to OMB review and the requirements of the Executive Order. The Order defines ''significant regulatory action'' as one that is likely to result in a rule that may:

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

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

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

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

Pursuant to the terms of Executive Order 12866, it has been determined that today's proposed rule is a ''significant regulatory action'' because of novel legal or policy issues arising in the rule. As such, this action was submitted to OMB for review. Changes made in response to OMB suggestions or recommendations will be documented in the public record. The proposed rule is estimated to have annual incremental costs between $130,000 and $305,000, and therefore is not viewed as economically significant under to the Executive Order.

EPA requests comment on the data, assumptions, and methodology described below employed to estimate the impacts of today's proposed rule. EPA has prepared an economic support document for the proposed rule entitled ''Economic Analysis of the Proposed Amendments to the CAMU Rule.'' This document can be found in the docket for today's proposed rule.

This section of the analysis discusses (1) the economic analysis background and purpose, (2) the CAMU administrative approval costs assessment, (3) the analysis of impacts resulting from the treatment and unit design requirements, (4) the assessment of potential change in CAMU usage to result from the rule, and (5) the summation of these impacts.

1. Economic Analysis Background and Purpose

A CAMU is: ''An area within a facility that is used only for managing remediation wastes for implementing corrective action or cleanup at the facility.'' (40 CFR 260.10) CAMUs may be used to consolidate hazardous wastes from various areas at the facility. While one of the chief reasons for CAMU usage is to facilitate more treatment of cleanup wastes in general (see discussion earlier in the preamble), wastes placed in CAMUs are not subject to the Land Disposal Restriction requirements for treatment. In addition, under the 1993 CAMU Rule, CAMUs are not required to meet the existing 40 CFR Part 264 and Part 265 minimum design, operating, closure, and post-closure requirements for hazardous waste units.

The CAMU provisions being proposed today would amend the existing CAMU rule. This economic analysis examines the impacts from these proposed amendments compared to the existing CAMU rule provisions. This section briefly discusses the baseline and post-regulatory scenarios in the analysis, and provides an overview of the incremental impacts assessed.

a. *Framework for the Analysis.* The Agency faced two important questions in developing the framework for this analysis. The first was how to address defining the universe of facilities affected by today's rule. The second was how to approach assessing the incremental changes in CAMUs under the baseline and post-regulatory scenarios.

The universe of facilities which could potentially employ a CAMU in remediation, and thus could be affected by today's rule, includes facilities performing cleanups under RCRA corrective action, Superfund, and state cleanup authorities. There are over 6,000 facilities which can be potentially reached through corrective action authority; this figure does not include Superfund sites or other cleanup sites where CAMUs may be used in the future. Of these facilities, today's proposed rule would not impose costs on any existing CAMUs that continue to manage wastes in the general manner for which they were approved, or, of course, on any facilities which manage their wastes without the use of a CAMU (e.g., they send their wastes off-site). Today's proposed standards would apply to CAMUs which are not subject to the existing standards under the grandfathering provisions. However, to determine the number of facilities, out of this total number, which would in fact require remediation at some point in the future under one of these authorities, and would employ a CAMU in the remedy, would require significant effort and yield uncertain results.

Therefore, EPA considered the use of existing data on CAMU usage. The Agency first examined the 1993 CAMU RIA, which was performed in support of the existing CAMU rule. In this RIA, the Agency made a projection of the number of facilities which would employ CAMUs in the future. This projection was based on use of expert panels which reviewed, on a facility-by-facility basis, a randomly selected sample of 79 corrective action facilities and determined when CAMUs would be employed in remediation. The impacts estimated for these facilities were extrapolated to the corrective action universe to develop a national estimate of impacts for the CAMU rule. The Agency estimated that the existing rule would result in CAMUs being employed at approximately 1,500 facilities, or approximately 75 CAMUs per year over a 20 year period.

However, based on data showing actual CAMU usage over the past seven years, the Agency believes the 1993 RIA projections do not represent an accurate forecast of the expected use of CAMUs in the future. These data, discussed in more detail below, show an actual CAMU approval rate of approximately six CAMUs per year. The disparity between the 1993 RIA projections and the actual usage is likely the result of four factors. First, the 1993 RIA baseline

is very different from the remedial setting which has existed in recent years. Chiefly, the RIA assumed significant excavation and treatment of wastes at sites, with heavy reliance on combustion technologies and little use of innovative treatment or remedial approaches. These approaches tend to be less expensive than combustion technology, and are much more available and in use than was anticipated in the 1993 RIA. Therefore, the pervasive demand for CAMUs to lower large remedial costs did not materialize as anticipated in the 1993 RIA. Second, due to its timing, the RIA estimates do not include impacts on CAMU use which resulted from various remedial policy developments such as the stabilization initiative, the use of environmental indicators, and the Phase IV LDR soil treatment standards. These developments have resulted in increased stabilization of sites, and thus less excavation and treatment of wastes (in the short term). This shift created conditions which reduced the need to rely on CAMUs as much as had been originally estimated in the 1993 RIA projections. Additionally, the availability of alternatives to CAMUs, such as staging piles and areas of contamination (AOCs), has potentially decreased the use of CAMUs somewhat compared to that originally projected. Third, the Agency thinks that the RIA usage projections may have been unrealistically high given that most corrective action facilities are in the investigation stage. Finally, the Agency believes that CAMU use has been dampened over the past seven years due to the uncertainty surrounding the use of CAMUs which resulted from the CAMU litigation, which followed shortly after the rule's promulgation.

Therefore, the Agency employed the data on existing CAMUs in the CAMU Site Background Document. These data were collected from regional and state site managers on CAMUs approved to date under the existing CAMU rule. This report contains information on 39 CAMUs approved under the existing rule for which the Agency had good quality data. These CAMUs were those identified by the EPA Regions as either approved or currently under discussion. For each CAMU, the Agency obtained information on the use of the CAMU at the site, types of wastes managed, treatment required, and unit design; the data are contained in the CAMU Site Background Document, which is included in the docket for today's proposed rule.

Using these data, the Agency estimated an annual CAMU approval rate for the past seven years, and applied that rate to project CAMU usage in the future. In projecting future use based on historical data, the Agency assumes that the 39 CAMUs are reasonably representative of expected future CAMU use. This assumption rests on the completeness of the data in the CAMU Site Background Document; this document contains information from all the CAMUs approved to date for which the Agency had good data. Therefore, it provides a reasonable basis for understanding how the CAMU rule has been implemented to date. For purposes of this analysis, the Agency assumes there will be no new regulations or policy initiatives which would affect CAMU usage in the future. (Note: One exception in the anticipated change is the removal of the uncertainty associated with the CAMU litigation. The Agency has assessed the impacts from this change on the CAMU usage rate as a part of the analysis of the incremental impacts of today's proposed.)

These historical data also helped identify the differences in a CAMU under the existing rule (baseline case) as compared to a CAMU under the proposed provisions (post-regulatory case). As discussed in more detail below, the Agency used the information on the 39 existing CAMU remedies to assess consistency with the proposed provisions in today's rule. This assessment involved a facility-by-facility comparison of the existing remedy (baseline case) with the proposed provisions (post-regulatory case). In such an approach, the Agency again assumes that these actual CAMU remedies selected in the past are reasonably representative of CAMU remedies which would be selected under baseline conditions in the future. However, the Agency believes this assumption to be sound for the same reasons stated above regarding CAMU usage. EPA thinks these remedies are the reasonable outcome of the existing CAMU regulations implemented within the context of standard remedial goals for cleanup. The Agency requests comment on this assessment, and any potential effects of using these historical data to assess the impacts of today's rule.

Additionally, the Agency requests comment on the assumptions behind the development of the baseline and post-regulatory scenarios employed within this analytical framework. Comments are requested on the accuracy of the results derived from employing the framework described above for this analysis.

b. *Baseline Case Description.* The baseline scenario provides a reference against which the impacts of a particular action (e.g., a regulation) are measured. For the purposes of this analysis, the baseline is defined as the 1993 CAMU rule as implemented to date. The data underlying EPA's baseline analysis are described in the CAMU Site Background Document, which is included in the docket to today's proposed rule. This document provides detailed information on 39 existing CAMUs approved as of early 2000; these data have been verified by EPA Regional staff. Of the 39 CAMUs, nine are temporary CAMUs. According to these data, approximately 70 percent of facilities using CAMUs are performing treatment of waste. As mentioned above, EPA assumes that the 39 existing CAMUs are representative of future site characteristics and CAMU usage rates.

The Agency has not attempted to adjust this baseline to account for the effects of the uncertainty surrounding the CAMU ''litigation cloud,'' which EPA believes has slowed the implementation of the CAMU rule since shortly after its promulgation. As discussed above, the 39 CAMUs implemented under the existing rule represent the CAMUs known to be fully approved or under discussion to date. These CAMUs were approved as a part of the overall remedy at the facility, and therefore would generally be expected to follow the remedy selection criteria for long-term reliability and protectiveness recommended in EPA guidance (in addition to the CAMU requirements).

The baseline is discussed in greater detail in the Economic Analysis of the Proposed Amendments to the CAMU Rule.

c. *Post-Regulatory Case Description.* The post-regulatory scenario is modeled as the CAMU rule amended by the provisions in today's proposed rule. The reader is directed to the preamble discussion and rule language for an understanding of the proposed rule provisions. The economic analysis focuses on the impacts from the proposed information submittal requirements related to the CAMU approval process, the treatment requirements and adjustment factors, and the liner and cap requirements. Although today's proposed amendments to the CAMU rule would be more stringent than the existing federal CAMU regulations, EPA believes in practice that CAMUs are already generally meeting these standards under the existing rule. Additionally, a bounding analysis is included which examines the overall impact of the proposed provisions on the rate of

CAMU usage. It should be noted that the grandfathering provision of the proposed rule results in impacts accounted for in the post-regulatory scenario in this analysis. In other words, for the window of opportunity discussed in the proposed rule wherein CAMUs can be approved under existing rule conditions, there is a divergence in compliance behavior with the baseline, and these impacts are counted as attributable to today's rule. See the Economic Analysis of the Proposed Amendments to the CAMU Rule for a more detailed discussion of the post-regulatory scenario for this analysis.

d. *Incremental Impacts:* The analysis of today's proposed rule focuses on two potential impacts: (1) the incremental impacts associated with the changes to the approval process for CAMUs; and, (2) the incremental impacts associated with the change in treatment, unit design, and use of temporary (i.e. treatment and/or storage) CAMUs. Additionally, the Agency has prepared a bounding analysis estimating the impacts from a change in the overall usage of CAMUs resulting from today's proposed amendments. The methodology and results for these two components of the analysis, and for the bounding analysis, are discussed below. EPA requests comment on the impacts assessed in this analysis.

2. CAMU Administrative Approval Costs Assessment

Today's proposed amendments to the CAMU rule formalize a number of administrative steps in the CAMU approval process. This analysis examines the incremental impacts associated with those administrative steps compared to the approval process in the baseline. The estimates are formulated through input by EPA Regional and state regulators. The regulators contacted have extensive knowledge of the approval process under the existing CAMU rule, and understand the changes to that approval process that would be brought about by the proposed amendments. The analysis estimates total incremental impacts ranging between $53,000 and $175,000 per year. The Agency requests comment on the approach described below which was employed in estimating the incremental impacts associated with today's proposed action.

The Agency followed three steps in assessing the incremental impacts from the CAMU approval process formalized in the proposed rule. First, the Agency selected four CAMU experts from the Regions and one from the states. These experts were selected based on their knowledge of CAMU implementation under the existing rule and their knowledge of the proposed amendments. Of the 39 CAMU total, the number of CAMUs approved within all the selected experts' regions/state sum to 25. Second, the Agency obtained incremental cost/burden estimates from CAMU experts through phone contacts made separately with each expert. Experts were provided with a copy of Appendix A of the settlement agreement reached between EPA and the Petitioners (this document is included in the docket for today's proposed rule). The phone contacts followed a set of questions designed to cover all areas of the proposed rule (for a copy of these questions, see the Economic Analysis of the Proposed Amendments to the CAMU Rule). EPA requested that experts estimate the additional approval burden for both regulators and owner/operators, as each would participate variously in performing such approval steps. Third, the Agency tabulated the burden estimates made by the CAMU experts. This process provided the Agency with expert estimates of the incremental impacts for the CAMU approval process. The estimates provided by individual experts ranged from a low of six hours total to a high of 1,360 hours total per CAMU. Using the individual estimates of burden provided by the experts, EPA calculated an average total burden range. EPA estimates the range of total incremental burden, calculated as an average of the five expert estimates, to be between 98 hours and 323 hours per CAMU.

Expert views differed significantly on the impacts. Two of the experts believed the formalization of a process associated with certain steps might potentially reduce overall burden. Such a formalized process, they believed, would result in less time spent discussing the proper approach to take at a particular stage in the approval process. Alternatively, one expert thought that the changes in process requirements were so onerous that they could potentially drive facilities away from using CAMUs.

The experts estimated additional burden associated with four areas of the proposed amendments: (1) Information submission associated with the determination of whether wastes were subject to LDRs at the time of disposal. This requirement is a part of the provision in the proposed amendments which deals with CAMU waste eligibility; (2) identification of principal hazardous constituents (PHCs). Only one expert estimated additional burden associated with identification of PHCs at the site; (3) adjustment factor E (§ 264.552(e)(4)(v)(E)) which would offer adjustment from the treatment standards based on chemical/physical properties of the waste and the long-term protection offered by the unit. Experts estimated additional burden associated with use of the factors for adjustment from treatment in the proposed amendments. The experts focused on adjustment factor E in making their burden estimates, as it was perceived to be the most complicated, and therefore the most likely to require significant formalized written justification; and, (4) the liner and cap standards in the proposed rule.

Employing these burden estimates, the Agency calculated the cost impact attributable to these provisions. The Agency performed the following steps in estimating total burden. First, the Agency estimated the number of CAMUs approved annually. The per CAMU estimate of additional burden is multiplied by an estimate of the number of CAMUs approved per year. As discussed in the Economic Analysis of the Proposed Amendments to the CAMU Rule, EPA assumed this rate to be the same as that calculated for the baseline. This rate was estimated to be six CAMUs per year. This analysis does not consider any changes in the number of CAMUs approved per year which could result from the rule. Second, the Agency multiplied the additional hours estimated for approval by the annual number of CAMUs approved. This calculation results in an estimate of the total incremental burden associated with the proposed amendment approval process. This burden estimate ranges from 590 hrs per year to 1,940 hrs per year. Third, the Agency obtained a labor rate to apply to the estimates of additional hours. EPA used the highest hourly labor rate ($90/hour) from the recently approved Part B Permit ICR because the CAMU experts did not provide a breakdown of labor categories in their estimates. Fourth, the Agency multiplied the total incremental hours estimated for the CAMU approval process under the proposed amendments by the labor rate. This produced an estimate for the total incremental impacts attributable to the approval process in the rule, which ranges from $53,000 per year to $175,000 per year. The Agency requests comment on the specific steps employed to estimate impacts of the approval process, in particular, whether any important steps have been left out or mischaracterized with respect to the impacts of these proposed provisions.

This range represents the annual incremental impacts estimated to result from the proposed amendments, assuming that six CAMUs are approved

per year. If the annual approval rate changed, the annual impacts for that year would change accordingly. Dividing that range by six (the number of CAMUs approved per year) yields an estimate of the incremental impact per CAMU; this estimate ranges between approximately $8,800 and $29,000 per CAMU. This calculation assumes that all the costs for CAMU approval occurred within a single year. A bounding analysis conducted using the highest burden estimate to calculate the impacts for the approval process yields an impact of $734,000 per year, or $122,000 per CAMU. The Agency requests comment on costs estimated in this section, as well as additional data to more accurately analyze these costs.

3. Assessment of the Incremental Impacts Related to the Treatment and Unit Design Provisions, and to the Treatment and/or Storage Only CAMU Provisions

This section examines the incremental impacts attributable to the treatment and unit design provisions, and to the treatment and/or storage only CAMU provisions in today's proposed rule. As described in the analytical framework discussion above, this analysis examines what changes would be required to make the 39 existing baseline CAMUs consistent with the new amendments. Based on these estimated changes, the Agency determines the impacts of the proposed amendments. (Please see the side-by-side comparison of the existing CAMU regulations and today's proposed rule language which is included as an appendix in the Economic Analysis of the Proposed Amendments to the CAMU Rule for today's proposed rule).

The Agency first examines the treatment and unit design specifications employed for existing CAMUs under the baseline. These baseline CAMU remedies were assessed in light of the treatment and unit requirements proposed in the CAMU amendments. An assessment was made of expected differences in treatment and unit design anticipated under the proposed amendments, and the resulting costs for those changes were quantified.

The section next addresses the treatment and/or storage only provisions in the CAMU amendments. EPA assesses how the ''temporary'' CAMU (referred to as ''treatment and/or storage only'' CAMUs in the today's rule) provisions have been implemented in the baseline by examining the temporary CAMUs approved to date under the existing rule. These CAMUs were analyzed in light of the new treatment and/or storage only CAMU provisions in the proposed amendments.

The Agency requests comment on the approach used to assess the changes in treatment, unit design, and use of treatment and/or storage only CAMUs resulting from today's proposed amendments. In particular, the Agency requests information addressing the expected significance of the treatment or unit design standards.

a. *Treatment and Unit Design Standards Implemented in the Baseline:* Data on the implementation of the existing CAMU rule shows that the 30 permanent CAMUs approved to date have generally employed significant treatment of wastes (approximately 70 percent of CAMUs employed treatment of wastes prior to disposal) with disposal in protective units (*i.e.*, generally employing liners for new units, protective caps, and groundwater monitoring). EPA has detailed information on 39 CAMUs in the baseline (see the CAMU Site Background Document in the docket for today's proposed rule for a complete discussion of each CAMU). These data provide a reasonable datum from which to assess the incremental impacts associated with the new treatment and unit design provisions in the proposed amendments.

b. *Treatment and Unit Design Provisions in the Post-Regulatory Case:* The proposed amendments would establish national minimum treatment standards which all principal hazardous constituents (PHCs) must meet prior to disposal in a CAMU, unless the Agency determines in a given case that the standards are inappropriate (see discussion of adjustment factors below). This national minimum standard, which is essentially taken from the treatment standard promulgated for hazardous soils in the Phase IV LDR Final Rule, among other things, requires treatment of wastes to 90 percent reduction from the original concentrations, capped by 10xUTS level. This standard would apply for all CAMU-eligible wastes.

Accompanying the national minimum treatment standard are five adjustment factors, which provide site-specific flexibility in applying these treatment standards through identification of certain conditions under which full compliance with the national standard may be adjusted. This adjustment may be employed to make treatment more or less stringent, and may be used to adjust a treatment level or method. These proposed treatment requirements and adjustment factors were crafted through examination of the current implementation of the CAMU rule in the baseline, and the general process involved in remedial selection in the corrective action program, as well as the treatment variances used for as-generated waste under the Land Disposal Restrictions program.

The proposed amendments would also establish standards for liners at all new and replacement units or lateral expansion of existing units, and caps at units where waste is left in place. The reader is directed to the relevant discussions on the proposed provisions in their appropriate preamble sections above (see ''Liner Standard,'' ''Cap Standard,'' and ''Adjustment Factors to the Treatment Standard'').

c. *Incremental Impacts Associated with Proposed Treatment and Unit Design Provisions:* Having examined the provisions on treatment and unit design in the proposed amendments, the Agency then assessed the incremental impacts from these provisions with respect to current baseline implementation of the CAMU rule. The Agency examined how the baseline requirements have been implemented to date, and assessed where changes would be required at these facilities under post-regulatory conditions. See Economic Analysis of the Proposed Amendments to the CAMU Rule for details on this comparison.

EPA estimated the incremental costs associated with these standards through the following steps. First, the Agency compared the data on each baseline CAMU against the provisions in the proposed CAMU amendments. For this assessment, EPA addressed the following questions for each CAMU remedy, where necessary: (1) Does the facility have constituents that would likely be designated as PHCs?; (2) For a facility where PHCs are determined to likely be present, was treatment performed to reduce PHC concentrations?; (3) Where treatment was being performed, was it meeting the proposed national minimum standards?; (4) Was the CAMU an existing unit?; and, (5) What liner and cap requirements were instituted for the CAMU? Second, based on this assessment, the Agency made a determination as to whether the CAMU was consistent with the treatment and unit design provisions of the proposed amendments. Third, where the Agency identified inconsistency with the proposed national minimum standards, application of the adjustment factors was considered. Potential use of adjustment factors was only considered appropriate where site-specific factors were consistent with the circumstances described in today's preamble for the different adjustment factors. And fourth, where the adjustment factors were not

applicable, the Agency identified the steps that would be necessary to render the CAMU consistent with the proposed provisions. Each of the above steps was performed by EPA based on a detailed knowledge of the baseline CAMU requirements, the proposed rule provisions, and the details of the existing CAMU being analyzed. Please see the site summaries for the 39 CAMUs which are included in the CAMU Site Background Document (included in the docket for today's proposed rule). Additionally, the reader is directed to the preamble discussion of the adjustment factors for elaboration on how each adjustment factor would be applied at a given facility.

EPA performed this evaluation for the 30 permanent baseline CAMUs approved to date. The Agency estimated costs in the cases where additional requirements were identified as necessary for the CAMU to reach consistency with the proposed provisions. Results for the 30 permanent CAMUs are shown below in Exhibit VIII–1; results for the nine treatment and/or storage only CAMUs are discussed following the exhibit.

For the 30 permanent CAMUs, EPA estimates that 15 facilities would potentially require use of one of the adjustment factors to achieve consistency with the proposed amendments. Note that the potential use of adjustment factors was only considered where such use would be consistent with the circumstances described in today's preamble for each adjustment factor. Of the five adjustment factors provided for in the amendments, adjustment factor A for technical impracticability was estimated to be needed four times and possibly two additional times to achieve consistency, adjustment factor B addressing consistency with site cleanup goals was estimated to be possibly needed three times to achieve consistency, and adjustment factor E providing adjustment from the treatment standards based on chemical/physical properties of the waste and the long-term protection offered by the unit was estimated to be possibly needed eight times to achieve consistency. (Note that the estimated frequency of use for the individual adjustment factors does not sum to the overall number of facilities using adjustment factors due to the Agency identifying different available options for adjustment factor use at several facilities.)

EXHIBIT VIII–1.—COMPARISONS OF BASELINE PRACTICES AND POST-REGULATORY REQUIREMENTS FOR PERMANENT CAMUS

CAMU comparison: baseline to post-regulatory	Number of CAMUs	Significance of differences	Estimated incremental impact
Treatment and Unit Design Consistent With Post-Regulatory Requirements.	29	N/A	N/A.
Treatment Not Consistent With Post-Regulatory Requirements.	0	N/A	N/A.
Unit Design Not Consistent With Post-Regulatory Requirements.	2	Under the New Rule, Two Facilities May Have Required Additional Cap Design Features.*	CAMU Cap Costs for Facility = $600,000 to $1,200,000 CAMU Cap Costs for Facility = $205,000. [TOTAL = $800,000 to $1,400,000].
Treatment and Unit Design Not Consistent with Post-Regulatory Requirements.	0	N/A	N/A.

* These two CAMUs address the disposal of off-site soils contaminated with lead that resulted from smelting operations. Both facilities remain subject to long-term maintenance and periodic review.

As shown in Exhibit VIII–1, the analysis revealed two facilities for which the unit design employed in the original CAMU decision was not consistent with the proposed amendments. In both cases, a final cap would be required to achieve consistency with the proposed provisions. EPA estimated costs for these caps based on the specific information for the given facility. These costs are shown in the exhibit above, and discussed in greater detail in the background document for the economic analysis. EPA estimated costs for the cap at one facility to range from $600,000 to $1,200,000, and costs for the cap at the other facility at approximately $205,000.

The total estimated costs associated with ensuring that all the permanent CAMUs approved under the existing rule are consistent with the proposed amendments is estimated to range from approximately $800,000 to $1,400,000 (or annualized over 20 years at 7 percent yields $76,000 to $132,000 per year). The Agency believes that these estimates reasonably cover the additional requirements to achieve such consistency with the proposed standards. However, EPA acknowledges the possibility that, due to the variability of site characteristics and the limitations of the available data for the given CAMUs, additional negligible costs such as minor additional treatment of small volumes of waste could be incurred at any given facility. This analysis does not consider any changes in the number of CAMUs approved per year which could result from the rule. The Agency requests comment on the approach employed to determine the incremental costs of the proposed treatment and unit design provisions, and the resulting estimates presented in this section.

d. *Incremental Impacts Associated with the Treatment and/or Storage Only CAMU Provisions:* The 1993 CAMU Rule provisions did not contain standards that were specific to temporary CAMUs (which are now called treatment and/or storage only CAMUs in the proposed provisions). However, data indicate that nine treatment and/or storage only CAMUs were approved in the baseline, and were generally employed for short-term treatment or storage of wastes at a site. These data provide a useful datum from which to assess the potential for incremental impacts resulting from the proposed amendments as they address treatment and/or storage only CAMUs.

The Agency analyzed the potential incremental costs associated with achieving consistency with the proposed rule standards for the treatment and/or storage only CAMUs. No inconsistencies were identified for these nine CAMUs; therefore, there were no incremental costs estimated for these units. This analysis does not consider any changes in the number of CAMUs approved per year which could result from the rule.

As stated above, EPA made these comparisons based upon the types of contaminants, the unit design standards achieved, and the general circumstances surrounding the use of CAMUs. EPA requests comment on the comparisons discussed in this section, upon which the cost impacts are based.

4. Assessment of the Incremental Change in the Number of CAMUs Approved

One potential impact anticipated to result from today's proposed rule is a change in the average number of CAMUs approved per year. This section presents the Agency's bounding analysis of the impacts associated with an incremental change in the number of CAMUs. The Agency seeks comment on the approach for projecting potential increase or decrease in the use of CAMUs resulting from these amendments.

The 1993 CAMU Rule was designed to provide incentives for remediation by removing certain regulatory requirements that affect the management of hazardous remediation waste during cleanup. The rule allows facilities to manage hazardous waste in a CAMU without triggering the Land Disposal Restrictions (LDR) requirements, and to dispose of hazardous remediation waste in a CAMU. The CAMU is exempt from minimum technology requirements (MTRs), although it is subject to performance-based standards intended to protect human health and the environment. The rule established performance standards for the design, operation, and closure of CAMUs, and provided the site-specific flexibility that EPA believes is necessary to encourage remediation at cleanup sites. However, EPA was sued on the CAMU rule shortly after its promulgation. The resulting uncertainty surrounding the viability of the CAMU rule, along with other factors discussed above such as the increased use of Areas of Contamination (AOCs) and staging piles, the introduction of the Phase IV Land Disposal Restriction (LDR) soil treatment standards, and the stabilization initiative in corrective action, led to considerably less use of CAMUs than the Agency originally anticipated.

With today's proposed rule, the Agency intends to resolve the litigation uncertainties which have dampened CAMU usage. Such resolution could promote the increased use of CAMUs. However, as discussed above, the Agency does not expect CAMU usage to approach the rate projected in the 1993 CAMU RIA (roughly 75 CAMUs per year). The Agency believes that the ''litigation cloud'' only accounts for part of the difference between actual CAMU usage over the past seven years and the usage estimated in the 1993 RIA. Other factors contributing to a potential change in future CAMU use include the impact of the formalized approval process, and the effect of the treatment and unit design provisions. It is very difficult to assess the significance of these factors on the individual decision at a given facility regarding whether to use a CAMU in remediation. This complexity led the Agency to prepare an order-of-magnitude analysis which seeks to establish the general direction of change in CAMU usage, and to quantify the approximate impacts from such change. These estimates focus only on the potential for changes in the number of CAMUs approved, and do not address the possible impacts from the formalized approval process or the treatment and unit design requirements of today's proposed rule. These impacts are presented to illustrate the potential savings which could come from such a change in CAMU usage, and should not be considered a part of EPA's estimate of the actual impacts from today's proposed rule.

The Agency assessed the overall direction of the expected change in CAMU use for the three time periods identified for purposes of this analysis: (1) Grandfathering Window (August 2000 to January 2002); (2) Early After Promulgation (January 2002 to January 2003); and, (3) Post-Promulgation Equilibrium (January 2003 to 2006). These time periods were constructed by the Agency in order to understand the effects of the factors identified above according to logical breaks in their influence. For example, the Agency believes that facilities may increase their use of CAMUs during the Grandfathering Window, given that CAMUs approved before the effective date of the final amendments would be exempt from the new requirements. Additionally, CAMUs which are not approved prior to the effective date of the final amendments but for which substantially complete applications (or equivalents) were submitted to the Agency on or before 90 days after the publication date of the proposed rule would also be grandfathered in under the 1993 CAMU rule requirements. During this period facilities will also be aware of EPA's intent to resolve the litigation uncertainty, which EPA believes has dampened CAMU use. Similar assessments were performed for the two other time periods.

The Agency estimated the potential change in the number of CAMUs employed for each of the three time periods based roughly on the baseline CAMU usage figure of six CAMUs per year. Given the complexity of projecting the effect of these influences on CAMU usage in the future, these estimates are provided for illustrative purposes only. The cost savings from this change were estimated using results from the 1993 CAMU RIA (see page 3–9 of that report). This analysis, prepared in support of the CAMU rule, estimated the cost savings at a randomly selected sample of corrective action sites based on expert panel assessments of the costs for remediation with and without a CAMU. These figures were extrapolated to determine the national cost impacts for the CAMU rule. The RIA presents an annual average cost savings per CAMU of $0.5 million to $0.8 million per facility in 1992 dollars (changing the figures to 1999 dollars yields an annual cost savings per CAMU ranging from $0.75 million to $1.20 million).

This range was employed for purposes of this analysis to estimate order-of-magnitude cost impacts resulting from the changes in CAMU usage due to today's proposed rule. The annual cost savings per CAMU figure presented in the 1993 RIA provides the only readily available data from which to quantify the impacts of a shift from remediation without a CAMU to use of a CAMU. Although, the Agency believes that this cost savings estimate could significantly overestimate actual savings, due to the assumptions employed in the 1993 RIA regarding excavation and combustion of cleanup wastes. The Agency requests input on data sources to estimate such impacts. (The 1993 CAMU RIA is available in the docket.) Within each of the three time periods examined, a facility could either shift from not using a CAMU (baseline) to using a CAMU (post-regulatory), or using a CAMU (baseline) to not using a CAMU (post-regulation). In the case where a facility did not use a CAMU, there is a range of possible alternatives which could be considered. For purposes of this analysis, the Agency bracketed this range with leaving waste untouched on one hand, or performing full remediation without a CAMU on the other hand. As stated above, EPA employed the cost savings estimate from the 1993 RIA to model the cost savings for the case of a shift from performing full remediation without a CAMU (baseline) to using a CAMU (post-regulatory). EPA did not possess data on either the possibility of a shift from leaving waste in place (baseline) to using a CAMU in remediation (post-regulatory), or the cost impacts

associated with such a shift. Finally, EPA does not believe it is reasonable to assume that facilities will shift away from CAMU use as a result of today's proposed rule; the anticipated costs from today's rule are not significant enough to result in such shifts. However, in the Post-Promulgation Equilibrium time period, EPA modeled the case of a shift from CAMU use (baseline) to full remediation without a CAMU (post-regulatory). While the Agency does not expected such a change, it is modeled below for illustrative purposes. The impacts from the changes in CAMU usage for the three time periods are assessed below according to these categories of change identified and discussed above (see exhibit below).

For greater details on the approach to estimating these impacts, please refer to the Economic Analysis of the Proposed Amendments to the CAMU Rule in the docket for today's proposed rule. These impacts are presented in the exhibit below.

EXHIBIT VIII–2.—ASSESSMENT OF THE POTENTIAL CHANGE IN CAMU USAGE RESULTING FROM THE PROPOSED RULE

Categories of potential change in CAMU usage	Scope of the assessment (August 2000 through approximately 2006)		
	Grandfathering window (Aug. 2000 to Jan. 2002: approximately 1½ years [1]	Early after promulgation (Jan. 2002 to Jan. 2003: 1 year) [2]	Post-promulgation equilibrium (Jan. 2003 through approximately 2006) [3]
Baseline: Full remediation (no CAMU); Post-Reg: CAMU.	5 to 10 facilities estimated (annual savings of $0.75 to $1.20 million per facility).	Change Highly Uncertain ..	Potential for 5 facilities estimated (annual savings of $0.75 to $1.20 million per facility).
Baseline: Leave wastes untouched (no CAMU); Post-Reg: CAMU.	5 to 10 facilities per year estimated (no cost info available).	Change Highly Uncertain ..	Potential for 5 facilities estimated (no cost info available).
Baseline: CAMU; Post-Reg: Full remediation (no CAMU).	No Change Estimated	Change Highly Uncertain ..	Potential for 5 facilities estimated (annual cost of $0.75 to $1.20 million per facility).
Baseline: CAMU; Post-Reg: Leave wastes untouched (no CAMU).	No Change Estimated	Change Highly Uncertain ..	Potential for 5 facilities estimated (no cost info available).

Notes:
[1] Publication of the proposed amendments (August 2000) to the anticipated effective date of Final rule (Jan. 2002), which is 90 days after promulgation of the Final rule (Oct. 2001).
[2] The effective date of Final rule to one year after effective date of Final rule.
[3] One year after effective date of Final rule for roughly 5 years of ''equilibrium.''

a. *Grandfathering Window:* For this time period, the cost savings associated with a potential increase in CAMU usage of 5 to 10 CAMUs per year are estimated as:

5–10 CAMUs per year × *$0.75–$1.20 million per year* = $3.75–$12 million per year per CAMU

This estimate, $3.75 to $12 million per year in savings, is a rough figure based upon the projected increase in CAMU use associated with this period. The main influence behind this increase in CAMU usage is the removal of the litigation cloud in the context of the grandfathering provision allowing approval under the existing rule. While it is possible that the facilities which shift to CAMU usage under this scenario are those which leave waste untouched in the baseline, cost figures on this shift were not available. Therefore, no estimate of the impacts associated with this category of change is provided.

b. *Early After Promulgation:* As the exhibit above shows, EPA believes that the factors influencing potential changes in CAMU usage during this period are too uncertain to provide an assessment of the potential impacts for this time period. Beside the factors identified above, there may be a reduction in CAMU usage resulting from the anticipated increase in CAMUs within the grandfathering time window. Please see the background document for greater discussion on this issue.

c. *Post Promulgation Equilibrium:* For this time period, the cost savings associated with a potential increase or decrease in CAMU usage of 5 CAMUs per year are estimated as:

5 CAMUs per year × $0.75–$1.20 million per year = $3.75–$6 million per year per CAMU

This estimate, ranging from a positive cost of $6 million per year to a savings of $6 million per year, is a rough figure based upon the projected change in CAMU usage for this period. Again, while it is possible that the facilities which shift to or from CAMU usage under this scenario would be those which left waste untouched, cost figures on this shift were not available. Therefore, no estimate of impacts associated with such a shift is provided.

The main competing influences in this time period are the removal of the uncertainty surrounding the litigation of the CAMU rule, and the potential dampening effect of the formalized approval process and treatment/unit design standards.

The range of estimates for the bounding analysis are shown by year for the scope of the analysis in Exhibit VIII–3 below. The Agency requests comment on this analysis, including the overall approach to estimating changes in CAMU usage, as well as the specific results presented above.

EXHIBIT VIII–3.—IMPACTS ESTIMATED FOR POTENTIAL CHANGES IN THE NUMBER OF CAMUS EMPLOYED PER YEAR; A BOUNDING ANALYSIS: OVER THE SCOPE OF ANALYSIS

[In thousands of dollars]

Bounding analysis estimates	Impact estimates for each year within the scope of analysis					
	2001	2002	2003	2004	2005	2006
Impacts from CAMU Usage Changes (Illustrative in Nature).	$3,750 savings = $12,000 savings.	No estimate made.	$6,000 savings = $6,000 cost.	$6,000 savings = $6,000 cost.	$6,000 savings = $6,000 cost.	$6,000 savings = $6,000 cost.

This bounding analysis was performed in order to account for the cost impacts resulting from a change in the number of CAMUs approved per year. For illustrative purposes only, EPA estimated the total annual impacts of the rule including the bounding analysis estimates. The Agency developed an upper bound estimate by adding the high-end cost associated with a potential change in CAMU usage, $6 million per year, to the high-end of the total cost range shown above. This summation yields an upper bound cost for the rule of $6.3 million per year. EPA developed a lower bound estimate by adding the low-end impact associated with a potential change in CAMU usage, $6 million per year in savings, to the low-end of the total cost range shown above. This summation yields a savings for the rule of approximately $5.9 million. Therefore, the bounding analysis provides a range from approximately $5.9 million in savings to $6.3 million in costs. As shown in Exhibit VIII–3, for the year of the grandfathering period, the savings could be up to $12 million.

The question may be raised as to how this cost savings for increased CAMU usage in the above bounding analysis compares with the $1 to $2 billion annual savings in the 1993 CAMU RIA. The 1993 RIA baseline represented facilities performing remediation under the corrective action requirements, generally excavating wastes and treating in compliance with the Land Disposal Restriction (LDR) requirements via combustion technologies. Given the resulting high costs for such baseline remedial approaches, the relief provided by the original CAMU regulation was presumed to be widely applied in the post-regulatory case. Therefore, significant CAMU usage was estimated. The baseline for today's proposed rule is described by the historical data EPA obtained on those facilities which have approved CAMUs over the past seven years. The projections made above regarding the potential change in CAMU usage resulting from today's proposed provisions are based roughly on these baseline CAMU usage figures. Therefore, the increase in CAMU usage projected in the post-regulatory case in the above bounding analysis for today's proposed rule is relatively low.

The difference in projected CAMU usage from the 1993 RIA and the actual usage seen in the CAMU Site Background Document is believed to be attributable to four factors. These four factors were discussed above under the analytical framework. The ''litigation cloud'' effect is just one of the factors posited to account for this difference. Therefore, the potential resolution of this litigation uncertainty through today's proposed rule is not anticipated to result in the significant CAMU usage estimated in the 1993 RIA. Furthermore, the increased CAMU usage estimated in the above bounding analysis is not intended to serve as an update to the 1993 RIA projections. Rather, due to the complexity involved in estimating CAMU usage in the post-regulatory case for today's proposed rule, the above estimates are made for illustrative purposes only, and do not represent a definitive statement of the expected savings from the rule.

5. Assessment of the Total Impacts for the Proposed Amendments to the CAMU Rule

This section presents a brief assessment of the total impacts of the Proposed Amendments to the CAMU Rule. The Agency presents the impacts estimated for the formalized CAMU approval process and for the treatment/unit design standards, and treatment and/or storage only provisions for CAMUs below in Exhibit VIII–4.for a presentation of the total impacts; see also The estimates for the bounding analysis are discussed above, and are not included in the exhibit. Please see the Economic Analysis of the Proposed Amendments to the CAMU Rule for a full discussion of these impacts.

EXHIBIT VIII–4.—TOTAL ANNUAL IMPACTS ESTIMATED OVER THE SCOPE OF ANALYSIS, ASSUMING CONSTANT RATE OF 6 CAMUS PER YEAR

[In thousands of dollars]

Impacts assessed for CAMU amendments	Impact estimates for each year within the scope of analysis					
	2001	2002	2003	2004	2005	2006
1. CAMU Approval Process Impacts	No Costs Incurred	$53–$174	$53–$174	$53–$174	$53–$174	$53–$174
2. Impacts from Treatment and Unit Design Requirement.	No Costs Incurred	$76–$132	$76–$132	$76–$132	$76–$132	$76–[1] $132
Total Impacts	No Costs Incurred	$130–$305	$130–$305	$130–$305	$130–$305	$130–$305

Notes:

[1] This cost was calculated from a capital cost, annualized over 20 years. Therefore, it would continue for 15 more years.

The total impacts associated with the proposed rule are estimated as the sum of the incremental approval costs and the incremental treatment/unit design costs. The analysis provides estimates of the impacts from the rule from the grandfathering window to five years following the effective date of the rule (2001 to 2006). As discussed above, the impacts for the treatment and unit design standards are annualized figures associated with two facilities which

required additional unit design criteria be met to achieve consistency with the proposed amendments. The cost impacts estimated for the potential change in the number of CAMUs are considered in the bounding analysis, which are discussed below. The total impacts are determined to range from $130,000 per year to $305,000 per year.

B. Regulatory Flexibility Act (RFA) as Amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA)

This section of the preamble addresses the potential impacts incurred by small entities as a result of the proposed CAMU amendments. The Agency requests comment on the approach employed to assess small entity impacts, which is discussed below. In particular, the Agency seeks comment on whether the potential impacts to small entities have been fully addressed in this analysis.

1. Methodology to Assess Small Entity Impacts

The RFA generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute 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 organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of the proposed amendments to the rule on small entities, small entity is defined as: (1) A small business that meets the RFA default definitions for small business (based on SBA size standards *www.sbaonline.sba.gov/size);* (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's proposed rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. EPA has determined that there are two facilities employing CAMUs which are small entities, and that these facilities would incur impacts ranging from no impact to 0.004 percent of net sales. Additionally, there are nine facilities for which EPA could not obtain the data to determine size status, but which EPA had the data to assess impacts. For these nine facilities, the impacts ranged from 0.002 to 0.48 percent of net sales. The Agency reached this determination based on the analysis which is described below.

a. *Framework for the Analysis.* The Agency faced two important questions in developing the framework for analyzing small entity impacts. The first was how to address defining the universe of facilities affected by today's rule. The second was how to approach assessing the incremental changes in CAMUs under the baseline and post-regulatory scenarios.

The universe of facilities which could potentially employ a CAMU in remediation, and thus could be affected by today's rule, includes facilities performing cleanups under RCRA corrective action, Superfund, and state cleanup authorities. There are over 6,000 facilities which can be potentially reached through corrective action authority; this figure does not include Superfund sites or other cleanup sites where CAMUs may be used in the future. Of these facilities, today's proposed rule would not impose costs on any existing CAMUs that continue to manage wastes in the general manner for which they were approved, or, of course, on any facilities which manage their wastes without the use of a CAMU (*e.g.,* they send their wastes off-site). Today's proposed standards would apply only to CAMUs which do not remain subject to the existing standards under the grandfathering provisions. However, to determine the number of facilities, out of this total number, which would in fact require cleanup at some point in the future, and would employ a CAMU in the remedy, would require significant effort and yield uncertain results.

Therefore, EPA considered the use of existing data on CAMU usage. The Agency first examined the 1993 CAMU RIA, which was performed in support of the existing CAMU rule. In this RIA, the Agency made a projection of the number of facilities which would employ CAMUs in the future. This projection was based on use of expert panels which reviewed, on a facility-by-facility basis, a randomly selected sample of 79 corrective action facilities and determined when CAMUs would be employed in remediation. The impacts estimated for these facilities were extrapolated to the corrective action universe to develop a national estimate of impacts for the CAMU rule. The Agency estimated that the existing rule would result in CAMUs being employed at approximately 1,500 facilities, or approximately 75 CAMUs per year over a 20 year period. The identities of these facilities, which would have been required for assessing the small entity impacts associated with the rule, were not determined; no impacts assessment was performed for the 1993 CAMU rule.

However, based on data depicting the actual CAMU usage rate over the past seven years at six CAMUs per year, the Agency believes the 1993 RIA projections do not represent an accurate forecast of the expected use of CAMUs in the future. (Some reasons for this disparity between the 1993 RIA projections and the actual usage are discussed above). Therefore, the Agency considered using the data on actual CAMU approval for this analysis. This report contains information on 39 CAMUs approved under the existing rule for which the Agency had good quality data. For each CAMU, the Agency obtained information on the use of the CAMU at the site, types of wastes managed, treatment required, and unit design; the data are contained in the CAMU Site Background Document, which is included in the docket for today's proposed rule.

Using these data, the Agency estimated an annual CAMU approval rate for the past seven years, and applied that rate to project CAMU usage in the future. In projecting future use based on historical data, the Agency assumes that the 39 CAMUs are reasonably representative of expected future CAMU use. This assumption rests on the completeness of the data in the CAMU Site Background Document; this document contains information from all the CAMUs to date for which the Agency had good data. Therefore, it provides a reasonable basis for understanding how the CAMU rule has been implemented to date. For purposes of this analysis, the Agency assumes there will be no new regulations or policy initiatives which affect CAMU usage in the future.

Use of these historical data also mitigated the problems associated with determining the differences in a CAMU under the existing rule (baseline case) as compared to a CAMU under the proposed provisions (post-regulatory case). As discussed in more detail above, the Agency used the information on the 39 existing CAMU remedies to assess consistency with the proposed provisions in today's rule. This assessment involved a facility-by-facility comparison of the existing remedy (baseline case) with the proposed provisions (post-regulatory case). In such an approach, the Agency again assumes that these historical data are reasonably representative of future CAMU remedies under baseline conditions. However, the Agency

believes this presupposition to be sound for the same reasons stated above regarding CAMU.

Therefore, the analysis of the small entity impacts anticipated to result from today's proposed rule rests on an assessment of facilities which have existing CAMUs, not an analysis of facilities which will actually be impacted in the future by this rule. As stated above, the Agency believes that this rule will not significantly affect the nature of CAMU usage related to the types of facilities employing CAMUs in the future. Thus, the Agency believes the analysis of future small entity impacts based on historical CAMU usage is reasonable. The Agency requests comment on the assumptions behind and accuracy of the results derived from employing the conceptual framework described above for this analysis.

b. *Methodological Approach for SBREFA Analysis:* This analysis employs the data on the existing CAMUs from the CAMU Site Background Document to assess the potential for impacts on small entities resulting from the proposed rule. The Agency performed two screening analyses using these data. Screening analyses are the tools the Agency uses to assess the potential for the rule to result in a significant impact on a substantial number of small entities, and thus the need for development of a Small Business Advocacy Review Panel. First, the Agency examined those facilities which employed CAMUs in the baseline to determine whether any of these facilities were small entities, and if so whether they incurred a significant impact as a result of the proposed rule. Second, for those facilities for which the size status could not be determined, the Agency assumed small entity status, and performed a significant impact screen using the Sales Test (i.e., assessing the ratio of incremental costs to net sales for a facility). As there are no small organizations or small governmental jurisdictions which currently have CAMUs, these entities are not anticipated to incur any impacts resulting from the rule. The results from each screening analysis are discussed below.

c. *Examination of Existing CAMUs for Small Entity Status:* EPA collected data on the employee size and net sales for the 39 facilities employing CAMU in the baseline (the sources from which these data were obtained are listed in the background document). Using these data, EPA determined, according to the SBA size standards (see www.sbaonline.sba.gov/size/section04b.htm), whether any of the 39 facilities were small entities. Of the facilities for which data existed to determine size status, only two were identified as small entities. The impact incurred by these two small entities was under 0.01 percent of net sales. This finding suggests that it is very unlikely that these two facilities would be significantly impacted by the rule. See the Economic Analysis of the Proposed Amendments to the CAMU Rule in the docket for today's proposed rule for greater detail on this analysis.

d. *Significant Impact Screen of Facilities for Which Size Was Undetermined:* The Agency examined the 11 facilities for which data concerning size status were not available. Using the Standard Industrial Classification (SIC) Code for a given facility, the Agency obtained data on the estimated receipts for small entities within the SIC code and the number of small entities within the SIC code (these data were obtained from *www.sba.gov/advo/stats/int_data.html).* The estimated receipts for these entities were employed as a surrogate for net sales. From these data, the average estimated receipts per small firm within the SIC code was determined. This figure, the average estimated receipts per small firm, was then assumed to be representative of the receipts for the facility in question. The Sales Test ratio (i.e., the ratio of the average estimated receipts per firm by SIC code to the annual incremental costs of the proposed rule incurred by the facility) was then calculated. For the nine facilities for which the data existed to calculate the Sales Test ratio, this ratio ranged between 0.002 percent and 0.48 percent. The Agency believes this range of percentages reasonably validates a conclusion of no significant impacts for these facilities. However, there were two facilities for which the data required to make this calculation were not available. Based on the annual incremental costs projected for these two facilities as a result of the proposed rule, it seems very unlikely that these facilities, if they were small entities, would incur significant impacts. See the Economic Analysis of the Proposed Amendments to the CAMU Rule in the docket for today's proposed rule for greater detail on this analysis.

2. The Impacts Estimated on Small Entities

Based on the two screening analyses described above, the Agency has concluded that today's proposed rule would not have a significant impact on a substantial number of small entities. EPA continues to be interested in the potential impacts of the proposed rule on small entities and welcomes comments on issues related to such impacts.

C. Paperwork Reduction Act

The information collection requirements in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB) under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* An Information Collection Request (ICR) document has been prepared by EPA (ICR No. 1573.07) and a copy may be obtained from Sandy Farmer by mail at OP Regulatory Information Division; U.S. Environmental Protection Agency (2137); 401 M St., S.W.; Washington, DC 20460, by email at farmer.sandy@epamail.epa.gov, or by calling (202) 260–2740. A copy may also be downloaded off the internet at *http://www.epa.gov/icr.*

The U.S. Environmental Protection Agency (EPA) is proposing to amend the regulations for CAMUs under the Resource Conservation and Recovery Act (RCRA). EPA originally established regulations applicable to CAMUs at 40 CFR part 264, Subpart S (58 FR 8658, Feb. 16, 1993). EPA is now proposing to amend these regulations to, among other things, more specifically define the eligibility of wastes to be managed in CAMUs, establish treatment requirements for wastes managed in CAMUs, and set technical standards for CAMUs. With regard to paperwork requirements, the proposed rule would add language identifying specific types of information that facilities must submit in order to gain CAMU approval at existing § 264.552(d)(1)–(3) and would require that CAMU-authorizing documents require notification for groundwater releases as necessary to protect human health and the environment at § 264.552(e)(5).

The current general requirement for information submission, at § 264.552(d), requires the owner or operator to submit sufficient information to enable the RA to designate a CAMU. EPA proposes modifying the existing information requirement under § 264.552(d) to include submission of the specific information listed under proposed § 264.552(d)(1)(3). The modifications in the proposal are additions to the existing general requirement, and add three specific information submission requirements to directly address the proposed amendments pertaining to CAMU eligibility. EPA is proposing that specific information must be submitted (unless not reasonably available): (1) On the origin of the waste and how it was subsequently managed (including a

description of the timing and circumstances surrounding the disposal and/or release to the environment) [provision § 264.552(d)(1)]; (2) whether the waste was listed or identified as hazardous at the time of disposal and/or release to the environment [provision § 264.552(d)(2)]; and (3) whether the waste was subject to the land disposal requirements of Part 268 at the time of disposal and/or release to the environment [provision § 264.552(d)(3)]. Additionally, EPA is proposing to require certain facilities to notify EPA of releases to groundwater. EPA will use this information to monitor releases and make determinations of when the releases might cause danger to human health or the environment. Facility owners or operators may use this data to keep track of releases and prevent them from reaching unacceptable levels.

EPA is proposing to amend the requirements for designating a CAMU under the authority of sections 1006, 2002(a), 3004, 3005(c), 3007 and 3008(h) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, as amended by the Hazardous and Solid Waste Amendments (HSWA) of 1984. In particular, under Sections 2002 and 3007 of RCRA, EPA is proposing the information collection amendments to the CAMU rule described above because they are needed for the Agency to effectively designate and track the operation of CAMUs.

EPA estimates the total annual respondent burden and cost for the proposed new paperwork requirements to be approximately 844 hours and $42,572. The bottom line respondent burden over the three-year period covered by this ICR is 2,412 hours, at a total cost of approximately $127,716. The Agency burden or cost associated with this proposed rule is estimated to be approximately 129 hours and $5,016 per year. The bottom line Agency burden over the three-year period covered by this ICR is 387 hours, at a total cost of approximately $15,048. [17]

Section 3007(b) of RCRA and 40 CFR Part 2, Subpart B, which defines EPA's general policy on public disclosure of information, contain provisions for confidentiality. However, the Agency does not anticipate that businesses will assert a claim of confidentiality covering all or part of the information that will be requested pursuant to the proposed amended CAMU rule. If such a claim were asserted, EPA must and will treat the information in accordance with the regulations cited above. EPA also will assure that this information collection complies with the Privacy Act of 1974 and OMB Circular 108.

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.

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.

Comments are requested 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. Send comments on the ICR to the Director, OPPE Regulatory Information Division; U.S. Environmental Protection Agency (2137); 401 M St., S.W.; Washington, DC 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th St., N.W., Washington, DC 20503, marked ''Attention: Desk Officer for EPA.'' Include the ICR number in any correspondence. Since OMB is required to make a decision concerning the ICR between 30 and 60 days after August 22, 2000, a comment to OMB is best assured of having its full effect if OMB receives it by September 21, 2000. The final rule will respond to any OMB or public comments on the information collection requirements contained in this proposal.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

EPA has determined that this rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any one year. The amendments being proposed establish approval process changes and treatment/unit design requirements which are overall already in use in the baseline. Therefore, the incremental impacts, as discussed in this analysis, are not estimated to be significant. See the above analysis for an overview of the impacts estimated for the proposed amendments. Thus, the CAMU Proposed Amendments are not subject to the requirements of sections 202 and 205 of the UMRA.

Finally, EPA has determined that this proposed rule contains no regulatory requirements that might significantly or uniquely affect small governments. Under today's proposed rule, small

[17] Subsequent to conducting the Information Collection Request analysis, EPA updated the number of CAMUs used for ''permanent'' disposal and the number used for ''treatment and/or storage'' only. The ICR estimates that 31 of the 39 CAMUs in the CAMU Site Background Document were for permanent disposal; the correct number is 30 of 39. EPA will make the necessary recalculations to the ICR in the context of the final rule. EPA believes that the change in estimated burden as a result of such recalculations will be inconsequential.

governments will not implement the CAMU rule and are not generally expected to use CAMUs based on current patterns of CAMU usage seen in historical data. In addition, the CAMU rule makes no distinction between small governments and any potential regulated party.

E. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (''NTTAA''), Public Law No. 104–113, Section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

The proposed rulemaking involves technical standards (e.g., use of the TCLP test to assess compliance with treatment requirements). The Agency did not identify any potentially applicable voluntary consensus standards during its efforts to develop appropriate standards (e.g., during its discussions with Agency personnel and stakeholders who are experts in the areas addressed by this rulemaking).

EPA welcomes comments on this aspect of the proposed rulemaking and, specifically, invites the public to identify potentially-applicable voluntary consensus standards and to explain why such standards should be used in this regulation.

F. Consultation and Coordination With Indian Tribal Governments (Executive Order 13084)

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

The proposed rule would not impose substantial direct compliance costs on communities of Indian tribal governments because Indian tribal governments do not implement the CAMU rule. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

G. Protection of Children From Environmental Health Risks and Safety Risks (Executive Order 13045)

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 proposed rule is not subject to the Executive Order because it is not economically significant as defined in Executive Order 12866, and because the Agency does not have reason to believe that this rule presents disproportionate or additional risks to children. The Agency does not believe that the risks addressed by today's amendments—i.e., the risks from on-site management of hazardous cleanup wastes—present a disproportionate risk to children. The proposed rule, among other things, sets minimum CAMU treatment and design standards designed to help ensure the protectiveness of CAMUs. EPA's analysis of these requirements shows that CAMUs are already meeting the minimum standards proposed in this rule. As amended by the proposed rule, the CAMU rule would continue to require that a decision concerning overall protectiveness of any specific CAMU be made by the Regional Administrator based on site-specific circumstances, including risks to children where appropriate. The Agency is committed to ensuring that these site-specific assessments include an assessment of risks to children where appropriate. Therefore, the Agency believes that these amendments do not present disproportionate or additional risks to children at facilities employing a CAMU.

The public is invited to submit comments on any potential children's risk implications believed to be associated with the CAMU proposed amendments.

H. Federalism (Executive Order 13132)

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), 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.''

This proposed rule does not have federalism implications. It 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. First, any direct effects on the States will not be substantial, because, as described more fully above, the Agency expects the increased analytical costs for oversight agencies (i.e., EPA or authorized states) associated with the rule to be insignificant. In addition, although the proposed amendments would limit the discretion available to oversight agencies under the current CAMU rule, the Agency's record demonstrates that the CAMU decisions expected under the amendments are generally the same as those reached under the current regulatory framework. In addition, EPA does not believe the proposed rule would have a substantial direct effect on states as regulated parties, since based on past patterns of CAMU usage, state governments are not generally expected to use CAMUs.

As for the EPA-State relationship and distribution of power and responsibilities, today's proposal includes state authorization provisions that would allow the large majority of

states currently authorized for the CAMU provisions to become interim authorized for the amendments at the same time those amendments become effective. Thus, for those states, there will be no period in which the amendments are in effect federally, but not as a matter of state law. Even for those CAMU-authorized states that do not become interim authorized under this procedure, however, the Agency does not believe that any impact of the rule would be substantial. Although the Agency would implement the amendments in such states until they become authorized, EPA does not expect that this will generally result in changes to the state's individual CAMU decisions under state law, since, as described above, state CAMU decisions will likely be consistent with today's amendments. Thus, Executive Order 13132 does not apply to this rule.

The Agency notes, in addition, that prior to entering into the CAMU settlement agreement, EPA did discuss with the States potential impacts on States from amendments to the CAMU rule. During these discussions, individual States expressed concerns about potential disruption caused by the authorization process that would be required in States that are already authorized for the 1993 CAMU rule, the reduced discretion that would be available under any amendments to the CAMU rule, and the potentially more elaborate process that would be involved in making CAMU decisions.

EPA recognizes that these are valid concerns, and believes today's proposal addresses them. For example, EPA has proposed a grandfathering provision, to address the issue of disrupting existing CAMUs and those that are substantially in the approval process. The proposal will also include an approach to authorization that is intended to reduce disruption for States with authorized CAMU programs, and to expedite authorization for States that have corrective action programs but are not yet authorized for CAMU. In addition, EPA recognizes that increased process would be introduced by this proposal, but, as is described in the background section of today's preamble, has tried to find a reasonable balance by adding sufficient detail to achieve the proposal's goals while preserving site-specific flexibility that provides incentives to cleanup. Finally, the proposal is designed to incorporate the CAMU designation process into the existing decision-making process that is typically used by states and EPA for cleanups, including that used for making CAMU determinations. For example, EPA designed the principal hazardous constituent process, and certain proposed adjustment factors to reference the overall cleanup decision-making process within which the CAMU decision is made. EPA seeks comment on its approach to address these concerns.

I. Environmental Justice (Executive Order 12898)

On February 11, 1994, the President issued Executive Order 12898, entitled ''Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations,'' and an accompanying memorandum to federal department and agency heads. The Order establishes a policy to help ensure that all communities, including minority communities and low-income communities, live in a safe and healthful environment. As noted in the presidential memorandum, it is designed to focus federal attention on the human health and environmental conditions in minority communities and low-income communities to realize the goal of achieving environmental justice. The Order also is intended to foster nondiscrimination in federal programs that substantially affect human health or the environment, and to give minority communities and low-income communities greater opportunities for public participation in, and access to public information on, matters relating to human health and the environment. In general, to the greatest extent practicable and permitted by law, the Order directs federal agencies to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations.

Today's proposed rule is intended to amend the existing CAMU rule through, among other things, establishing a formalized process for approval of CAMUs, as well as setting national minimum treatment and unit design standards for CAMUs. The treatment and unit design standards formalize the existing expectations that site decisions be made within the overall decision making process in a manner protective of human health and the environment. The Agency's analysis shows that CAMUs are already meeting these minimum standards. Therefore, the Agency believes that these amendments, although formalizing such requirements, would not appreciably affect the risks at facilities where CAMUs are employed. This rule does not specifically address the overall remedial decision making process within which CAMUs are approved. Thus, EPA believes that this rule will not have any disproportionately high and adverse human health or environmental effects on minority populations or low-income populations. The Agency continues its commitment to ensuring that environmental justice concerns are addressed within remedial decisions in corrective action.

List of Subjects

40 CFR Part 260

Environmental protection, Administrative practice and procedures, Confidential business information, Hazardous waste, Reporting and recordkeeping requirements.

40 CFR Part 264

Air pollution control, Hazardous waste, Insurance, Hazardous materials transportation, Packaging and containers, Reporting and recordkeeping requirements, Security measure, Surety bonds.

40 CFR Part 271

Administrative practice and procedure, Confidential business information, Hazardous materials transportation, Hazardous waste, Indians-lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control, Water supply.

Dated: August 7, 2000.

Carol M. Browner,

Administrator.

For the reasons set out in the preamble, 40 CFR Parts 260, 264 and 271 are proposed to be amended as follows.

PART 260—HAZARDOUS WASTE MANAGEMENT SYSTEM: GENERAL

1. The authority citation for part 260 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921–6927, 6930, 6934, 6935, 6937, 6938, 6939, and 6974.

2. Section 260.10 is amended by removing the definition of ''Corrective action management unit (CAMU).''

PART 264—STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

3. The authority citation for part 264 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6924, and 6925.

4. Section 264.550 is added to Subpart S as follows:

§ 264.550 Applicability of Corrective Action Management Unit (CAMU) Regulations.

(a) Except as provided in paragraph (b) of this section, CAMUs are subject to the requirements of § 264.552.

(b) CAMUs that were approved before the [effective date of final rule], or for which substantially complete applications (or equivalents) were submitted to the Agency on or before [Insert date 90 days after the publication date of this proposed rule], are subject to the requirements in § 264.551 for grandfathered CAMUs, so long as the waste, waste management activities, and design of the CAMU remain within the general scope of the CAMU as approved.

5. Section 264.552 is redesignated as § 264.551 and newly designated § 264.551 is amended by revising the title and paragraph (a) as follows:

§ 264.551 Grandfathered Corrective Action Management Units (CAMUs).

(a) To implement remedies under § 264.101 or RCRA 3008(h), or to implement remedies at a permitted facility that is not subject to § 264.101, the Regional Administrator may designate an area at the facility as a corrective action management unit under the requirements in this section. Corrective action management unit means an area within a facility that is used only for managing remediation wastes for implementing corrective action or cleanup at the facility. A CAMU must be located within the contiguous property under the control of the owner/operator where the wastes to be managed in the CAMU originated. One or more CAMUs may be designated at a facility.

(b) * * *

* * * * *

6. A new § 264.552 is added as follows:

§ 264.552 Corrective Action Management Units (CAMU).

(a) To implement remedies under § 264.101 or RCRA 3008(h), or to implement remedies at a permitted facility that is not subject to § 264.101, the Regional Administrator may designate an area at the facility as a corrective action management unit under the requirements in this section. Corrective action management unit means an area within a facility that is used only for managing CAMU-eligible wastes for implementing corrective action or cleanup at the facility. A CAMU must be located within the contiguous property under the control of the owner/operator where the wastes to be managed in the CAMU originated. One or more CAMUs may be designated at a facility.

(1) *CAMU-eligible waste means:*

(i) All solid and hazardous wastes, and all media (including groundwater, surface water, soils, and sediments) and debris that contain listed hazardous wastes or that themselves exhibit a hazardous characteristic and are managed for implementing cleanup. As-generated wastes (either hazardous or non-hazardous) from ongoing industrial operations at a site are not CAMU-eligible wastes.

(ii) Wastes that would otherwise meet the description in paragraph (a)(1)(i) of this section are not ''CAMU-Eligible Wastes'' where:

(A) The wastes are hazardous wastes found during cleanup in intact or substantially intact containers, tanks, or other non-land-based units, unless the wastes are first placed in the tanks, containers or non-land-based units as part of cleanup, or the containers are excavated during the course of cleanup; or

(B) The Regional Administrator exercises the discretion in paragraph (a)(2) of this section to prohibit the wastes from management in a CAMU.

(iii) Notwithstanding paragraph (a)(1)(i) of this section, where appropriate, as-generated non-hazardous waste may be placed in a CAMU where such waste is being used to facilitate treatment or the performance of the CAMU.

(2) The Regional Administrator may prohibit, where appropriate, the placement of waste in a CAMU where the Regional Administrator has or receives information that such wastes have not been managed in compliance with applicable land disposal treatment standards of part 268 of this chapter, or applicable unit design requirements of this part, or applicable unit design requirements of part 265 of this chapter, or that non-compliance with other applicable requirements of this chapter likely contributed to the release of the waste.

(3) Prohibition against placing liquids in CAMUs.

(i) The placement of bulk or noncontainerized liquid hazardous waste or free liquids contained in hazardous waste (whether or not sorbents have been added) in any CAMU is prohibited except where placement of such wastes facilitates the remedy selected for the waste.

(ii) The requirements in § 264.314(d) for placement of containers holding free liquids in landfills apply to placement in a CAMU except where placement facilitates the remedy selected for the waste.

(iii) The placement of any liquid which is not a hazardous waste in a CAMU is prohibited unless such placement facilitates the remedy selected for the waste or a demonstration is made pursuant to § 264.314(f).

(iv) The absence or presence of free liquids in either a containerized or a bulk waste must be determined in accordance with § 264.314(c). Sorbents used to treat free liquids in CAMUs must meet the requirements of § 264.314(e).

(4) Placement of CAMU-eligible wastes into or within a CAMU does not constitute land disposal of hazardous wastes.

(5) Consolidation or placement of CAMU-eligible wastes into or within a CAMU does not constitute creation of a unit subject to minimum technology requirements.

(b)(1) The Regional Administrator may designate a regulated unit (as defined in § 264.90(a)(2)) as a CAMU, or may incorporate a regulated unit into a CAMU, if:

(i) The regulated unit is closed or closing, meaning it has begun the closure process under § 264.113 or § 265.113; and

(ii) Inclusion of the regulated unit will enhance implementation of effective, protective and reliable remedial actions for the facility.

(2) The subpart F, G, and H requirements and the unit-specific requirements of part 264 or 265 that applied to the regulated unit will continue to apply to that portion of the CAMU after incorporation into the CAMU.

(c) The Regional Administrator shall designate a CAMU that will be used for storage and/or treatment only in accordance with paragraph (f) of this section. The Regional Administrator shall designate all other CAMUs in accordance with the following:

(1) The CAMU shall facilitate the implementation of reliable, effective, protective, and cost-effective remedies;

(2) Waste management activities associated with the CAMU shall not create unacceptable risks to humans or to the environment resulting from exposure to hazardous wastes or hazardous constituents;

(3) The CAMU shall include uncontaminated areas of the facility, only if including such areas for the purpose of managing CAMU-eligible waste is more protective than management of such wastes at contaminated areas of the facility;

(4) Areas within the CAMU, where wastes remain in place after closure of the CAMU, shall be managed and contained so as to minimize future releases, to the extent practicable;

(5) The CAMU shall expedite the timing of remedial activity implementation, when appropriate and practicable;

(6) The CAMU shall enable the use, when appropriate, of treatment technologies (including innovative technologies) to enhance the long-term effectiveness of remedial actions by reducing the toxicity, mobility, or volume of wastes that will remain in place after closure of the CAMU; and

(7) The CAMU shall, to the extent practicable, minimize the land area of the facility upon which wastes will remain in place after closure of the CAMU.

(d) The owner/operator shall provide sufficient information to enable the Regional Administrator to designate a CAMU in accordance with the criteria in § 264.552. This must include, unless not reasonably available, information on:

(1) The origin of the waste and how it was subsequently managed (including a description of the timing and circumstances surrounding the disposal and/or release);

(2) Whether the waste was listed or identified as hazardous at the time of disposal and/or release; and

(3) Whether the waste was subject to the land disposal requirements of part 268 of this chapter at the time of disposal and/or release.

(e) The Regional Administrator shall specify, in the permit or order, requirements for CAMUs to include the following:

(1) The areal configuration of the CAMU.

(2) Except as provided in paragraph (g) of this section, requirements for CAMU-eligible waste management to include the specification of applicable design, operation, treatment and closure requirements.

(3) Minimum Design Requirements: CAMUs, except as provided in paragraph (f) of this section, into which wastes are placed must be designed in accordance with the following:

(i) Unless the Regional Administrator approves alternate requirements under paragraph (e)(3)(ii) of this section, CAMUs that consist of new, replacement, or laterally expanded units must include a composite liner and a leachate collection system that is designed and constructed to maintain less than a 30-cm depth of leachate over the liner. For purposes of this section, composite liner means a system consisting of two components; the upper component must consist of a minimum 30-mil flexible membrane liner (FML), and the lower component must consist of at least a two-foot layer of compacted soil with a hydraulic conductivity of no more than 1×10–7 cm/sec. FML components consisting of high density polyethylene (HDPE) must be at least 60 mil thick. The FML component must be installed in direct and uniform contact with the compacted soil component;

(ii) Alternate requirements. The Regional Administrator may approve alternate requirements if:

(A) The Regional Administrator finds that alternate design and operating practices, together with location characteristics, will prevent the migration of any hazardous constituents into the ground water or surface water at least as effectively as the liner and leachate collection systems in paragraph (e)(3)(i) of this section; or,

(B) The CAMU is to be established in an area with existing significant levels of contamination, and the Regional Administrator finds that an alternative design, including a design that does not include a liner, would prevent migration from the unit that would exceed long-term remedial goals.

(4) Minimum treatment requirements. Unless the wastes will be placed in a CAMU for storage and/or treatment only in accordance with paragraph (f) of this section, CAMU-eligible wastes that, absent this section, would be subject to the treatment requirements of part 268 of this chapter, and that the Regional Administrator determines contain principal hazardous constituents must be treated to the standards specified in paragraph (e)(4)(iii) of this chapter.

(i) Principal hazardous constituents are those constituents that the Regional Administrator determines pose a risk to human health and the environment substantially higher than the cleanup levels or goals at the site.

(A) In general, the Regional Administrator will designate as principal hazardous constituents:

(1) Carcinogens that pose a potential direct risk from ingestion or inhalation at the site at or above 10^{-3}; and,

(2) Non-carcinogens that pose a potential direct risk from ingestion or inhalation at the site an order of magnitude or greater over their reference dose.

(B) The Regional Administrator will also designate constituents as principal hazardous constituents, where appropriate, based on risks posed by the potential migration of constituents in wastes to groundwater, considering such factors as constituent concentrations, and fate and transport characteristics under site conditions.

(C) The Regional Administrator may also designate other constituents as principal hazardous constituents that the Regional Administrator determines pose a risk to human health and the environment substantially higher than the cleanup levels or goals at the site.

(ii) In determining which constituents are ''principal hazardous constituents,'' the Regional Administrator must consider all constituents which, absent this section, would be subject to the treatment requirements in part 268 of this chapter.

(iii) Waste that the Regional Administrator determines contains principal hazardous constituents must meet treatment standards determined in accordance with paragraph (e)(4)(iv) or (e)(4)(v) of this section:

(iv) Treatment standards for wastes placed in CAMUs.

(A) For non-metals, treatment must achieve 90 percent reduction in total principal hazardous constituent concentrations, except as provided by paragraph (e)(4)(iv)(C) of this section.

(B) For metals, treatment must achieve 90 percent reduction in principal hazardous constituent concentrations as measured in leachate from the treated waste or media (tested according to the TCLP) or 90 percent reduction in total constituent concentrations (when a metal removal treatment technology is used), except as provided by paragraph (e)(4)(iv)(C) of this section.

(C) When treatment of any principal hazardous constituent to a 90 percent reduction standard would result in a concentration less than 10 times the Universal Treatment Standard for that constituent, treatment to achieve constituent concentrations less than 10 times the Universal Treatment Standard is not required. Universal Treatment Standards are identified in § 268.48 Table UTS.

(D) For waste exhibiting the hazardous characteristic of ignitability, corrosivity or reactivity, the waste must also be treated to eliminate these characteristics.

(E) For debris, the debris must be treated in accordance with § 268.45, or by methods or to levels established under paragraph (e)(4)(iv)(A) through (D) or (e)(4)(v) of this section, whichever the Regional Administrator determines is appropriate.

(v) Adjusted standards. The Regional Administrator may adjust the treatment level or method in (e)(4)(iv) of this section to a higher or lower level, based on one or more of the following factors, as appropriate. The adjusted level or

method must be protective of human health and the environment:

(A) The technical impracticability of treatment to the levels or by the methods in (e)(4)(iv) of this section;

(B) The levels or methods in (e)(4)(iv) of this section would result in concentrations of hazardous constituents that are significantly above or below cleanup standards applicable to the site (established either site-specifically, or promulgated under state or federal law);

(C) The views of the affected local community on the treatment levels or methods in (e)(4)(iv) of this section as applied at the site, and, for treatment levels, the treatment methods necessary to achieve these levels;

(D) The short-term risks presented by the on-site treatment method necessary to achieve the levels or treatment methods in (e)(4)(iv) of this section;

(E) The long-term protection offered by the engineering design of the CAMU and related engineering controls:

(1) Where the treatment standards in paragraph (e)(4)(iv) of this section are substantially met and the principal hazardous constituents in the waste or residuals are of very low mobility; or

(2) Where cost-effective treatment has been used, or where, after review of appropriate treatment technologies, the Regional Administrator determines that such treatment is not reasonably available, and:

(i) The CAMU meets the Subtitle C liner and leachate collection requirements for new land disposal units at § 264.301(c) and (d), or

(ii) The principal hazardous constituents in the treated wastes are of very low mobility, or,

(iii) Where wastes have not been treated and the principal hazardous constituents in the wastes are of very low mobility, and either the CAMU meets or exceeds the liner standards for new, replacement, or laterally expanded CAMUs in paragraphs (e)(3)(i) and (ii) of this section, or the CAMU provides substantially equivalent or greater protection.

(vi) The treatment required by the treatment standards must be completed prior to, or within a reasonable time after, placement in the CAMU.

(vii) For the purpose of determining whether wastes placed in CAMUs have met site-specific treatment standards, the Regional Administrator may, as appropriate, specify a subset of the principal hazardous constituents in the waste as analytical surrogates for determining whether treatment standards have been met for other principal hazardous constituents. This specification will be based on the degree of difficulty of treatment and analysis of constituents with similar treatment properties.

(5) Except as provided in paragraph (f) of this section, requirements for ground water monitoring and corrective action that are sufficient to:

(i) Continue to detect and to characterize the nature, extent, concentration, direction, and movement of existing releases of hazardous constituents in ground water from sources located within the CAMU; and

(ii) Detect and subsequently characterize releases of hazardous constituents to ground water that may occur from areas of the CAMU in which wastes will remain in place after closure of the CAMU; and

(iii) Require notification to the Regional Administrator and corrective action as necessary to protect human health and the environment for releases to groundwater from the CAMU.

(6) Except as provided in paragraph (f) of this section, closure and post-closure requirements:

(i) Closure of corrective action management units shall:

(A) Minimize the need for further maintenance; and

(B) Control, minimize, or eliminate, to the extent necessary to protect human health and the environment, for areas where wastes remain in place, post-closure escape of hazardous wastes, hazardous constituents, leachate, contaminated runoff, or hazardous waste decomposition products to the ground, to surface waters, or to the atmosphere.

(ii) Requirements for closure of CAMUs shall include the following, as appropriate and as deemed necessary by the Regional Administrator for a given CAMU:

(A) Requirements for excavation, removal, treatment or containment of wastes; and

(B) Requirements for removal and decontamination of equipment, devices, and structures used in CAMU-eligible waste management activities within the CAMU.

(iii) In establishing specific closure requirements for CAMUs under paragraph (e) of this section, the Regional Administrator shall consider the following factors:

(A) CAMU characteristics;

(B) Volume of wastes which remain in place after closure;

(C) Potential for releases from the CAMU;

(D) Physical and chemical characteristics of the waste;

(E) Hydrological and other relevant environmental conditions at the facility which may influence the migration of any potential or actual releases; and

(F) Potential for exposure of humans and environmental receptors if releases were to occur from the CAMU.

(iv) Cap requirements.

(A) At final closure of the CAMU, for areas in which wastes will remain after closure of the CAMU, the owner or operator must cover the CAMU with a final cover designed and constructed to meet the following performance criteria, except as provided in paragraph (e)(6)(iv)(B) of this section:

(1) Provide long-term minimization of migration of liquids through the closed unit;

(2) Function with minimum maintenance;

(3) Promote drainage and minimize erosion or abrasion of the cover;

(4) Accommodate settling and subsidence so that the cover's integrity is maintained; and

(5) Have a permeability less than or equal to the permeability of any bottom liner system or natural subsoils present.

(B) The Regional Administrator may determine that modifications to paragraph (e)(6)(iv)(A) of this section are needed to facilitate treatment or the performance of the CAMU (e.g., to promote biodegradation).

(v) Post-closure requirements as necessary to protect human health and the environment, to include, for areas where wastes will remain in place, monitoring and maintenance activities, and the frequency with which such activities shall be performed to ensure the integrity of any cap, final cover, or other containment system.

(f) CAMUs used for storage and/or treatment only are CAMUs in which wastes will not remain after closure. Such CAMUs must be designated in accordance with all requirements of this section, except as follows. CAMUs used for storage/and or treatment only:

(1) Are not subject to the treatment requirements under paragraph (e)(4) of this section;

(2) Must have requirements specified in the permit or order in accordance with:

(i) The staging pile performance criteria at §§ 264.554(d)(1)(i) through (ii) and (d)(2) in lieu of the CAMU designation criteria at paragraph (c) of this section;

(ii) The staging pile standards for management of ignitable, reactive or incompatible wastes at § 264.554(e) through (f);

(iii) The staging pile standards for closure at § 264.554(j) through (k), in lieu of the CAMU closure standards at paragraph (e)(6) of this section;

(3) That will operate in accordance with the time limits established in the staging pile regulations at

§ 264.554(d)(1)(iii), (h), and (i), are not subject to the groundwater monitoring and corrective action requirements of paragraph (e)(5) of this section and the minimum design requirements for liners of paragraph (e)(3) of this section;

(4) That will operate beyond the period permitted in the staging pile regulations at § 264.554(d)(1)(iii), (h), and (i), must have a time limit established by the Regional Administrator that is no longer than necessary to achieve a timely remedy selected for the waste.

(g) CAMUs into which wastes are placed where all wastes have constituent levels at or below remedial levels or goals applicable to the site do not have to comply with the requirements for liners at paragraph (e)(3)(i) of this section, caps at paragraph (e)(6)(iv) of this section, groundwater monitoring requirements at paragraph (e)(5) of this section or the design standards at paragraph (f) of this section for treatment and/or storage-only CAMUs.

(h) The Regional Administrator shall provide public notice and a reasonable opportunity for public comment before designating a CAMU. Such notice shall include the rationale for any proposed adjustments under paragraph (e)(4)(iii)(B) of this section to the treatment standards in paragraph (e)(4)(iv) of this section.

(i) Notwithstanding any other provision of this section, the Regional Administrator may impose additional requirements as necessary to protect human health and the environment.

(j) Incorporation of a CAMU into an existing permit must be approved by the Regional Administrator according to the procedures for Agency-initiated permit modifications under § 270.41 of this chapter, or according to the permit modification procedures of § 270.42 of this chapter.

(k) The designation of a CAMU does not change EPA's existing authority to address clean-up levels, media-specific points of compliance to be applied to remediation at a facility, or other remedy selection decisions.

PART 271—REQUIREMENTS FOR AUTHORIZATION OF STATE HAZARDOUS WASTE PROGRAMS

7. The authority citation for Part 271 continues to read as follows:

Authority: 42 U.S.C. 9605, 6912(2), and 6926.

8. Section 271.1(j) is amended by adding the following entry to Table 1 in chronological order by promulgation date in the **Federal Register**, to read as follows:

§ 271.1 Purpose and scope.

* * * * *

(j) * * *

TABLE 1.—REGULATIONS IMPLEMENTING THE HAZARDOUS AND SOLID WASTE AMENDMENTS OF 1984

Promulgation date	Title of regulation	Federal Register reference	Effective date
* * *	*	* *	*
[*date of publication of final rule in the Federal Register (FR)*]	Corrective Action Management Unit Standards Amendments.	[*FR page numbers*]	[*date of 90 days from date of publication of final rule*].

* * * * *

9. Section 271.24 is amended by revising paragraph (c) to read as follows:

§ 271.24 Interim authorization under section 3006(g) of RCRA.

* * * * *

(c) Interim authorization pursuant to this section expires on January 1, 2003, except that interim authorization for the revised Corrective Action Management Unit rule promulgated on [date of publication of final rule in the **Federal Register** (FR) and FR page numbers] expires on [date of 3 years from the effective date of the final rule].

10. A new § 271.27 is added at the end of subpart A to read as follows:

§ 271.27 Interim authorization-by-rule for the revised Corrective Action Management Unit rule.

(a) States shall have interim authorization pursuant to section 3006(g) of RCRA for the revised Corrective Action Management Unit rule if:

(1) The State has been granted final authorization pursuant to section 3006(b) of RCRA for the provisions for Corrective Action Management Units in § 264.552 of this chapter;

(2) The State does not have an audit privilege or immunity law that raises unresolved concerns about adequate enforcement under section 3006(b) of RCRA; and

(3) The State notifies the Administrator by [date of 60 days from date of publication of final rule] that the State intends to and is able to use the revised Corrective Action Management Unit Standards rule as guidance.

(b) Interim authorization pursuant to this section expires on [date of 3 years from the effective date of the final rule].

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August 22, 2000

Part IV

Department of Labor

Employment and Training Administration

20 CFR Part 655

Attestations by Facilities Temporarily Employing H–1C Nonimmigrant Aliens as Registered Nurses; Interim Final Rule

DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Part 655

RIN 1205–AB27

Attestations by Facilities Temporarily Employing H–1C Nonimmigrant Aliens as Registered Nurses

AGENCIES: Employment and Training Administration, Labor, in concurrence with the Wage and Hour Division, Employment Standards Administration, Labor.

ACTION: Interim final rule; request for comments.

SUMMARY: The Employment and Training Administration (ETA) and the Employment Standards Administration (ESA) of the Department of Labor (DOL or Department) are proposing regulations governing the filing and enforcement of attestations by facilities seeking to employ aliens as registered nurses in health professional shortage areas (HPSAs) on a temporary basis under H–1C visas.

The attestations, required under the Immigration and Nationality Act, as amended by the Nursing Relief for Disadvantaged Areas Act of 1999 (NRDAA), pertain to the facility's: Qualification to employ H–1C nurses; payment of a wage which will not adversely affect wages and working conditions of similarly employed registered nurses; payment of wages to aliens at rates paid to other registered nurses similarly employed by the facility; taking timely and significant steps designed to recruit and retain U.S. nurses in order to reduce dependence on nonimmigrant nurses; absence of a strike/lockout or lay off of nurses; notice to workers of its intent to petition for H–1C nurses; percentages of H–1C nurses to be employed at the facility; and placement of H–1C nurses within the facility.

Facilities must submit these attestations to DOL as a condition for petitioning the Immigration and Naturalization Service (INS) for H–1C nurses. Within DOL, the attestation process will be administered by ETA, while investigations and enforcement regarding the attestations will be handled by ESA.

DATES: *Effective Date:* This interim final rule is effective September 21, 2000.

Compliance Dates: Affected parties do not have to comply with the information and recordkeeping requirements in §§ 655.1101(b), (c) and (f); 655.1110; 655.1111(e); 655.1112(c)(2) and (4); 655.1113(d); 655.1114(e); 655.1115(b) and (d); 655.1116; 655.1117(b); 655.1150(b) and 655.1205(b) until the Department publishes in the **Federal Register** the control numbers assigned by the Office of Management and Budget (OMB) to these information collection requirements. Publication of the control numbers notifies the public that OMB has approved these information collection requirements under the Paperwork Reduction Act of 1995.

Comments: The Department invites written comments on the interim final rule from interested parties. Comments on the interim final rule must be received by September 21, 2000. Written comments on collections of information subject to the Paperwork Reduction Act must be received by September 12, 2000.

ADDRESSES: Submit written comments concerning part 655, subpart L, to the Assistant Secretary for Employment and Training, ATTN: Division of Foreign Labor Certifications, Office of Workforce Security, Employment and Training Administration, U.S. Department of Labor, Room C–4318, 200 Constitution Avenue, NW., Washington, DC 20210.

Submit written comments concerning part 655, subpart M, to the Administrator, Wage and Hour Division, ATTN: Immigration Team, U.S. Department of Labor, Room S–3502, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Written comments on the collection of information requirements should be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for Employment Standards Administration, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: Michael Ginley, Director, Office of Enforcement Policy, Wage and Hour Division, U.S. Department of Labor, Room S–3510, 200 Constitution Avenue, N.W., Washington, D.C. 20210, Telephone: 202–693–0071 (this is not a toll-free number); Dale Ziegler, Chief, Division of Foreign Labor Certifications, Office of Workforce Security, Employment and Training Administration, U.S. Department of Labor, Room C–4318, 200 Constitution Avenue, N.W., Washington, D.C. 20210, Telephone: 202–219–5263 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION:

I. What Is the H–1C Nonimmigrant Program?

The Nursing Relief for Disadvantaged Areas Act of 1999 (NRDAA), Public Law 106–95, 113 Stat. 1312 (November 12, 1999), amended the Immigration and Nationality Act (INA) to add a new section 101(a)(15)(H)(i)(c) and amend section 212(m) to create a new temporary visa program for nonimmigrant aliens to work as registered nurses (RNs or nurses) for up to three years, in facilities which serve health professional shortage areas. 8 U.S.C. 1101(a)(15)(H)(i)(c) and 1182(m). This temporary visa program expires in four years and limits the number of visas issued to 500 a year.

Congress modeled this legislation after the H–1A registered nurse temporary visa program (H–1A program) created by the Immigration Nursing Relief Act of 1989 (INRA), Public Law 101-238, 103 Stat. 2099 (1989), which expired on September 1, 1995. *See e.g.*, H.R. Rep. No. 106–135, 1st Sess. (May 12, 1999). INRA was enacted in response to a nationwide shortage of nurses in the late 1980s, but also sought to address concerns about the perceived increased dependence of health care providers on foreign RNs. *Id.* INRA contained no numerical cap on the number of visas which could be issued under the H–1A program, but required an alien nurse seeking admission under the program to be fully qualified and licensed and an employer intending to hire alien nurses to attest that it had taken significant steps to develop, recruit and retain U.S. workers as employees in the registered nursing profession. 103 Stat. 2100. Subsequent legislation allowed nurses who had entered the United States under the H–1A program to stay and work as registered nurses until September 30, 1997. Pub. L. 104–302 (1996).

Because ''there does not appear to be a national nursing shortage today'' (H.R. Rep. No. 135, 106th Cong., 1st Sess. 5 (1999)), Congress enacted the NRDAA to respond to a very specific need for qualified nursing professionals in understaffed facilities serving mostly poor patients in inner-cities and in some rural areas. See 145 Cong. Rec. H3476 (daily ed. May 24, 1999) (statement of Rep. Rogan). The NRDAA adopts many of the U.S. worker protection provisions of the H–1A program under the INRA. Those provisions include: Alien nurse licensing and qualification requirements; prospective employer attestations about the working conditions and wages of similarly employed nurses; significant steps taken by the employer to recruit and retain U.S. nurses; and the notification of U.S. workers through their bargaining representative or posting of a notice when a petition for H–1C nurses has been filed. The NRDAA also adopts the

INRA provision assigning the Department responsibility for investigating complaints that an employer did not meet the conditions attested to or misrepresented a material fact in the Attestation. As under INRA, employers violating NRDAA provisions may be barred from receiving new H–1C visa petition approvals for at least one year, and may be liable for the payment of back wages. NRDAA violations are subject to civil money penalties in an amount up to $1000 per nurse, per violation, with the total penalty not to exceed $10,000 per violation—a penalty structure similar to INRA.

The NRDAA creates some attestation obligations for employers that were not found in INRA. The H–1C employer must attest: That it meets the definition of ''facility'' based on the Social Security Act and the Public Health Service Act; that it did not and will not lay off a registered nurse in the period between 90 days before and 90 days after the filing of any H–1C petition; that it will not employ a number of H–1C nurses that exceeds 33% of the total number of registered nurses employed by the facility; and that it will not authorize the H–1C nurse to perform nursing services at any worksite other than a worksite controlled by the facility or transfer the H–1C nurse's place of employment from one work place to another. The NRDAA also imposes a filing fee of up to $250 per Attestation filed by a facility. Furthermore, the NRDAA not only limits the number of H–1C visas issued to 500 per year, but also limits the number of visas issued for employment for each state in each fiscal year. The H–1C program will expire four years after the date of promulgation of interim or final regulations.

II. Issuance of Interim Final Rule

The NRDAA requires the Department, in consultation with the Department of Health and Human Services, and the Attorney General, to promulgate ''final or interim final regulations to carry out section 212(m) of the Immigration and Nationality Act (as amended by subsection (b)),'' within 90 days after the date of enactment of the Act (November 12, 1999). The NRDAA further stipulates that its provisions shall take effect on the date that ''interim or final regulations are first promulgated.'' The Department believes that Congress' specific mandate—that the Department ''shall promulgate final or interim final regulations'' within 90 days of enactment of the NRDAA, and that the Act's provisions do not take effect until promulgation of these regulations—contemplates displacement of Administrative Procedure Act (APA) notice and comment procedures and requires the publication of an Interim Final Rule as an initial matter. *See Asiana Airlines* v. *FAA*, 134 F.3d 393 (D.C. Cir. 1998).

In the alternative, the Department believes that the ''good cause'' exception to APA notice and comment rulemaking applies to this rule. Under that exception, no pre-adoption procedures are required ''when the agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.'' 5 U.S.C. 553(b)(B). The NRDAA was enacted in response to an urgent need for registered nurses in hospitals serving medically underserved areas of the United States. The H–1C temporary visa program created by the NRDAA expires in four years and limits the number of visas issued to alien nurses to 500 a year. The H–1C visa program will not take effect until these regulations are promulgated. The steps necessary for the usual notice and comment under APA could not be completed within the 90 days specified by Congress in the NRDAA: approval of the notice of proposed rulemaking by the Secretary and the Office of Management and Budget (OMB); publication in the **Federal Register**; receipt of, consideration of, and response to the comments submitted by interested parties; modification of the proposed rules, if appropriate; final approval by the Secretary; clearance by the OMB; and publication in the **Federal Register**. Moreover, completion of these steps will further delay the much needed H–1C visa program from going into effect. Accordingly, the Department believes that under 5 U.S.C. 553(b)(B) good cause exists for waiver of Notice of Proposed Rulemaking since issuance of proposed rules would be impracticable and contrary to the public interest.

While notice of proposed rulemaking is being waived, the Department is interested in comments and advice regarding changes which should be made to these interim rules. We will fully consider any comments on these rules which we receive on or before September 21, 2000, and will publish the Final Rule with any necessary changes.

III. If a Facility Decides To Participate in the H–1C Nonimmigrant Program, What Are the Recordkeeping and Paperwork Requirements (Subject to the Paperwork Reduction Act) Imposed Under NRDAA and the Department's Regulations, and How Are Comments Submitted?

The Department has requested emergency processing by OMB pursuant to 5 CFR 1320.13 of the collections of information contained in this regulation. The Department has requested that OMB approve or disapprove the collections of information by September 12, 2000.

The Nursing Relief for Disadvantaged Areas Act of 1999 (NRDAA), Public Law 106–95, 113 Stat. 1312 (November 12, 1999), amended the Immigration and Nationality Act (INA) to add a new section 101(a)(15)(H)(i)(c) and amend section 212(m), creating a new temporary visa program for nonimmigrant aliens to work as registered nurses (RNs or nurses) for up to three years, in facilities which serve health professional shortage areas. 8 U.S.C. 1101(a)(15)(H)(i)(c) and 1182(m). This temporary visa program expires in four years and limits the number of visas issued to 500 a year. The attestation process is administered by the Employment and Training Administration (ETA) of the U.S. Department of Labor (DOL). Investigations concerning whether a facility has failed to satisfy the conditions attested to or has misrepresented a material fact in an Attestation are conducted by the Employment Standards Administration (ESA), Wage and Hour Division (WH) of DOL.

A. The Attestation: Form ETA 9081 (Section 655.1110)

Summary: Facilities seeking to employ aliens as registered nurses in health professional shortage areas (HPSAs) on a temporary basis under H–1C visas are required to file a completed Form ETA 9081 and required documentation. On Form ETA 9081, a prospective employer of H–1C nurses must attest to the following:

1. That it qualifies as a facility. A hospital must attest that it is a ''facility'' for purposes of the H–1C program as defined in INA section 212(m)(6), 8 U.S.C. 1182(m)(6). If the Attestation is the first filed by the hospital, it shall be accompanied by copies of the pages from HCFA Form 2552 filed with the Department of Health and Human Services for its 1994 cost reporting period, showing the number of its acute care beds and the percentages of

Medicaid and Medicare reimbursed acute care inpatient days. (*i.e.*, Form HCFA–2552–92, Worksheet S–3, Part I; Worksheet S, Parts I and II). A copy of this documentation must be placed in the public access file. (See section 655.1111)

2. That employment of H–1C nurses will not adversely affect the wages or working conditions of similarly employed nurses. (See section 655.1112) (See section B below)

3. That the facility will pay the H–1C nurse the facility wage rate. (See section 655. 1113) (See section B below)

4. That the facility has taken and is taking timely and significant steps to recruit and retain U. S. nurses. The facility must attest that it has taken timely and significant steps to recruit and retain U.S. nurses or immigrants who are authorized to perform nursing services in order to remove as quickly as possible the dependence of the facility on nonimmigrant registered nurses. A facility must take at least two such steps, unless it can demonstrate that taking a second step is not reasonable. A list of possible steps is provided in this section, but is not considered exhaustive. However, if a facility chooses a step other than the specific steps described in this section, it must submit with the Attestation a description of the step(s) it is proposing to take and an explanation, along with appropriate documentation, of how the proposed step(s) are as timely and significant as the steps described in the regulation. Furthermore, if a facility claims that a second step is unreasonable it must submit an explanation and appropriate documentation with the Attestation. Copies of this documentation must be placed in the public access file. (See section 655.1114)

5. That there is not a strike or lockout at the facility, that the employment of H–1C nurses is not intended or designed to influence an election for a bargaining representative at the facility, and that the facility did not lay off and will not lay off a registered nurse employed by the facility within the period 90 days before and until 90 days after the date of filing an H–1C petition. (See section 655.1115) (See section D below)

6. That the employer will notify other workers and give a copy of the Attestation to every nurse employed at the facility. (See section 655.1116) (See section E below)

7. That no more than 33% of the nurses employed by the facility will be H–1C nonimmigrants. (See section 655.1117) (See section F below)

8. That the facility will not authorize H–1C nonimmigrants to work at a worksite not under its control and will not transfer an H–1C nonimmigrant from one worksite to another. (See section 655.1118)

The facility must provide a copy of the Attestation, within 30 days of the date of filing, to every registered nurse employed at the facility. This requirement may be satisfied by electronic means if an individual e-mail message, with the Attestation as an attachment, is sent to every RN at the facility. After the Attestation is approved by ETA and used by the facility to support any H–1C petition, the facility shall send to ETA, copies of each H–1C petition and the INS approval notice on such petition. For the duration of the Attestation's validity, and as long as the facility uses any H–1C nurse under the Attestation, the facility must maintain a separate file containing the Attestation and its supporting documentation, and must make this file available to any interested party within 72 hours upon written or oral request. The facility must provide a copy of the file to any interested party upon request. (See section 655.1150)

Need: Under the NRDAA, employers are required to make the above attestations in order to be legally authorized to employ nonimmigrant aliens as registered nurses for up to three years in facilities which serve health professional shortage areas.

Respondents and frequency of response: The number of visas which may be issued under the program is limited to 500 per year and based upon operating experience with attestation programs that have been administered by ETA, DOL estimates that 14 facilities will file two Attestations each per year.

Estimated total annual burden: DOL estimates that the completion of each Attestation and the providing of copies to each affected nurse and any collective bargaining representative will take an average of one hour for a total annual burden of 28 hours (14 facilities × 2 Attestations × 1 hour).

B. Facility Wage Documentation (Section 655.1112 and .1113)

Summary: The facility must attest that the alien nurse will be paid the wage rate for registered nurses similarly employed by the facility. The facility must pay each nurse the facility wage or the prevailing wage provided by the State employment security agency (SESA), whichever is higher. Documentation must be placed in the public access file setting forth the facility pay schedule or the factors used in setting pay if such documentation exists, as well as the prevailing wage for similarly employed nurses in the area as provided by the SESA. Further, the facility must maintain the payroll records for nurses employed at the facility required by Regulations, 29 CFR part 516, Records to Be Kept by Employers, and previously cleared by OMB under OMB Approval No. 1215–0017.

Need: This documentation is necessary to ensure the alien nurse is being compensated at the appropriate rate.

Respondents and frequency of response: Each facility applying for H–1C nurses will have to obtain a prevailing wage determination and place the required information in the public access file two times each year.

Estimated total burden: DOL estimates that such documentation will take 20 minutes for an estimated annual burden of 9.3 hours (14 facilities × 20 minutes × 2 times a year).

C. Documentation of Steps to Recruit and Retain U.S. Nurses (Section 655.1114)

Summary: The facility must attest that it has taken and is taking timely and significant steps designed to recruit and retain sufficient registered nurses who are United States citizens or immigrants who are authorized to perform nursing services in order to remove as quickly as possible the dependence of the facility on nonimmigrant registered nurses. The facility must take at least two such steps, unless it demonstrates that taking a second step is not reasonable. The facility must include in the public access file, a description of the activities which constitute its compliance with each timely and significant step attested to on the Form ETA 9081. Documentation which provides a complete description of the nature and operation of its program(s) sufficient to substantiate its full compliance with the requirements of each timely and significant step which is attested to on Form ETA 9081 must also be maintained in the non-public files and made available to the Administrator of the Wage and Hour Division upon request.

Need: This documentation is necessary to ensure a facility is taking steps to recruit and retain U.S. nurses or immigrant nurses authorized to perform nursing services and lessen their dependence on nonimmigrant registered nurses.

Respondents and frequency of response: DOL estimates that 14 facilities will make such documentation once annually.

Estimated total burden: DOL estimates that such documentation will take an average of one hour per

Attestation or 14 hours total burden per year.

D. Notice of Strike/Lockout or Layoff (Section 655.1115)

Summary: If a strike or lockout of nurses occurs during the one year validity period of an approved Attestation, within three days of such occurrence, the facility must submit to the national office of ETA , by U.S. mail or private carrier, a written notice of the strike or lockout. The facility shall include in its public access file, copies of all such notices of strikes or other labor disputes involving a work stoppage of nurses at the facility. The facility must also retain in its non-public files any existing documentation with respect to the departure of each U.S. nurse who left his/her employment with the facility in the period 180 days before or after the facility's petition for H–1C nurse(s), and have a record of the terms of any offer of alternative employment to such a U.S. nurse and the nurse's response to the offer (which may be a note to the file or other record of the nurse's response). The facility must make such record available in the event of an enforcement action pursuant to subpart M.

Need: The notice is necessary to ensure that H–1C nurses are not used to influence an election of a collective-bargaining representative for registered nurses at the facility and to ensure that U.S. nurses are not improperly laid off.

Respondents and frequency of response: DOL estimates that one strike/lockout notice will be submitted by one facility, and that one facility will lay off U.S. nurses and make offers of alternative employment each year.

Estimated total annual burden: DOL estimates that each strike/lockout notice will take 15 minutes, and that one hour will be required to maintain documentation of offers of alternative employment, for a total annual burden of 1.25 hours.

E. Notification of Registered Nurses (Section 655.1116)

Summary: No later than the date the Attestation is transmitted to ETA, and no later than the date that the H–1C petition for H–1C nurses is being submitted to the INS, the facility must notify the bargaining representative (if any) of the registered nurses at the facility that the Attestation, and subsequently the H–1C petition, are being submitted. This notice may be either a copy of the Attestation or petition, or a document stating that the Attestation and H–1C petition are available for review by interested parties at the facility and at the national office of ETA. Where there is no bargaining representative for the registered nurses at the facility, the facility shall notify the registered nurses at the facility through posting in conspicuous locations, that the Attestation, and subsequently the H–1C petition are being submitted. The facility may accomplish this through electronic means it ordinarily uses to communicate with nurses about job vacancies or promotion opportunities, provided that the nurses have, as a practical matter, direct access to those sites; or, where the nurses have individual e-mail accounts, the facility may use e-mail. The facility must maintain, in its public access file, copies of the notices required by this section.

Need: The notice ensures that all aspects of the H–1C process are open to public review and facilitates the complaint and enforcement process.

Respondents and Frequency of Response: DOL estimates that 14 facilities will provide four such notices each year.

Estimated Total Annual Burden: DOL estimates that each such notice will take 15 minutes, for a total annual burden of 14 hours (14 facilities × 4 times a year × 15 minutes).

F. Records of Ratio of H–1C Nurses to Total Registered Nurses (Section 655.1117)

Summary: A facility employing H–1C nurses must attest that it will not, at any one time, employ a number of H–1C nurses that exceeds 33% of the total number of registered nurses employed by the facility. Section 655.1117(b) of these regulations requires that the facility maintain documentation—such as payroll records and copies of H–1C petitions—that would demonstrate that the facility has not exceeded the 33% ratio.

Need: The facility must maintain records that DOL can examine to ensure that the facility has not exceeded the 33% ratio.

Respondents and frequency of response: DOL estimates that each facility will copy and file three H–1C petitions per year. Records need only be accessed when DOL requests their production for inspection during an enforcement action.

Estimated total annual burden: As noted above, payroll records are an approved information collection cleared by OMB under OMB Approval No. 1215–0017. DOL estimates the additional burden for copying and filing H–1C petitions at one minute per petition for a total annual burden of 42 minutes (1 minute a year × 3 petitions a year × 14 facilities).

G. Complaints (Section 655.1205)

Summary: DOL is authorized to investigate and determine whether an employer has failed to meet the conditions attested to or that a facility has misrepresented a material fact in an Attestation (8 U.S.C. 1182(m)(2)(E)(ii) through (v)). Under this interim final rule, the enforcement functions have been delegated to the Department's Employment Standards Administration (ESA), Wage and Hour Division. Under the NRDAA, section 655.1205 provides a process whereby any aggrieved person or organization may provide information alleging that the employer has failed to meet the conditions attested to or that a facility has misrepresented a material fact in their Attestation. No particular order or form of complaint is required, except that the complaint must be written, or if oral, reduced to writing by the WH official who received the complaint. Electronic submission is acceptable.

Need: The complaint process provides a mechanism for affected parties to provide information to DOL regarding alleged violations.

Responses and frequency of response: DOL estimates that two such complaints will be received annually and that each complaint will take approximately 20 minutes for a total burden of 40 minutes.

Total Burden Hours—68 Hours

In the absence of specific wage data about the salaries of employees in facilities who will perform the reporting and record keeping functions required, respondent costs are estimated at $25.00 an hour. Total annual respondent costs are $1700.00 ($25 × 68 hours).

The public is invited to provide comments on this information collection requirement so that the Department of Labor may:

(1) Evaluate whether the proposed collections of information are necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimates of the burdens of the collections of information, including the validity of the methodology and assumptions used;

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

(4) Minimize the burden of the collections of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or

other forms of information technology, *e.g.,* permitting electronic submission of responses.

Written comments should be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for Employment and Training Administration, U.S. Department of Labor, Washington, D.C. 20503 no later than September 12, 2000.

IV. What Matters do the Regulations Address?

Congress, in enacting the NRDAA, created a new H–1C temporary visa program for nonimmigrant registered nurses modeled after the expired H–1A program. H.R. Rep. No. 106–135, 106th Cong., 1st Sess. (1999). For the convenience of the regulated public, in particular those hospitals that hired nonimmigrant nurses under the H–1A program, the Department has in the preamble explained how these H–1C regulations are similar to and different from the H–1A regulations. These regulations also address the new provisions of NRDAA, including the definition of facility, the individual notice requirement, the revised penalty structure, and the filing fee. The Department also intends to streamline DOL review and certification of the employer facility's Attestation by foregoing a factual review of the Attestation except in three limited circumstances: The applicant's eligibility as a ''facility;'' an employer's designation of a ''timely and significant step'' other than the steps identified in the regulations; and an employer's assertion that taking two ''timely and significant steps'' would be too burdensome. The following discussion describes the regulations, which will appear as new subparts L and M of 20 CFR part 655.

Subpart L—What requirements must a facility meet to employ H–1C nonimmigrant aliens as registered nurses?

Section 655.1100 What are the purposes, procedures, and applicability of these regulations?

This section of the regulations describes the purpose of the NRDAA, and delimits the scope of the regulations.

Section 655.1101 What are the responsibilities of the government agencies and the facilities that participate in the H–1C program?

This section of the regulations describes the roles of two DOL agencies (the Employment and Training Administration (ETA) and the Wage and Hour Division of the Employment Standards Administration (ESA)), as well as those of the Immigration and Naturalization Service and the Department of State (INS and DOS). The section also briefly describes the process which a facility must follow in order to obtain H–1C nurses. This provision provides a facility with an understanding of the overall operation of the H–1C program.

Section 655.1102 What are the definitions of terms that are used in these regulations?

This section of the regulations defines terms retained without change from the H–1A program and those retained but revised for the H–1C program. The NRDAA does not define the terms ''employed or employment.'' In this circumstance, where Congress has not specified a legal standard for identifying the existence of an employment relationship, the Department is of the view that Supreme Court precedent requires the application of ''common law'' standards in analyzing a particular situation to determine whether an employment relationship exists. *See Nationwide Mutual Insurance Co.* v. *Darden,* 503 U.S. 318 (1992). The regulations, therefore, contain the common law definition of ''employed or employment.'' In addition, as required by the INA, the regulations provide that the facility which files a petition on behalf of an H–1C nonimmigrant is deemed to be the employer of that nonimmigrant.

The rule also adds a definition for ''aggrieved party,'' a term used in the NRDAA. The Department has, as a result of its enforcement experience in the nonimmigrant programs, developed a definition of ''aggrieved party.''

Section 655.1110 What requirements does the NRDAA impose in the filing of an Attestation?

This section describes the process for a facility submitting an Attestation. To streamline the processing of Attestations, ETA will review the facility's Attestation only for completeness or obvious inaccuracies, except for three Attestation items: the employer's eligibility as a ''facility'' to participate in the H–1C program; a facility's designation of its intention to utilize alternative methods (rather than the methods identified on the Attestation) to comply with the attestation element on ''timely and significant steps'' to reduce its reliance on nonimmigrant nurses; and a facility's assertion that taking a second ''timely and significant step'' to satisfy that attestation element would be unreasonable. To ensure that only those hospitals which are truly qualified facilities participate in this very limited visa program and that facilities and nurses understand what ''timely and significant steps'' must be taken to reduce reliance on nonimmigrant nurses prior to certification of the Attestation, supporting information from the facility is required and ETA will review that information in order to certify the Attestation.

As part of the Attestation filing process, the NRDAA requires the Department to impose a fee, not to exceed $250, for every Attestation filed. 8 U.S.C.1182(m)(2)(F)(i). The statute provides that no more than 500 H–1C nonimmigrant visas may be issued per year. We believe, from information obtained from the Department of Health and Human Services, that there are only about 14 ''facilities'' which are eligible to participate in the program. Based on operating experience with attestation programs administered by ETA, the Department reasonably anticipates that employers will file about 28 Attestations in a given year. While the Department has not ascertained the exact amount of monies that will be expended to administer and enforce the H–1C program, we are certain that this expenditure will easily exceed the $7500 that is the maximum the Department may collect from employers' filing fees. To arrive at this estimate, the Department has included: development and promulgation of this Interim Final Rule and the Final Rule which will follow; furnishing employers with the required prevailing wage determinations; development of the form and software to process the Attestations; processing of Attestations once they are received; setting up facilities to disclose Attestations and petitions to the public; publishing a list of facilities which have submitted Attestations, have Attestations on file, have submitted Attestations which were rejected for filing or have had Attestations suspended; education and advice to the public regarding the operation of the programs; investigations of possible violations; any legal support required from the Office of the Solicitor of Labor; and the resources of the Office of Administrative Law Judges that may be required for review of Attestations that are denied or for appeals of enforcement determinations. The Department estimates that staff resources necessary to perform these duties will undoubtedly exceed one-fourth of a full time equivalent employee (FTE) per fiscal year. At an estimated salary level of an average FTE

involved in the program of $50,000, plus benefits, the Department's costs for at least one-fourth of an FTE will exceed the amount it will collect from charging a fee of $250 per Attestation. In addition, the Department must set up the infrastructure to support the filing and review of the Attestations, as well as to allow the public to view the Attestations and H–1C petitions as required by the statute. Accordingly, the Department will charge $250 per Attestation, the maximum allowed under the statute.

The regulation provides that a check or money order must be submitted with the Attestation in order for it to be processed. If an Attestation is rejected by the Department, the fee will not be refunded since the statute characterizes the fee as a ''filing fee'' based on the costs of carrying out the Secretary's H–1C obligations. 8 U.S.C.1182 (m)(2)(F)(i).

Section 655 .1111 Element 1: What hospitals are eligible to participate in the H–1C program?

The NRDAA contains a restrictive definition of the ''facility'' which is eligible to participate in the H–1C program as an employer of nonimmigrant registered nurses. NRDAA requires the employer hospital to attest that it is a ''facility'' within the meaning of paragraph (6) of section 212(m). Under the latter paragraph, a qualifying facility must be a ''subpart (d) hospital'' as defined in section 1886(d)(1)(B) of the Social Security Act, 42 U.S.C. 1395ww(d)(1)(B). Further, the NRDAA requires that the ''subpart (d) hospital'' must satisfy four other conditions to be an H–1C employer. First, the facility must be located in a health professional shortage area as designated by the Department of Health and Human Services. Second, the facility must have at least 190 acute care beds. Third, at least 35% of the facility's acute care inpatient days must be reimbursed by Medicare. Lastly, at least 28% of the facility's acute care inpatient days must be reimbursed by Medicaid. The NRDAA further requires that, to qualify as a ''facility,'' the hospital must meet these conditions at defined times:

(1) The ''subpart (d) hospital'' must have been located in a health professional shortage area (as determined by the Department of Health and Human Services) on March 31, 1997. A list of such areas was published in the **Federal Register** on May 30, 1997 (62 FR 29395). This notice provides nationwide information on shortage areas by county for Primary Medical Care, Mental Health, and Dental Health. It is the Department's understanding that only the designation of shortage areas for ''primary medical care'' would meet the definition of a ''subpart (d) hospital.''

(2) The facility's requisite number of acute care beds is to be determined by the facility's settled cost report (Form HCFA 2552), filed under title XVIII of the Social Security Act, 42 U.S.C. 1395 *et seq.*, for its fiscal year 1994 cost reporting period.

(3) The facility's requisite percentage of inpatient days reimbursed by Medicaid and Medicare is to be determined by the facility's settled cost report, filed under title XVIII of the Social Security Act, for its fiscal year 1994 cost reporting period.

The Department is of the view that this definition requires the application of time-specific tests and does not afford any flexibility with regard to these criteria. Thus, to determine H–1C eligibility, a ''subpart (d) hospital'' must determine whether it was in a health professional shortage area (HPSA) on March 31, 1997 (based on the geographic list published by the Department of Health and Human Services (HHS) in the **Federal Register** on May 30, 1997; 62 FR 29395), and also must determine the number of acute care beds and the percentage of acute care inpatient days reimbursed by Medicare and Medicaid reflected in the cost report filed by the hospital for the fiscal year 1994 cost reporting period. A hospital whose location was not included in a HPSA on March 31, 1997 is ineligible to participate in the H–1C program, even if that hospital's area was subsequently or is currently designated a HPSA. Conversely, a hospital that was in a HPSA on March 31, 1997 is eligible to participate in the H–1C program (provided other criteria are satisfied), even if the hospital's area is no longer designated a HPSA. The same sort of time-specific determination with respect to the number of acute care beds and the percentages of Medicaid and Medicare reimbursements must be made, based on the hospital's fiscal year 1994 settled cost report; subsequent changes in the hospital's Medicaid and/or Medicare participation do not affect the hospital's eligibility as a ''facility'' for the H–1C program. The Department believes that this interpretation reflects the plain meaning of the statute. However, the Department invites comments on this matter.

The Department believes, based on information from the Health Resources and Services Administration of HHS, that only fourteen hospitals satisfy all of the criteria for a ''facility'' eligible to participate in the H–1C program These apparently eligible hospitals are: Beaumont Regional Medical Center, Beaumont, TX; Beverly Hospital, Montebello, CA; Doctors Medical Center, Modesto, CA; Elizabeth General Medical Center, Elizabeth, NJ; Fairview Park Hospital, Dublin, GA; Lutheran Medical Center, St. Louis, MO; McAllen Medical Center, McAllen, TX; Mercy Medical Center, Baltimore, MD; Mercy Regional Medical Center, Laredo, TX; Peninsula Hospital Center, Far Rockaway, NY; Southeastern Regional Medical Center, Lumberton, NC; Southwest General Hospital, San Antonio, TX; St. Bernard Hospital, Chicago, IL; and Valley Baptist Medical Center, Harlingen, TX. However, the Department recognizes that there may be other hospitals which may be ''facilities'' under the NRDAA definition, and be eligible to participate in the H–1C program.

In light of the NRDAA's strict limitations on the numbers of H–1C visas available each year—annual total of 500, with further limitations of 50 per State with population of 9,000,000 or more in 1990 and 25 per State with population less than 9,000,000 in 1990 (the unused visa numbers being re-allocated among the States during the last quarter of the Federal fiscal year) (8 U.S.C. 1182(m)(4))—the Department considers it to be important to assure that only eligible ''facilities'' are authorized to employ H–1C nurses. The regulations afford all hospitals the opportunity to file Attestations demonstrating their eligibility as ''facilities'' (paying the $250 filing fee for each Attestation), and provide that ETA will review each Attestation to verify such eligibility before the Attestation is certified for use in filing H–1C petitions. If a hospital's Attestation is rejected on the basis of ineligibility, then the hospital may request an administrative hearing on that issue. The regulations further provide that, once ETA has determined that a hospital is an eligible ''facility,'' a subsequent Attestation filed by that hospital will not require documentation of this point by the hospital or review of this matter by ETA.

Because this document is not readily available to the Department and is essential to a determination of a hospital's eligibility as a ''facility,'' a copy of the pages of the hospital's fiscal year 1994 settled cost report (Form HCFA 2552, filed pursuant to title XVIII of the Social Security Act) relating to the number of its acute care beds and percentages of Medicaid and Medicare reimbursed acute care inpatient days must be filed with the Attestation. The hospital must place a copy of the settled cost report excerpts in the hospital's public access file. The hospital is not to

submit the entire settled cost report to ETA, and need not have the entire document in the public access file.

Section 655.1112 Element II—What does ''no adverse effect on wages and working conditions'' mean?

As was required in the H–1A program, NRDAA requires the facility to attest that ''the employment of the alien(s) will not adversely affect the wages and working conditions of RNs similarly employed.'' With respect to wages, the Department interprets this language, as it did under the H–1A program, to require that the employer pay the foreign nurses and U.S. nurses no less than the prevailing wage for the occupation and for the geographic area of employment. The phrase ''not adversely affect the wages'' is a well-established legal term of art that has been used for decades in alien labor certification programs and other nonimmigrant programs (*e.g.* H–1A and H–2A), with a very specific meaning of requiring the employer to pay at least the area prevailing wage for the occupation. *See, e.g.,* 8 U.S.C. 1182(a)(5) and 1186; 8 CFR 214.2(h); and 20 CFR 656.40. Presumably, Congress was aware of this established meaning when it incorporated this language in the NRDAA. With respect to working conditions, due to the administrative infeasibility of making prevailing practice determinations on an area-wide basis, the regulation applies an adverse effect standard on a facility basis (*i.e.,* the facility must provide the H–1C nurse the same working conditions as similarly employed U.S. nurses). This same standard was applied in the H–1A program regulations.

The regulation states that the facility shall attest to its compliance with this requirement and shall maintain documentation in the public access file to show the local prevailing wage. Further, the regulation requires that the facility maintain payroll records in its non-public files, to be able to demonstrate compliance with its prevailing wage and working conditions obligations in the event of an enforcement action.

Section 655.1113 Element III—What does ''facility wage rate'' mean?

The NRDAA requires that, as in the H–1A program, ''the alien employed by the facility will be paid the wage rate for registered nurses similarly employed by the facility,'' and that H–1C nurses' work hours be commensurate with those of nurses similarly employed by the facility. Consistent with this requirement and its administration under the H–1A program, the Department interprets this language to mean that the facility must pay at least the higher of the area prevailing wage (as described in Attestation element two) or the facility wage, and must compensate H–1C nurses for time in nonproductive status. The Department's enforcement experience in nonimmigrant visa programs has demonstrated that some employers bring alien workers into this country and then, for a variety of reasons—such as where a nurse is studying for a licensing examination—''bench'' the workers in non-productive status and fail to pay them the wages required by law. Consistent with the Department's interpretation of the H–1A program requirements, the regulations forbid a facility from paying an H–1C nurse less than the required wage for non-productive time, except in situations where the non-productive status is due either to the nurse's own initiative or to circumstances rendering the nurse unable to work.

The regulations require that the facility maintain documentation in its non-public files to substantiate its compliance with the wage requirement (*i.e.,* payroll records). The facility's public access file is required to contain a description of the facility's pay system for nurses (including factors taken into consideration by the facility in making compensation decisions for nurses) or a copy of the facility's pay schedule, if either document exists.

Section 655.1114 Element IV—What are the timely and significant steps an H–1C employer must take to recruit and retain U.S. nurses?

The NRDAA, like the H–1A program, requires a facility to attest that it ''has taken and is taking timely and significant steps designed to recruit and retain sufficient RNs who are United States citizens or immigrants who are authorized to perform nursing services,'' with the objective to remove, as quickly as reasonably possible, the dependence of the facility on nonimmigrant RNs. 8 U.S.C. 1182(m)(2)(A)(iv). The NRDAA sets forth a non-exclusive list of four steps that a facility may take to satisfy this attestation requirement. The statute requires that a facility must take two significant steps, either from the statutory list or alternative steps which meet the objective of this attestation, unless the facility can demonstrate that taking a second step is unreasonable.

The criteria set forth in the regulation have been developed with the objective of removing, as quickly as possible, the facility's dependence on nonimmigrant nurses through the use of steps which are both ''timely'' and ''significant.'' The Department interprets ''significant'' to mean that such steps should represent efforts which go beyond the normal practices for the industry; where possible, the regulations on significant steps reflect both qualitative and quantitative criteria. Since the NRDAA specifically states that the statutory list of ''significant steps'' is not intended to be exclusive, the regulations describe each of the statutory steps along with several alternative steps. Further, the regulations include a results-based alternative to the specific steps, where a facility meets certain goals for reducing its reliance on temporary foreign nurses; under this alternative (which would apply only to the second and subsequent years a facility submits an H–1C Attestation), the facility would show its actual reduction in use of such nurses.

If a facility designates two of these specified steps on the Attestation, then the form would be processed by ETA without substantive review. However, where a facility indicates its intention to take one or more timely and significant steps other than those specified in the regulations and on the form, the facility must submit documentation to support that element of the Attestation and ETA will conduct a review (limited to that element). The regulations also specify how a facility may establish that taking a second step is not ''reasonable.'' If a facility states on its Attestation that a second significant step is unreasonable, the regulations provide that the facility must submit documentation in support of its assertion and that the ETA will conduct a review (limited to that element).

The regulations require the facility to maintain documentation concerning its ''timely and significant steps.'' In its public access file, the facility must describe the program(s) or activity(ies) which satisfy this Attestation requirement. In the event of an investigation, the facility will be required to provide documentation which would establish compliance with this requirement.

Section 655.1115 Element V—What does ''no strike/lockout or lay off'' mean?

Like the H–1A program, the NRDAA requires that a facility seeking access to nonimmigrant registered nurses must attest that there exists no ''strike or lock out'' at the facility and ''the employment of [H–1C nurses] is not intended or designed to influence an election for a bargaining representative for RNs of the facility.'' The facility must also notify ETA if a strike or lockout occurs within the validity

period of the Attestation. Collective bargaining rights are also extended to H–1C nurses in the NRDAA provision which requires that a facility which has filed a petition for H–1C nurses ''shall not interfere with the right of the nonimmigrant to join or organize a union.'' 8 U.S.C. 1182(m)(5)(C).

The NRDAA also requires that a facility seeking access to H–1C nurses must attest that the facility did not lay off and will not lay off a registered nurse employed by the facility during the period beginning ninety days before and ending ninety days after the date of filing any H–1C petition. The NRDAA defines the term ''lay off'' to include a nurse's separation from his or her position caused by means other than a discharge for inadequate performance, violation of workplace rules, cause, voluntary departure, voluntary retirement, or the expiration of a grant or contract. The NRDAA excludes from the term ''lay off'' any instance in which a registered nurse, as an alternative to the loss of his or her employment, is offered a similar employment opportunity with the same employer at equivalent or higher compensation and benefits. The NRDAA also provides that the ''no lay off'' attestation is not intended to limit an employee's or an employer's rights under a collective bargaining agreement or other employment contract.

The NRDAA ''no lay off'' provision is somewhat different from the H–1A provision. The NRDAA uses a different time frame than the H–1A program in protecting U.S. nurses against the risk of losing their jobs to H–1C nurses. Under the NRDAA, a facility seeking H–1C nurses must attest that it has not laid off any registered nurse during a 180-day period surrounding the filing of an H–1C petition. Like the H–1A regulations, the regulations define the term ''lay off'' simply as ''any involuntary separation of one or more staff nurses without cause/prejudice.'' The regulation also excludes from the term ''lay off'' a registered nurse's separation from employment where the nurse was offered retraining and retention at the same facility in another activity involving direct patient care at the same wage and status.

The Department seeks comments on all aspects of the regulation, including, in particular, our interpretations on two points:

First, the NRDAA provides that a nurse's loss of employment does not constitute a ''lay off'' if it is caused by the ''expiration of a grant or contract.'' The Department distinguishes between a situation where a nurse's loss of a job at the facility occurs upon the expiration of a contract (such as a personal services contract) unrelated to the facility's loss of funding or specific need for the position (*e.g.,* nurse hired for a category of duties which are on-going at the facility), and a situation where the job loss is caused by the expiration of a grant or contract without which the nurse would not continue to be employed because there is no alternative funding or need for the position (*e.g.,* nurse hired for duties on specific project such as a grant-funded research project which is completed). Thus, a lay off exists if a facility terminates the employment of a U.S. nurse at the expiration of a grant or contract, including a personal services contract, where there is a continuing need for the nurse's services and funding for the position remains available. The Department does not expect that a facility would attempt to avoid the NRDAA's requirements by choosing to depart from a practice of continuing the employment of registered nurses who are hired on a fixed-term basis so long as there is a continuing need for their services and funding remains available. However, the Department will scrutinize any situation in which a facility appears to have attempted to circumvent the NRDAA's protection for nurses already employed. In such cases, the Department will examine the facility's past and current practices regarding the use of fixed term or short term contracts for registered nurses and the renewal or extension of such contracts.

Second, the NRDAA provides that ''lay off'' does not include a situation where a nurse ''employed by the facility'' loses a job but is offered ''a similar employment opportunity with the same employer'' with equivalent pay and benefits (section 212(m)(2)(v); (m)(7)(B)). The Department believes that the statute requires that the offer of an alternate position must be with the same employer at an eligible ''facility.''

With regard to documentation, the regulation requires that the facility maintain, in its public access file, all notices of strikes or other labor disputes involving a work stoppage of nurses at the facility. The facility must retain in its non-public files, and make available in the event of an enforcement action, any existing documentation with respect to the departure of each U.S. nurse who left his/her employment in the period from 90 days before or until 90 days after the facility's petition for H–1C nurse(s). The regulations also require the facility to record, and retain in its non-public files, the terms of any offers of alternative employment to such U.S. nurses and the nurses' responses to the offers. If a nurse's response is oral, the facility is required to make a note to the file or other record setting forth the response.

Section 655.1116 Element VI—What notification must facilities provide to registered nurses?

The NRDAA requires that a facility attest that ''at the time of the filing of the petition for registered nurses [under the H–1C program], notice of the filing has been provided by the facility to the bargaining representative of the RNs at the facility or, where there is no such bargaining representative, notice of the filing has been provided to RNs employed at the facility through posting in conspicuous locations.'' This provision echoes the H–1A statute. However, the NRDAA introduced a new requirement that a copy of the facility's Attestation must, ''within 30 days of the date of filing, [be provided] to registered nurses employed at the facility on the date of the filing.'' The requirements of notice of the filing of the Attestation and the petition (where there is no bargaining representative of the RNs at the facility) and of providing a copy of the facility's Attestation to each of the RNs employed at the facility, may be satisfied by posting at the jobsite or by electronic means. A facility may satisfy the notice of the filing of the Attestation and the petition requirement electronically by any means it ordinarily uses to communicate with its nurses about job vacancies or promotion opportunities, including through its ''home page'' or ''electronic bulletin board,'' provided that the nurses have, as a practical matter, direct access to the home page or electronic bulletin board; or, where the nurses have individual e-mail accounts, through e-mail or an actively circulated electronic message such as the employer's newsletter. The notice of the filing of the Attestation and the requirement that each nurse employed at the facility be provided a copy of the Attestation may be satisfied simultaneously by sending an individual electronic message with an attached copy of the Attestation to every nurse employed at the facility. Otherwise, the facility can satisfy the individual notice requirement by providing a hard copy of the Attestation to RNs employed at the facility on the date of the Attestation filing. Facilities should note that a copy of the Attestation must be provided to all RNs employed at the facility, including employees of staffing companies or other employers.

The statutory and regulatory standards for notice are consistent with Congressional intent that all aspects of

the H–1C process be open to public review. In recognition of this intent, and of the fact that the notice requirements also facilitate the complaint and enforcement process included in the NRDAA, the regulation requires that the facility maintain, in its public access file, copies of the notices which were provided to the union representative or posted at the worksite. The Department invites comments on the implementation of the notice provision.

Section 655.1117 Element VII—What are the limitations as to the number of H–1C nonimmigrants that a facility may employ?

NRDAA imposes a new requirement not found in the H–1A program: the facility must attest that H–1C nurses will not comprise, at any time, more than 33% of the total number of RNs ''employed by the facility.'' The facility must keep documentation to demonstrate its compliance, such as its payroll records, and copies of H–1C petitions filed. As discussed above, ''employed or employment'' is defined in § 655.1102 in accordance with the common law, under which the key determinant is the putative employer's right to control the means and manner in which the work is performed. *NLRB* v. *United Ins. Co. of America,* 390 U.S. 254, 258 (1968). Therefore, the regulation provides that the calculation of the nursing population for purposes of this attestation would not include nurses who have no such employment relationship with the facility but work there as employees of bona fide contractors. The Department invites comments on this interpretation.

Section 655.1118 Element VIII—What are the limitations as to where the H–1C nonimmigrants may be employed?

The NRDAA, adds a new requirement not found in the H–1A program: the attesting facility is prohibited from allowing H–1C nurses to work at worksites that are not under its control, and from relocating H–1C nurses to different ''worksites.'' The Department considers this statutory provision to be a bar against the facility contracting out the services of its H–1C nurses to other employers. Further, the Department considers the statute to be a prohibition against the facility moving an H–1C nurse from one worksite to another; there is no statutory flexibility to allow relocations, even if the second worksite is under the control of and part of the ''facility.'' The Department invites comments on its understanding of the plain language of this provision, and on the regulation.

Section 655.1130 What criteria does the Department use to determine whether or not to certify an Attestation?

This section of the regulation sets forth an H–1C Attestation certification process which is a streamlined version of the H–1A procedure. Under the H–1A program, the ETA conducted a substantive review of all Attestations submitted by facilities. In the H–1C program, the Department intends generally to limit the ETA review to a simple verification that the Attestation form is complete and free of obvious inaccuracies. The Department will rely on the veracity of the attestations made by the facility at the time the Attestation is filed. Examples of obvious inaccuracies which would prevent ETA from certifying an Attestation include: the submission of an incomplete Attestation (*i.e.* omits required information such as the address of the facility); the failure to include the filing fee; the failure to pay civil money penalties and/or failure to satisfy a remedy assessed by the Wage and Hour Administrator in an H–1C enforcement action, where that penalty or remedy assessment has become the final agency action; or the facility has been debarred from participation in the program.

A substantive ETA review at the time of filing the Attestation will be conducted only for three Attestation items: the employer's eligibility as a ''facility'' to participate in the H–1C program; the facility's designation of its intention to utilize alternative methods (rather than the methods identified on the Attestation) to comply with the attestation element on ''timely and significant steps'' to reduce its reliance on nonimmigrant nurses; and the facility's assertion that taking a second ''timely and significant step'' to satisfy that attestation element would be unreasonable. In these three circumstances, supporting information from the facility is required and ETA will review that information in order to certify the Attestation. In such event, ETA will limit its review to the Attestation provision in question, and any administrative hearing concerning the ETA determination will be limited to that provision.

The regulation contains the NRDAA directive that the Attestation expires on the date that is the later of the end of the one-year period beginning on the date of its filing with ETA or the end of the period of admission under section 101(a)(15)(H)(i)(c) of the last alien with respect to whose admission it was applied. Furthermore, the Attestation applies to petitions filed during the one-year period beginning on the date of its filing with ETA if the facility states in its petition that it continues to comply with the conditions in its Attestation.

Section 655.1132 When will the Department suspend or invalidate an already-approved Attestation?

The regulation provides that a facility's already-approved Attestation may be suspended or invalidated, for purposes of securing H–1C nurses, where: the facility's check for the filing fee is not honored by a financial institution; a Board of Alien Labor Certification Appeals (BALCA) decision reverses an ETA certification of the Attestation; ETA finds that it made an error in its review and certification of the Attestation; an enforcement proceeding has finally determined that the facility failed to meet a condition attested to, or that there was a misrepresentation of material fact in an Attestation; or the facility has failed to pay civil money penalties, and/or failed to satisfy a remedy assessed by the Wage and Hour Administrator, where that penalty or remedy assessment has become the final agency action. The regulation provides that a suspension does not relieve the facility from having to continue to comply with the Attestation during the remainder of the Attestation's one-year period where the facility has one or more H–1C nurses, and that the facility must comply with the terms of the Attestation, even if suspended, invalidated, or expired, as long as H–1C nurses admitted under the Attestation are employed by the facility.

Section 655.1135 What appeals procedures are available concerning ETA's actions on a facility's Attestation?

Like the H–1A program, the H–1C regulations provide appeal rights to the Board of Alien Labor Certification Appeals in the Department's Office of Administrative Law Judges for any interested party aggrieved by the acceptance decision on any of the three matters on which ETA conducts substantive review (*i.e.,* the determination as to whether the employer is a qualified ''facility;'' where the facility attested to alternative ''timely and significant steps;'' or where the facility asserted that taking a second ''timely and significant step'' would be unreasonable), or by an invalidation or suspension of a filed Attestation due to a discovery by ETA that it made an error in its review of the Attestation, as described in § 655.1132.

Section 655.1150 What materials must be available to the public?

This section of the regulation describes the documents which must be

available for public review in the ETA National Office in Washington, D.C., and directs that the facility must make certain documents available to the public in a public access file.

Subpart M—What are the Department's enforcement obligations with respect to H–1C Attestations?

The following enforcement provisions remain largely unchanged from the H–1A program:

Section 655.1200 What enforcement authority does the Department have with respect to a facility's H–1C Attestation?

This section describes the scope of the investigative authority of the Administrator of the ESA Wage and Hour Division (Administrator), through which appropriate investigations are conducted. The regulation provides that the Administrator shall conduct such investigations as may be appropriate, either pursuant to a complaint or otherwise. The regulation states that the investigator may enter and inspect places and records (and make transcriptions thereof), question persons, and gather information as deemed necessary by the Administrator to determine compliance regarding the matters to which a health care facility has attested. In order to assure effective enforcement, this section states the Administrator's intention to maintain confidentiality for complainants, prohibits interference in the investigation and discrimination against any person cooperating in an investigation or exercising that person's rights under 8 U.S.C. 1182(m), and prohibits waivers of rights under 8 U.S.C. 1182(m).

Section 655.1205 What is the Administrator's responsibility with respect to complaints and investigations?

Section 212(m)(2)(E)(ii) through (v) of the INA, as amended by the NRDAA, authorizes the Department to investigate allegations that an employer has failed to meet the conditions attested to or that a facility has misrepresented a material fact in an Attestation. Under the regulations, the Administrator will impose administrative remedies, including civil money penalties (CMPs) and other remedies, must impose back wages for wage violations, and for certain violations will notify the Attorney General, who may not approve H–1C petitions for the facility for a period of at least one year. This section implements the NRDAA time frame for the Administration's investigation: within 180 days of the receipt of a complaint sufficient to warrant an investigation, the Administrator will conduct an investigation and issue a written determination. This section also includes the NRDAA provision which allows the Administrator enforcement authority whether or not the Attestation is expired at the time of the filing of the complaint.

Section 655.1210 What penalties and other remedies may the Administrator impose?

This section of the regulation describes the Administrator's authority to impose administrative remedies, which may include a civil money penalty (CMP) in an amount not to exceed $1,000 per nurse per violation, with the total penalty not to exceed $10,000 per violation. The regulation states that the CMP assessment will be based on numerous relevant factors, which are listed in this section. The Administrator is required to assess back wages for violations of the wage element of the Attestation, and may also assess other appropriate remedies, such as the performance of a ''timely and significant step'' to which the facility had attested, or reinstatement and/or wages for laid off U.S. workers. All penalties and remedies must be promptly paid or performed when the agency action becomes final. A facility that fails to comply with any penalty or remedy will be ineligible to participate in the H–1C program through any future Attestation until the penalty or remedy is satisfied.

In conformance with the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended (see 28 U.S.C. 2461 note), the regulation provides for inflationary adjustments to be made, by regulation, to civil money penalties in accordance with a specified cost-of-living formula. Such adjustments will be published in the **Federal Register**. The amount of the penalty in a particular case will be based on the penalty in effect at the time of the violation.

Section 655.1215 How are the Administrator's investigation findings issued?

Section 212(m)(2)(E)(iii) of the INA, as amended by the NRDAA, adopts the H–1A provision which requires that the Administrator's decision based on the investigation findings shall set out the determination as to violations, penalties, and remedies, and be served on all interested parties. The Administrator's determination also informs the interested parties of their right to request an administrative law judge (ALJ) hearing through the prescribed proceeding. Finally, the Administrator's determination informs the interested parties that the Administrator will notify ETA and INS to debar the facility from the H–1C program for at least one year when the enforcement decision becomes a final agency action.

Section 655.1220 Who can appeal the Administrator's findings and what is the process?

This section of the regulation sets out the procedure and deadline by which an administrative law judge hearing may be requested. Any interested party may request a hearing. If the Administrator found no violation and the complainant or other interested party requests a hearing, the requestor will be the prosecuting party, the facility will be the respondent, and the Administrator will have the option to participate as an intervenor or amicus curiae. If the Administrator found a violation and the facility or other interested party requests a hearing, the Administrator will be the prosecuting party and the facility will be the respondent.

Sections 655.1225 through .1240 What are the Administrative Law Judge (ALJ) Proceedings?

These sections of the regulations specify the procedural and evidentiary rules, the methods of service of documents, the rules for computation of time, and the deadlines for the ALJ hearings and decisions.

Section 655.1245 Who can appeal the ALJ's decision and what is the process?

This section of the regulation provides for discretionary review by the Department's Administrative Review Board, at the request of the Administrator or an interested party. The deadlines and procedures for the review are prescribed.

Section 655.1250 Who is the official record keeper for these administrative appeals?

This section of the regulation is the same as the H–1A regulation and provides that the DOL Chief Administrative Law Judge shall maintain custody of the official record of the administrative proceedings and, in the event of a U.S. District Court action, shall certify and file that record with the clerk of the court.

Section 655.1255 What are the procedures for the debarment of a facility based on a finding of violation?

This section of the regulation, like the H–1A regulation, requires the Administrator to notify the INS and ETA when there is a final agency action

that found a violation by a facility. Upon notification, the INS will not approve H–1C petitions, and ETA will suspend current H–1C Attestations and not certify new H–1C Attestations for the facility for a period of at least one year.

Section 655.1260 Can Equal Access to Justice Act attorney fees be awarded?

This section of the regulation states that attorney fees and costs under the Equal Access to Justice Act (EAJA) are not available in proceedings under this rule. The EAJA, by its own terms, applies only to proceedings required by statute to be conducted in accordance with section 554 of the Administrative Procedure Act, 5 U.S.C. 554.

V. Executive Order 12866

This rule is being treated as a ''significant regulatory action'' within the meaning of Executive Order 12866, because it requires inter-agency coordination. Therefore, the Office of Management and Budget has reviewed the rule. However, because this rule is not ''economically significant'' as defined in section 3(f)(1) of E.O. 12866, it does not require a full economic impact analysis under section 6(a)(3)(C) of the Order.

The H–1C visa program is a voluntary program that allows certain hospitals which serve health professional shortage areas to temporarily secure and employ nonimmigrants admitted under H–1C visas to work as registered nurses. The NRDAA, which created the H–1C visa program, carries over many of the U.S. worker protection provisions of the expired H–1A nurses visa program under the INRA. Those provisions include licensing and qualification requirements for the nonimmigrant nurses. They also include requirements for ''attestations'' by the prospective employer with regard to the working conditions and wages of similarly employed nurses, the significant steps to be taken by the employer to recruit and retain U.S. nurses, and the notification of U.S. workers when a petition for H–1C nurses has been filed. Several new attestations were introduced by the NRDAA. Under the NRDAA, an employer must further attest: that it meets the definition of ''facility'' based on the Social Security Act and the Public Health Service Act; that it did not and will not lay off a registered nurse employed by the facility in the period 90 days before and 90 days after the filing of any H–1C petition; that it will not employ a number of H–1C nurses that exceeds 33% of the total number of registered nurses employed by the facility; and that it will not authorize any H–1C nurse to perform nursing services at any worksite other than a worksite controlled by the facility nor will it transfer the H–1C nurse's place of employment from one work place to another. The NRDAA also requires payment of a filing fee of up to $250 per Attestation by a facility, limits the number of H–1C visas issued to 500 per year, and limits the number of visas issued for each State in each fiscal year. The H–1C program expires four years after the date of promulgation of interim or final regulations.

The Department has been advised that only fourteen hospitals are eligible to participate in this program. Collectively, the changes made by this rule will not have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. Therefore, the Department has concluded that this rule is not ''economically significant.''

VI. Small Business Regulatory Enforcement Fairness Act

The Department has similarly concluded that this rule is not a ''major rule'' requiring approval by the Congress under the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 801 *et seq.*). It will not likely result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

VII. Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531 *et seq.*) directs agencies to assess the effects of Federal regulatory actions on State, local, and tribal governments, and the private sector, ''* * * (other than to the extent that such regulations incorporate requirements specifically set forth in law).'' For purposes of the Unfunded Mandates Reform Act, this rule does not include any Federal mandate that may result in increased annual expenditures in excess of $100 million by State, local or tribal governments in the aggregate, or by the private sector. Moreover, the requirements of the Unfunded Mandates Reform Act do not apply to this rule because it does not include a ''Federal mandate,'' which is defined to include either a ''Federal intergovernmental mandate'' or a ''Federal private sector mandate.'' 2 U.S.C. 658(6). Except in limited circumstances not applicable here, those terms do *not* include ''a duty arising from participation in a voluntary program.'' 2 U.S.C. 658(5)(A)(i)(II) and (7)(A)(ii). A decision by a facility to obtain an H–1C nurse is purely voluntary, and the obligations arise ''from participation in a voluntary Federal program.''

VIII. Regulatory Flexibility Act

Because no notice of proposed rulemaking is required for this rule under 5 U.S.C. 553(b), the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* pertaining to regulatory flexibility analysis, do not apply to this interim final rule. See 5 U.S.C. 603(a). In any event, the statutory threshold requirement of 190 licensed acute care beds places eligible facilities in the ''modal size hospital'' category. A hospital of this size is generally a community hospital. The Department estimates that annual receipts for a typical 190 acute care bed hospital with a 50% occupancy rate, an average stay of 4.7 days at $4700 per case, would be approximately $32 million. This estimated annual receipt far exceeds the $5 million required to be considered a ''small entity'' under SBA standards.

IX. Executive Order 13132 (Federalism)

The Department has reviewed this rule in accordance with Executive Order 13132 regarding federalism, and has determined that it does not have ''federalism implications.'' The rule does 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.''

XI. Catalog of Federal Domestic Assistance Number

This program is not listed in the Catalog of Federal Domestic Assistance.

List of Subjects in 20 CFR Part 655

Administrative practice and procedure, Agriculture, Aliens, Employment, Forest and forest products, Health professions, Immigration, Labor, Longshore work, Migrant labor, Penalties, Registered Nurse, Reporting requirements, Students, Wages.

Text of the Rule

For the reasons set out in the preamble, Title 20 part 655 is amended as follows:

1. The authority citation for part 655 is revised to read as follows—

Authority: Section 655.0 issued under 8 U.S.C. 1101(a)(15)(H)(i) and (ii), 1182(m) and (n), 1184, 1188, and 1288(c); 29 U.S.C. 49 *et seq.;* sec. 3(c)(1), Pub. L. 101–238, 103 Stat. 2099, 2103 (8 U.S.C. 1182 note); sec. 221(a), Pub. L. 101–649, 104 Stat. 4978, 5027 (8 U.S.C. 1184 note); Title IV, Pub. L. 105–277, 112 Stat. 2681; and 8 CFR 213.2(h)(4)(i).

Section 655.00 issued under 8 U.S.C. 1101(a)(15)(H)(ii), 1184, and 1188; 29 U.S.C. 49 *et seq.;* and 8 CFR 214.2(h)(4)(i).

Subparts A and C issued under 8 U.S.C. 1101(a)(15)(H)(ii)(b) and 1184; 29 U.S.C. 49 *et seq.;* and 8 CFR 214.2(h)(4)(i).

Subpart B issued under 8 U.S.C. 1101(a)(15)(H)(ii)(a), 1184, and 1188; and 29 U.S.C. 49 *et seq.*

Subparts D and E issued under 8 U.S.C. 1101(a)(15)(H)(i)(a), 1182(m), and 1184; 29 U.S.C. 49 *et seq.;* and sec 3(c)(1), Pub. L. 101–238, 103 Stat. 2099, 2103 (8 U.S.C. 1182 note).

Subparts F and G issued under 8 U.S.C. 1184 and 1288(c); and 29 U.S.C. 49 *et seq.*

Subparts H and I issued under 8 U.S.C. 1101(a)(15)(H)(i)(b), 1182(n), and 1184; 29 U.S.C. 49 *et seq.;* sec. 303(a)(8), Pub. L. 102–232. 105 Stat. 1733, 1748 (8 U.S.C. 1182 note).

Subparts J and K issued under 29 U.S.C. 49 *et seq.;* and sec. 221(a), Pub. L. 101–649, 104 Stat. 4978, 5027 (8 U.S.C. 1184 note).

Subparts L and M issued under 8 U.S.C. 1101(a)(15)(H)(i)(c), 1182(m), and 1184; 29 U.S.C. 49 *et seq.;* Pub. L. 106–95, 113 Stat. 1312.

2. Subparts L and M are added to part 655, to read as follows—

Subpart L—What requirements must a facility meet to employ H–1C nonimmigrant workers as registered nurses?

Sec.
655.1100 What are the purposes, procedures and applicability of the regulations in subparts L and M of this part?
655.1101 What are the responsibilities of the government agencies and the facilities that participate in the H–1C program?
655.1102 What are the definitions of terms that are used in these regulations?
655.1110 What requirements does the NRDAA impose in the filing of an Attestation?
655.1111 Element I—What hospitals are eligible to participate in the H–1C program?
655.1112 Element II—What does ''no adverse effect on wages and working conditions'' mean?
655.1113 Element III—What does ''facility wage rate'' mean?
655.1114 Element IV—What are the timely and significant steps an H–1C employer must take to recruit and retain U.S. nurses?
655.1115 Element V—What does ''no strike/lockout or layoff'' mean?
655.1116 Element VI—What notification must facilities provide to registered nurses?
655.1117 Element VII—What are the limitations as to the number of H–1C nonimmigrants that a facility may employ?
655.1118 Element VIII—What are the limitations as to where the H–1C nonimmigrant may be employed?
655.1130 What criteria does the Department use to determine whether or not to certify an Attestation?
655.1132 When will the Department suspend or invalidate an already-approved Attestation?
655.1135 What appeals procedures are available concerning ETA's actions on a facility's Attestation?
655.1150 What materials must be available to the public?

Subpart M—What are the Department's enforcement obligations with respect to H–1C Attestations?

655.1200 What enforcement authority does the Department have with respect to a facility's H–1C Attestation?
655.1205 What is the Administrator's responsibility with respect to complaints and investigations?
655.1210 What penalties and other remedies may the Administrator impose?
655.1215 How are the Administrator's investigation findings issued?
655.1220 Who can appeal the Administrator's findings and what is the process?
655.1225 What are the rules of practice before an ALJ?
655.1230 What time limits are imposed in ALJ proceedings?
655.1235 What are the ALJ proceedings?
655.1240 When and how does an ALJ issue a decision?
655.1245 Who can appeal the ALJ's decision and what is the process?
655.1250 Who is the official record keeper for these administrative appeals?
655.1255 What are the procedures for the debarment of a facility based on a finding of violation?
655.1260 Can Equal Access to Justice Act attorney fees be awarded?

Subpart L—What Requirements Must a Facility Meet to Employ H–1C Nonimmigrant Workers as Registered Nurses?

§ 655.1100 What are the purposes, procedures and applicability of these regulations in subparts L and M of this part?

(a) *Purpose.* The Immigration and Nationality Act (INA), as amended by the Nursing Relief for Disadvantaged Areas Act of 1999, establishes the H–1C nonimmigrant visa program to provide qualified nursing professionals for narrowly defined health professional shortage areas. Subpart L of this part sets forth the procedure by which facilities seeking to use nonimmigrant registered nurses must submit attestations to the Department of Labor demonstrating their eligibility to participate as facilities, their wages and working conditions for nurses, their efforts to recruit and retain United States workers as registered nurses, the absence of a strike/lockout or layoff, notification of nurses, and the numbers of and worksites where H–1C nurses will be employed. Subpart M of this part sets forth complaint, investigation, and penalty provisions with respect to such attestations.

(b) *Procedure.* The INA establishes a procedure for facilities to follow in seeking admission to the United States for, or use of, nonimmigrant nurses under H–1C visas. The procedure is designed to reduce reliance on nonimmigrant nurses in the future, and calls for the facility to attest, and be able to demonstrate in the course of an investigation, that it is taking timely and significant steps to develop, recruit, and retain U.S. nurses. Subparts L and M of this part set forth the specific requirements of those procedures.

(c) *Applicability.* (1) Subparts L and M of this part apply to all facilities that seek the temporary admission or use of H–1C nonimmigrants as registered nurses.

(2) During the period that the provisions of Appendix 1603.D.4 of Annex 1603 of the North American Free Trade Agreement (NAFTA) apply, subparts L and M of this part shall apply to the entry of a nonimmigrant who is a citizen of Mexico under the provisions of section D of Annex 1603 of NAFTA. Therefore, the references in this part to ''H–1C nurse'' apply to such nonimmigrants who are classified by INS as ''TN.''

655.1101 What are the responsibilities of the government agencies and the facilities that participate in the H–1C program?

(a) *Federal agencies' responsibilities.* The United States Department of Labor (DOL), Department of Justice, and Department of State are involved in the H–1C visa process. Within DOL, the Employment and Training Administration (ETA) and the Wage and Hour Division of the Employment Standards Administration (ESA) have responsibility for different aspects of the process.

(b) *Facility's attestation responsibilities.* Each facility seeking one or more H–1C nurse(s) must, as the first step, submit an Attestation on Form ETA 9081, as described in § 655.1110 of this part, to the Employment and

Training Administration, Director, Office of Workforce Security, 200 Constitution Ave. NW., Room C–4318, Washington, DC 20210. If the Attestation satisfies the criteria stated in § 655.1130 and includes the supporting information required by § 655.1110 and by § 655.1114, ETA shall accept the Attestation for filing, and return the accepted Attestation to the facility.

(c) *H–1C petitions.* Upon ETA's acceptance of the Attestation, the facility may then file petitions with INS for the admission or for the adjustment or extension of status of H–1C nurses. The facility must attach a copy of the accepted Attestation (Form ETA 9081) to the petition or the request for adjustment or extension of status, filed with INS. At the same time that the facility files an H–1C petition with INS, it must also send a copy of the petition to the Employment and Training Administration, Administrator, Office of Workforce Security, 200 Constitution Avenue, NW., Room C–4318, Washington, DC 20210. The facility must also send to this same ETA address a copy of the INS petition approval notice within 5 days after it is received from INS.

(d) *Visa issuance.* INS assures that the alien possesses the required qualifications and credentials to be employed as an H–1C nurse. The Department of State is responsible for issuing the visa.

(e) *Board of Alien Labor Certification Appeals (BALCA) review of Attestations accepted and not accepted for filing.* Any interested party may seek review by the BALCA of an Attestation accepted or not accepted for filing by ETA. However, such appeals are limited to ETA actions on the three Attestation matters on which ETA conducts a substantive review (*i.e.*, the employer's eligibility as a ''facility;'' the facility's attestation to alternative ''timely and significant steps;'' and the facility's assertion that taking a second ''timely and significant step'' would not be reasonable).

(f) *Complaints.* Complaints concerning misrepresentation of material fact(s) in the Attestation or failure of the facility to carry out the terms of the Attestation may be filed with the Wage and Hour Division, Employment Standards Administration (ESA) of DOL, according to the procedures set forth in subpart M of this part. The Wage and Hour Administrator shall investigate and, where appropriate, after an opportunity for a hearing, assess remedies and penalties. Subpart M of this part also provides that interested parties may obtain an administrative law judge hearing and may seek review of the administrative law judge's decision at the Department's Administrative Review Board.

§ 655.1102 What are the definitions of terms that are used in these regulations?

For the purposes of subparts L and M of this part:

Accepted for filing means that the Attestation and any supporting documentation submitted by the facility have been received by the Employment and Training Administration of the Department of Labor and have been found to be complete and acceptable for purposes of Attestation requirements in §§ 655.1110 through 655.1118.

Administrative Law Judge means an official appointed under 5 U.S.C. 3105.

Administrator means the Administrator of the Wage and Hour Division, Employment Standards Administration, Department of Labor, and such authorized representatives as may be designated to perform any of the functions of the Administrator under subparts L and M of this part.

Administrator, OWS means the Administrator of the Office of Workforce Security, Employment Training Administration, Department of Labor, and such authorized representatives as may be designated to perform any of the functions of the Administrator, OWS under subpart L of this part.

Aggrieved party means a person or entity whose operations or interests are adversely affected by the employer's alleged misrepresentation of material fact(s) or non-compliance with the Attestation and includes, but is not limited to:

(1) A worker whose job, wages, or working conditions are adversely affected by the facility's alleged misrepresentation of material fact(s) or non-compliance with the attestation;

(2) A bargaining representative for workers whose jobs, wages, or working conditions are adversely affected by the facility's alleged misrepresentation of material fact(s) or non-compliance with the attestation;

(3) A competitor adversely affected by the facility's alleged misrepresentation of material fact(s) or non-compliance with the attestation; and

(4) A government agency which has a program that is impacted by the facility's alleged misrepresentation of material fact(s) or non-compliance with the attestation.

Attorney General means the chief official of the U.S. Department of Justice or the Attorney General's designee.

Board of Alien Labor Certification Appeals (BALCA) means a panel of one or more administrative law judges who serve on the permanent Board of Alien Labor Certification Appeals established by 20 CFR part 656. BALCA consists of administrative law judges assigned to the Department of Labor and designated by the Chief Administrative Law Judge to be members of the Board of Alien Labor Certification Appeals.

Certifying Officer means a Department of Labor official, or such official's designee, who makes determinations about whether or not H–1C attestations are acceptable for certification.

Chief Administrative Law Judge means the chief official of the Office of the Administrative Law Judges of the Department of Labor or the Chief Administrative Law Judge's designee.

Date of filing means the date an Attestation is ''accepted for filing'' by ETA.

Department and *DOL* mean the United States Department of Labor.

Division means the Wage and Hour Division of the Employment Standards Administration, DOL.

Employed or *employment* means the employment relationship as determined under the common law, except that a facility which files a petition on behalf of an H–1C nonimmigrant is deemed to be the employer of that H–1C nonimmigrant without the necessity of the application of the common law test. Under the common law, the key determinant is the putative employer's right to control the means and manner in which the work is performed. Under the common law, ''no shorthand formula or magic phrase * * * can be applied to find the answer * * *. [A]ll of the incidents of the relationship must be assessed and weighed with no one factor being decisive.'' *NLRB* v. *United Ins. Co. of America*, 390 U.S. 254, 258 (1968). The determination should consider the following factors and any other relevant factors that would indicate the existence of an employment relationship:

(1) The firm has the right to control when, where, and how the worker performs the job;

(2) The work does not require a high level of skill or expertise;

(3) The firm rather than the worker furnishes the tools, materials, and equipment;

(4) The work is performed on the premises of the firm or the client;

(5) There is a continuing relationship between the worker and the firm;

(6) The firm has the right to assign additional projects to the worker;

(7) The firm sets the hours of work and the duration of the job;

(8) The worker is paid by the hour, week, month or an annual salary, rather than for the agreed cost of performing a particular job;

(9) The worker does not hire or pay assistants;

(10) The work performed by the worker is part of the regular business (including governmental, educational and nonprofit operations) of the firm;

(11) The firm is itself in business;

(12) The worker is not engaged in his or her own distinct occupation or business;

(13) The firm provides the worker with benefits such as insurance, leave, or workers' compensation;

(14) The worker is considered an employee of the firm for tax purposes (*i.e.*, the entity withholds federal, state, and Social Security taxes);

(15) The firm can discharge the worker; and

(16) The worker and the firm believe that they are creating an employer-employee relationship.

Employment and Training Administration (ETA) means the agency within the Department of Labor (DOL) which includes the Office of Workforce Security (OWS).

Employment Standards Administration (ESA) means the agency within the Department of Labor (DOL) which includes the Wage and Hour Division.

Facility means a ''subsection (d) hospital'' (as defined in section 1886(d)(1)(B) of the Social Security Act (42 U.S.C. 1395ww(d)(1)(B)) that meets the following requirements:

(1) As of March 31, 1997, the hospital was located in a health professional shortage area (as defined in section 332 of the Public Health Service Act (42 U.S.C. 245e)); and

(2) Based on its settled cost report filed under title XVIII of the Social Security Act (42 U.S.C. 1395 *et seq.*) for its cost reporting period beginning during fiscal year 1994—

(i) The hospital has not less than 190 licensed acute care beds;

(ii) The number of the hospital's inpatient days for such period which were made up of patients who (for such days) were entitled to benefits under part A of such title is not less than 35% of the total number of such hospital's acute care inpatient days for such period; and

(iii) The number of the hospital's inpatient days for such period which were made up of patients who (for such days) were eligible for medical assistance under a State plan approved under title XIX of the Social Security Act, is not less than 28% of the total number of such hospital's acute care inpatient days for such period.

Full-time employment means work where the nurse is regularly scheduled to work 40 hours or more per week, unless the facility documents that it is common practice for the occupation at the facility or for the occupation in the geographic area for full-time nurses to work fewer hours per week.

Geographic area means the area within normal commuting distance of the place (address) of the intended worksite. If the geographic area does not include a sufficient number of facilities to make a prevailing wage determination, the term ''geographic area'' shall be expanded with respect to the attesting facility to include a sufficient number of facilities to permit a prevailing wage determination to be made. If the place of the intended worksite is within a Metropolitan Statistical Area (MSA) or Primary Metropolitan Statistical Area (PMSA), any place within the MSA or PMSA will be deemed to be within normal commuting distance of the place of intended employment.

H–1C nurse means any nonimmigrant alien admitted to the United States to perform services as a nurse under section 101(a)(15)(H)(i)(c) of the Act (8 U.S.C. 1101(a)(15)(H)(i)(c)).

Immigration and Naturalization Service (INS) means the component of the Department of Justice which makes the determination under the Act on whether to grant H–1C visas to petitioners seeking the admission of nonimmigrant nurses under H–1C visas.

INA means the Immigration and Nationality Act, as amended, 8 U.S.C. 1101 *et seq.*

Lockout means a labor dispute involving a work stoppage in which an employer withholds work from its employees in order to gain a concession from them.

Nurse means a person who is or will be authorized by a State Board of Nursing to engage in registered nursing practice in a State or U.S. territory or possession at a facility which provides health care services. A staff nurse means a nurse who provides nursing care directly to patients. In order to qualify under this definition of ''nurse'' the alien must:

(1) Have obtained a full and unrestricted license to practice nursing in the country where the alien obtained nursing education, or have received nursing education in the United States;

(2) Have passed the examination given by the Commission on Graduates for Foreign Nursing Schools (CGFNS), or have obtained a full and unrestricted (permanent) license to practice as a registered nurse in the state of intended employment, or have obtained a full and unrestricted (permanent) license in any state or territory of the United States and received temporary authorization to practice as a registered nurse in the state of intended employment; and,

(3) Be fully qualified and eligible under the laws (including such temporary or interim licensing requirements which authorize the nurse to be employed) governing the place of intended employment to practice as a registered nurse immediately upon admission to the United States, and be authorized under such laws to be employed by the employer. For purposes of this paragraph, the temporary or interim licensing may be obtained immediately after the alien enters the United States and registers to take the first available examination for permanent licensure.

Office of Workforce Security (OWS) means the agency of the Department of Labor's Employment and Training Administration which is charged with administering the national system of public employment offices.

Prevailing wage means the weighted average wage paid to similarly employed registered nurses within the geographic area.

Secretary means the Secretary of Labor or the Secretary's designee.

Similarly employed means employed by the same type of facility (acute care or long-term care) and working under like conditions, such as the same shift, on the same days of the week, and in the same specialty area.

State means one of the 50 States, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, and Guam.

State employment security agency (SESA) means the State agency designated under section 4 of the Wagner-Peyser Act to cooperate with OWS in the operation of the national system of public employment offices.

Strike means a labor dispute in which employees engage in a concerted stoppage of work (including stoppage by reason of the expiration of a collective-bargaining agreement) or engage in any concerted slowdown or other concerted interruption of operations.

United States is defined at 8 U.S.C. 1101(a)(38).

United States (U.S.) nurse means any nurse who is a U.S. citizen; is a U.S. national; is lawfully admitted for permanent residence; is granted the status of an alien admitted for temporary residence under 8 U.S.C. 1160(a), 1161(a), or 1255a(a)(1); is admitted as a refugee under 8 U.S.C. 1157; or is granted asylum under 8 U.S.C. 1158.

Worksite means the location where the nurse is involved in the practice of nursing.

§§ 655.1110 What requirements does the NRDAA impose in the filing of an Attestation?

(a) *Who may file Attestations?*

(1) Any hospital which meets the definition of ''facility'' in §§ 655.1102 and 655.1111 may file an Attestation.

(2) ETA shall determine the hospital's eligibility as a ''facility'' through a review of this attestation element on the first Attestation filed by the hospital. ETA's determination on this point is subject to a hearing before the BALCA upon the request of any interested party. The BALCA proceeding shall be limited to this point.

(3) Upon the hospital's filing of a second or subsequent Attestation, its eligibility as a ''facility'' shall be controlled by the determination made on this point in the ETA review (and BALCA proceeding, if any) of the hospital's first Attestation.

(b) *Where and when should Attestations be submitted?* Attestations shall be submitted, by U.S. mail or private carrier, to ETA at the following address: Chief, Division of Foreign Labor Certifications, Office of Workforce Security, Employment and Training Administration, Department of Labor, 200 Constitution Avenue NW, Room C–4318, Washington, DC 20210. Attestations shall be reviewed and accepted for filing or rejected by ETA within thirty calendar days of the date they are received by ETA. Therefore, it is recommended that Attestations be submitted to ETA at least thirty-five calendar days prior to the planned date for filing an H–1C visa petition with the Immigration and Naturalization Service.

(c) What shall be submitted?

(1) Form ETA 9081 and required supporting documentation, as described in paragraphs (c)(1)(i) through (iv) of this section.

(i) A completed and dated original Form ETA 9081, containing the required attestation elements and the original signature of the chief executive officer of the facility, shall be submitted, along with one copy of the completed, signed, and dated Form ETA 9081. Copies of the form and instructions are available at the address listed in paragraph (b) of this section.

(ii) If the Attestation is the first filed by the hospital, it shall be accompanied by copies of pages from the hospital's Form HCFA 2552 filed with the Department of Health and Human Services (pursuant to title XVIII of the Social Security Act) for its 1994 cost reporting period, showing the number of its acute care beds and the percentages of Medicaid and Medicare reimbursed acute care inpatient days (*i.e.,* Form HCFA–2552–92, Worksheet S–3, Part I; Worksheet S, Parts I and II).

(iii) If the facility attests that it will take one or more ''timely and significant steps'' other than the steps identified on Form ETA 9081, then the facility must submit (in duplicate) an explanation of the proposed ''step(s)'' and an explanation of how the proposed ''step(s)'' is/are of comparable significance to those set forth on the Form and in § 655.1114. (*See* § 655.1114(b)(2)(v).)

(iv) If the facility attests that taking more than one ''timely and significant step'' is unreasonable, then the facility must submit (in duplicate) an explanation of this attestation. (*See* § 655.1114(c).)

(2) *Filing fee of $250 per Attestation.* Payment must be in the form of a check or money order, payable to the ''U.S. Department of Labor.'' Remittances must be drawn on a bank or other financial institution located in the U.S. and be payable in U.S. currency.

(3) *Copies of H–1C petitions and INS approval notices.* After ETA has approved the Attestation used by the facility to support any H–1C petition, the facility must send to ETA (at the address specified in paragraph (b) of this section) copies of each H–1C petition and INS approval notice on such petition.

(d) *Attestation elements.* The attestation elements referenced in paragraph (c)(1) of this section are mandated by section 212(m)(2)(A) of the INA (8 U.S.C. 1182(m)(2)(A)). Section 212(m)(2)(A) requires a prospective employer of H–1C nurses to attest to the following:

(1) That it qualifies as a ''facility'' (See § 655.1111);

(2) That employment of H–1C nurses will not adversely affect the wages or working conditions of similarly employed nurses (See § 655.1112);

(3) That the facility will pay the H–1C nurse the facility wage rate (See § 655.1113);

(4) That the facility has taken, and is taking, timely and significant steps to recruit and retain U.S. nurses (*See* § 655.1114);

(5) That there is not a strike or lockout at the facility, that the employment of H–1C nurses is not intended or designed to influence an election for a bargaining representative for RNs at the facility, and that the facility did not lay off and will not lay off a registered nurse employed by the facility 90 days before and after the date of filing a visa petition (*See* § 655.1115);

(6) That the facility will notify its workers and give a copy of the Attestation to every nurse employed at the facility (*See* § 655.1116);

(7) That no more than 33% of nurses employed by the facility will be H–1C nonimmigrants (See § 655.1117);

(8) That the facility will not authorize H–1C nonimmigrants to work at a worksite not under its control, and will not transfer an H–1C nonimmigrant from one worksite to another (*See* § 655.1118).

§§ 655.1111 Element I—What hospitals are eligible to participate in the H–1C program?

(a) The first attestation element requires that the employer be a ''facility'' for purposes of the H–1C program, as defined in INA Section 212(m)(6), 8 U.S.C. 1182 (2)(m)(6).

(b) A qualifying facility under that section is a ''subpart (d) hospital,'' as defined in Section 1886(d)(1)(B) of the Social Security Act, 42 U.S.C. 1395ww(d)(1)(B), which:

(1) Was located in a health professional shortage area (HPSA), as determined by the Department of Health and Human Services, on March 31, 1997. A list of HPSAs, as of March 31, 1997, was published in the **Federal Register** on May 30, 1997 (62 FR 29395);

(2) Had at least 190 acute care beds, as determined by its settled cost report, filed under Title XVIII of the Social Security Act, (42 U.S.C. 1395 *et seq.*), for its fiscal year 1994 cost reporting period (*i.e.,* Form HCFA–2552–92, Worksheet S–3, Part I, column 1, line 8);

(3) Had at least 35% of its acute care inpatient days reimbursed by Medicare, as determined by its settled cost report, filed under Title XVIII of the Social Security Act, for its fiscal year 1994 cost reporting period (*i.e.,* Form HCFA–2552–92, Worksheet S–3, Part I, column 4, line 8 as a percentage of column 6, line 8); and

(4) Had at least 28% of its acute care inpatient days reimbursed by Medicaid, as determined by its settled cost report, filed under Title XVIII of the Social Security Act, for its fiscal year 1994 cost reporting period (*i.e.,* Form HCFA–2552–92, Worksheet S–3, Part I, column 5, line 8 as a percentage of column 6, line 8).

(c) The **Federal Register** notice containing the controlling list of HPSAs (62 FR 29395), can be found in federal depository libraries and on the Government Printing Office Internet website at *http://www.access.gpo.gov.*

(d) To make a determination about information in the settled cost report, the employer shall examine its own Worksheet S–3, Part I, Hospital and Hospital Health Care Complex Statistical Data, in the Hospital and Hospital Health Care Complex Cost

Report, Form HCFA 2552, filed for the fiscal year 1994 cost reporting period.

(e) The facility must maintain a copy of the portions of Worksheet S–3, Part I and Worksheet S, Parts I and II of HCFA Form 2552 which substantiate the attestation of eligibility as a ''facility.'' One set of copies of this document must be kept in the facility's public access file. The full Form 2552 for fiscal year 1994 must be made available to the Department upon request.

§ § 655.1112 Element II—What does ''no adverse effect on wages and working conditions'' mean?

(a) The second attestation element requires that the facility attest that ''the employment of the alien will not adversely affect the wages and working conditions of registered nurses similarly employed.''

(b) For purposes of this program, ''employment'' is full-time employment as defined in § 655.1102; part-time employment of H–1C nurses is not authorized.

(c) *Wages.* To meet the requirement of no adverse effect on wages, the facility must attest that it will pay each nurse employed by the facility at least the prevailing wage for the occupation in the geographic area. The facility must pay the higher of the wage required under this paragraph or the wage required under § 655.1113 (*i.e.,* the third attestation element: facility wage).

(1) *Collectively bargained wage rates.* Where wage rates for nurses at a facility are the result of arms-length collective bargaining, those rates shall be considered ''prevailing'' for that facility for the purposes of this subpart.

(2) *State employment security determination.* In the absence of collectively bargained wage rates, the facility may not independently determine the prevailing wage. The State employment security agency (SESA) shall determine the prevailing wage for similarly employed nurses in the geographic area in accordance with administrative guidelines or regulations issued by ETA. The facility shall request the appropriate prevailing wage from the SESA not more than 90 days prior to the date the Attestation is submitted to ETA. Once a facility obtains a prevailing wage determination from the SESA and files an Attestation supported by that prevailing wage determination, the facility shall be deemed to have accepted the prevailing wage determination as accurate and appropriate (as to both the occupational classification and the wage rate) and thereafter shall not contest the legitimacy of the prevailing wage determination in an investigation or enforcement action pursuant to subpart M. A facility may challenge a SESA prevailing wage determination through the Employment Service complaint system. *See* 20 CFR part 658, subpart M. A facility which challenges a SESA prevailing wage determination must obtain a final ruling from the Employment Service prior to filing an Attestation. Any such challenge shall not require the SESA to divulge any employer wage data which was collected under the promise of confidentiality.

(3) *Total compensation package.* The prevailing wage under this paragraph relates to wages only. Employers are cautioned that each item in the total compensation package for U.S. nurses, H–1C, and other nurses employed by the facility must be the same within a given facility, including such items as housing assistance and fringe benefits.

(4) *Documentation of pay and total compensation.* The facility must maintain in its public access file a copy of the prevailing wage, which shall be either the collective bargaining agreement or the determination that was obtained from the SESA. The facility must maintain payroll records, as specified in § 655.1113, and make such records available to the Administrator in the event of an enforcement action pursuant to subpart M.

(d) *Working conditions.* To meet the requirement of no adverse effect on working conditions, the facility must attest that it will afford equal treatment to U.S. and H–1C nurses with the same seniority, with respect to such working conditions as the number and scheduling of hours worked (including shifts, straight days, weekends); vacations; wards and clinical rotations; and overall staffing-patient patterns. In the event of an enforcement action pursuant to subpart M, the facility must provide evidence substantiating compliance with this attestation.

§ 655.1113 Element III—What does ''facility wage rate'' mean?

(a) The third attestation element requires that the facility employing or seeking to employ the alien must attest that ''the alien employed by the facility will be paid the wage rate for registered nurses similarly employed by the facility.''

(b) The facility must pay the higher of the wage required in this section (*i.e.* facility wage), or the wage required in § 655.1112 (*i.e.,* prevailing wage).

(c) *Wage obligations for H–1C nurses in nonproductive status.*

(1) *Circumstances where wages must be paid.* If the H–1C nurse is not performing work and is in a nonproductive status due to a decision by the facility (*e.g.,* because of lack of assigned work), because the nurse has not yet received a license to work as a registered nurse, or any other reason except as specified in paragraph (c)(2) of this section, the facility is required to pay the salaried H–1C nurse the full amount of the weekly salary, or to pay the hourly-wage H–1C nurse for a full-time week (40 hours or such other number of hours as the facility can demonstrate to be full-time employment) at the applicable wage rate.

(2) *Circumstances where wages need not be paid.* If an H–1C nurse experiences a period of nonproductive status due to conditions unrelated to employment which take the nurse away from his/her duties at his/her voluntary request and convenience (*e.g.,* touring the U.S., caring for ill relative) or render the nonimmigrant unable to work (*e.g.,* maternity leave, automobile accident which temporarily incapacitates the nonimmigrant), then the facility is not obligated to pay the required wage rate during that period, *provided that* such period is not subject to payment under the facility's benefit plan. Payment need not be made if there has been a *bona fide* termination of the employment relationship, as demonstrated by notification to INS that the employment relationship has been terminated and the petition should be canceled.

(d) *Documentation.* The facility must maintain documentation substantiating compliance with this attestation element. The public access file shall contain the facility pay schedule for nurses or a description of the factors taken into consideration by the facility in making compensation decisions for nurses, if either of these documents exists. Categories of nursing positions not covered by the public access file documentation shall not be covered by the Attestation, and, therefore, such positions shall not be filled or held by H–1C nurses. The facility must maintain the payroll records, as required under the Fair Labor Standards Act at 29 CFR part 516, and make such records available to the Administrator in the event of an enforcement action pursuant to subpart M of this part.

§ 655.1114 Element IV—What are the timely and significant steps an H–1C employer must take to recruit and retain U.S. nurses?

(a) The fourth attestation element requires that the facility attest that it ''has taken and is taking timely and significant steps designed to recruit and retain sufficient registered nurses who

are United States citizens or immigrants who are authorized to perform nursing services, in order to remove as quickly as reasonably possible the dependence of the facility on nonimmigrant registered nurses.'' The facility must take at least two such steps, unless it demonstrates that taking a second step is not reasonable. The steps described in this section shall not be considered to be an exclusive list of the significant steps that may be taken to meet the conditions of this section. Nothing in this subpart or subpart M of this part shall require a facility to take more than one step, if the facility can demonstrate that taking a second step is not reasonable. A facility choosing to take timely and significant steps other than those specifically described in this section must submit with its Attestation a description of the step(s) it is proposing to take and an explanation of how the proposed step(s) are of comparable timeliness and significance to those described in this section (*See* § 655.1110(c)(1)(iii)). A facility claiming that a second step is unreasonable must submit an explanation of why such second step would be unreasonable (*See* § 655.1110(c)(1)(iv)).

(b) *Descriptions of steps.* Each of the actions described in this section shall be considered a significant step reasonably designed to recruit and retain U.S. nurses. A facility choosing any of these steps shall designate such step on Form ETA 9081, thereby attesting that its program(s) meets the regulatory requirements set forth for such step. Section 212(m)(2)(E)(ii) of the INA provides that a violation shall be found if a facility fails to meet a condition attested to. Thus, a facility shall be held responsible for all timely and significant steps to which it attests.

(1) *Statutory steps.*

(i) Operating a training program for registered nurses at the facility or financing (or providing participation in) a training program for registered nurses elsewhere. Training programs may include either courses leading to a higher degree (*i.e.,* beyond an associate or a baccalaureate degree), or continuing education courses. If the program includes courses leading to a higher degree, they must be courses which are part of a program accepted for degree credit by a college or university and accredited by a State Board of Nursing or a State Board of Higher Education (or its equivalent), as appropriate. If the program includes continuing education courses, they must be courses which meet criteria established to qualify the nurses taking the courses to earn continuing education units accepted by a State Board of Nursing (or its equivalent). In either type of program, financing by the facility (either directly or arranged through a third party) shall cover the total costs of such training. The number of U.S. nurses for whom such training actually is provided shall be no less than half of the number of nurses who left the facility during the 12-month period prior to submission of the Attestation. U.S. nurses to whom such training was offered, but who rejected such training, may be counted towards those provided training.

(ii) Providing career development programs and other methods of facilitating health care workers to become registered nurses. This may include programs leading directly to a degree in nursing, or career ladder/career path programs which could ultimately lead to a degree in nursing. Any such degree program shall be, at a minimum, through an accredited community college (leading to an associate's degree), 4-year college (a bachelor's degree), or diploma school, and the course of study must be one accredited by a State Board of Nursing (or its equivalent). The facility (either directly or arranged through a third party) must cover the total costs of such programs. U.S. workers participating in such programs must be working or have worked in health care occupations or facilities. The number of U.S. workers for whom such training is provided must be equal to no less than half the average number of vacancies for nurses during the 12–month period prior to the submission of the Attestation. U.S. nurses to whom such training was offered, but who rejected such training, may be counted towards those provided training.

(iii) Paying registered nurses wages at a rate higher than currently being paid to registered nurses similarly employed in the geographic area. The facility's entire schedule of wages for nurses shall be at least 5 percent higher than the prevailing wage as determined by the SESA, and such differentials shall be maintained throughout the period of the Attestation's effectiveness.

(iv) Providing reasonable opportunities for meaningful salary advancement by registered nurses. This may include salary advancement based on factors such as merit, education, and specialty, and/or salary advancement based on length of service, with other bases for wage differentials remaining constant.

(A) Merit, education, and specialty. Salary advancement may be based on factors such as merit, education, and specialty, or the facility may provide opportunities for professional development of its nurses which lead to salary advancement (*e.g.,* participation in continuing education or in-house educational instruction; service on special committees, task forces, or projects considered of a professional development nature; participation in professional organizations; and writing for professional publications). Such opportunities must be available to all the facility's nurses.

(B) Length of service. Salary advancement may be based on length of service using clinical ladders which provide, annually, salary increases of 3 percent or more for a period of no less than 10 years, over and above the costs of living and merit, education, and specialty increases and differentials.

(2) *Other possible steps.* The Act indicates that the four steps described in the statute (and set out in paragraph (b)(1) of this section) are not an exclusive list of timely and significant steps which might qualify. The actions described in paragraphs (b)(2)(i) through (iv) of this section, are also deemed to be qualified; in paragraph (b)(2)(v) of this section, the facility is afforded the opportunity to identify a timely and significant step of its own devising.

(i) Monetary incentives. The facility provides monetary incentives to nurses, through bonuses and merit pay plans not included in the base compensation package, for additional education, and for efforts by the nurses leading to increased recruitment and retention of U.S. nurses. Such monetary incentives may be based on actions by nurses such as: Instituting innovations to achieve better patient care, increased productivity, reduced waste, and/or improved workplace safety; obtaining additional certification in a nursing specialty; accruing unused sick leave; recruiting other U.S. nurses; staying with the facility for a given number of years; taking less desirable assignments (other than shift differential); participating in professional organizations; serving on task forces and on special committees; or contributing to professional publications.

(ii) Special perquisites. The facility provides nurses with special perquisites for dependent care or housing assistance of a nature and/or extent that constitute a ''significant'' factor in inducing employment and retention of U.S. nurses.

(iii) Work schedule options. The facility provides nurses with non-mandatory work schedule options for part-time work, job-sharing, compressed work week or non-rotating shifts (provided, however, that H–1C nurses are employed only in full-time work) of a nature and/or extent that constitute a ''significant'' factor in inducing

employment and retention of U.S. nurses.

(iv) Other training options. The facility provides training opportunities to U.S. workers not currently in health care occupations to become registered nurses by means of financial assistance (*e.g.,* scholarship, loan or pay-back programs) to such persons.

(v) Alternative but significant steps. Facilities are encouraged to be innovative in devising timely and significant steps other than those described in paragraphs (b)(1) and (b)(2)(i) through (iv) of this section. To qualify, an alternative step must be of a timeliness and significance comparable to those in this section. A facility may designate on Form ETA 9081 that it has taken and is taking such alternate step(s), thereby attesting that the step(s) meet the statutory test of timeliness and significance comparable to those described in paragraphs (b)(1) and (b)(2)(i) through (iv) in promoting the development, recruitment, and retention of U.S. nurses. If such a designation is made on Form ETA 9081, the submission of the Attestation to ETA must include an explanation and appropriate documentation of the alternate step(s), and of the manner in which they satisfy the statutory test in comparison to the steps described in paragraphs (b)(1) and (b)(2)(i) through (iv). ETA will review the explanation and documentation and determine whether the alternate step(s) qualify under this subsection. The ETA determination is subject to review by the BALCA, upon the request of an interested party; such review shall be limited to this matter.

(c) *Unreasonableness of second step.* Nothing in this subpart or subpart M of this part requires a facility to take more than one step, if the facility can demonstrate that taking a second step is not reasonable. However, a facility shall make every effort to take at least two steps. The taking of a second step may be considered unreasonable if it would result in the facility's financial inability to continue providing the same quality and quantity of health care or if the provision of nursing services would otherwise be jeopardized by the taking of such a step.

(1) A facility may designate on Form ETA 9081 that the taking of a second step is not reasonable. If such a designation is made on Form ETA 9081, the submission of the Attestation to ETA shall include an explanation and appropriate documentation with respect to each of the steps described in paragraph (b) of this section (other than the step designated as being taken by the facility), showing why it would be unreasonable for the facility to take each such step and why it would be unreasonable for the facility to take any other step designed to recruit, develop and retain sufficient U.S. nurses to meet its staffing needs.

(2) ETA will review the explanation and documentation, and will determine whether the taking of a second step would not be reasonable. The ETA determination is subject to review by the BALCA, upon the request of an interested party; such review shall be limited to this matter.

(d) *Performance-based alternative to criteria for specific steps.* Instead of complying with the specific criteria for one or more of the steps in the second and/or succeeding years of participation in the H–1C program, a facility may include in its *prior* year's Attestation, in addition to the actions taken under specifically attested steps, that it will reduce the number of H–1C nurses it utilizes within one year from the date of the Attestation by at least 10 percent, without reducing the quality or quantity of services provided. If this goal is achieved, the facility shall so indicate on its subsequent year's Attestation. Further, the facility need not attest to any ''timely and significant step'' on that subsequent attestation, if it again indicates that it shall again reduce the number of H–1C nurses it utilizes within one year from the date of the Attestation by at least 10 percent. This performance-based alternative is designed to permit a facility to achieve the objectives of the Act, without subjecting the facility to detailed requirements and criteria as to the specific means of achieving that objective.

(e) *Documentation.* The facility must include in the public access file a description of the activities which constitute its compliance with each timely and significant step which is attested on Form ETA 9081 (e.g., summary of a training program for registered nurses; description of a career ladder showing meaningful opportunities for pay advancements for nurses). If the facility has attested that it will take an alternative step or that taking a second step is unreasonable, then the public access file must include the documentation which was submitted to ETA under paragraph (c) of this section. The facility must maintain in its non-public files, and must make available to the Administrator in the event of an enforcement action pursuant to subpart M of this part, documentation which provides a complete description of the nature and operation of its program(s) sufficient to substantiate its full compliance with the requirements of each timely and significant step which is attested to on Form ETA 9081. This documentation should include information relating to all of the requirements for the step in question.

§ 655.1115 Element V—What does ''no strike/lockout or layoff'' mean?

(a) The fifth attestation element requires that the facility attest that ''there is not a strike or lockout in the course of a labor dispute, the facility did not lay off and will not lay off a registered nurse employed by the facility within the period beginning 90 days before and ending 90 days after the date of filing of any visa petition, and the employment of such an alien is not intended or designated to influence an election for a bargaining representative for registered nurses of the facility.'' Labor disputes for purposes of this attestation element relate only to those involving nurses providing nursing services; other health service occupations are not included. A facility which has filed a petition for H–1C nurses is also prohibited from interfering with the right of the nonimmigrant to join or organize a union.

(b) *Notice of strike or lockout.* In order to remain in compliance with the no strike or lockout portion of this attestation element, the facility must notify ETA if a strike or lockout of nurses at the facility occurs during the one year validity of the Attestation. Within three days of the occurrence of such strike or lockout, the facility must submit to the Chief, Division of Foreign Labor Certifications, Office of Workforce Security, Employment and Training Administration, Department of Labor, 200 Constitution Avenue N.W., Room C–4318, Washington, D.C. 20210, by U.S. mail or private carrier, written notice of the strike or lockout. Upon receiving a notice described in this section from a facility, ETA will examine the documentation, and may consult with the union at the facility or other appropriate entities. If ETA determines that the strike or lockout is covered under 8 CFR 214.2(h)(17), INS's *Effect of strike* regulation for ''H'' visa holders, ETA must certify to INS, in the manner set forth in that regulation, that a strike or other labor dispute involving a work stoppage of nurses is in progress at the facility.

(c) *Lay off* of a U.S. nurse means that the employer has caused the nurse's loss of employment in circumstances *other than* where—

(1) A U.S. nurse has been discharged for inadequate performance, violation of workplace rules, or other reasonable work-related cause;

(2) A U.S. nurse's departure or retirement is voluntary (to be assessed in light of the totality of the circumstances, under established principles concerning ''constructive discharge'' of workers who are pressured to leave employment);

(3) The grant or contract under which the work performed by the U.S. nurse is required and funded has expired, and without such grant or contract the nurse would not continue to be employed because there is no alternative funding or need for the position; or

(4) A U.S. nurse who loses employment is offered, as an alternative to such loss, a similar employment opportunity with the same employer. The validity of the offer of a similar employment opportunity will be assessed in light of the following factors:

(i) The offer is a *bona fide* offer, rather than an offer designed to induce the U.S. nurse to refuse or an offer made with the expectation that the worker will refuse;

(ii) The offered job provides the U.S. nurse an opportunity similar to that provided in the job from which he/she is discharged, in terms such as a similar level of authority, discretion, and responsibility, a similar opportunity for advancement within the organization, and similar tenure and work scheduling;

(iii) The offered job provides the U.S. nurse equivalent or higher compensation and benefits to those provided in the job from which he/she is discharged.

(d) *Documentation.* The facility must include in its public access file, copies of all notices of strikes or other labor disputes involving a work stoppage of nurses at the facility (submitted to ETA under paragraph (b) of this section). The facility must retain in its non-public files, and make available in the event of an enforcement action pursuant to subpart M of this part, any existing documentation with respect to the departure of each U.S. nurse who left his/her employment with the facility in the period from 90 days before until 90 days after the facility's petition for H–1C nurse(s). The facility is also required to have a record of the terms of any offer of alternative employment to such a U.S. nurse and the nurse's response to the offer (which may be a note to the file or other record of the nurse's response), and to make such record available in the event of an enforcement action pursuant to subpart M.

§ 655.1116 Element VI—What notification must facilities provide to registered nurses?

(a) The sixth attestation element requires the facility to attest that at the time of filing of the petition for registered nurses under section 101(a)(15)(H)(i)(c) of the INA, notice of filing has been provided by the facility to the bargaining representative of the registered nurses at the facility or, where there is no such bargaining representative, notice of the filing has been provided to registered nurses at the facility through posting in conspicuous locations, and individual copies of the Attestation have been provided to registered nurses employed at the facility.

(b) *Notification of bargaining representative.* At a time no later than the date the Attestation is transmitted to ETA, the facility must notify the bargaining representative (if any) for nurses at the facility that the Attestation is being submitted. No later than the date the facility transmits a petition for H–1C nurses to INS, the facility must notify the bargaining representative (if any) for nurses at the facility that the H–1C petition is being submitted. This notice may be either a copy of the Attestation or petition, or a document stating that the Attestation and H–1C petition are available for review by interested parties at the facility (explaining how they can be inspected or obtained) and at the Division of Foreign Labor Certifications, Office of Workforce Security, Employment and Training Administration, Department of Labor, 200 Constitution Avenue NW., Room C–4318, Washington, DC 20210. The notice must include the following statement: ''Complaints alleging misrepresentation of material facts in the Attestation or failure to comply with the terms of the Attestation may be filed with any office of the Wage and Hour Division of the United States Department of Labor.''

(c) *Posting notice.* If there is no bargaining representative for nurses at the facility, the facility must post a written notice in two or more conspicuous locations at the facility. Such notices shall be clearly visible and unobstructed while posted, and shall be posted in conspicuous places where nurses can easily read the notices on their way to or from their duties. Appropriate locations for posting hard copy notices include locations in the immediate proximity of mandatory Fair Labor Standards Act wage and hour notices and Occupational Safety and Health Act occupational safety and health notices. In the alternative, the facility may use electronic means it ordinarily uses to communicate with its nurses about job vacancies or promotion opportunities, including through its ''home page'' or ''electronic bulletin board,'' provided that the nurses have, as a practical matter, direct access to those sites; or, where the nurses have individual e-mail accounts, the facility may use e-mail. This must be accomplished no later than the date when the facility transmits an Attestation to ETA and the date when the facility transmits an H–1C petition to the INS. The notice may be either a copy of the Attestation or petition, or a document stating that the Attestation or petition has been filed and is available for review by interested parties at the facility (explaining how these documents can be inspected or obtained) and at the national office of ETA. The notice shall include the following statement: ''Complaints alleging misrepresentation of material facts in the Attestation or failure to comply with the terms of the Attestation may be filed with any office of the Wage and Hour Division of the United States Department of Labor.'' Unless it is sent to an individual e-mail address, the Attestation notice shall remain posted during the validity period of the Attestation; the petition notice shall remain posted for ten days. Copies of all notices shall be available for examination in the facility's public access file.

(d) *Individual notice to RNs.* In addition to notifying the bargaining representative or posting notice as described in paragraphs (b) and (c) of this section, the facility must provide a copy of the Attestation, within 30 days of the date of filing, to every registered nurse employed at the facility. This requirement may be satisfied by electronic means if an individual e-mail message, with the Attestation as an attachment, is sent to every RN at the facility. This notification includes not only the RNs employed by the facility, but also includes any RN who is providing service at the facility as an employee of another entity, such as a nursing contractor.

(e) Where RNs lack practical computer access, a hard copy must be posted in accordance with paragraph (c) of this section and a hard copy of the Attestation delivered, within 30 days of the date of filing, to every RN employed at the facility in accordance with paragraph (d) of this section.

(f) The facility must maintain, in its public access file, copies of the notices required by this section. The facility must make such documentation available to the Administrator in the event of an enforcement action pursuant to subpart M of this part.

§ § 655.1117 Element VII—What are the limitations as to the number of H–1C nonimmigrants that a facility may employ?

(a) The seventh attestation element requires that the facility attest that it will not, at any time, employ a number of H–1C nurses that exceeds 33% of the total number of registered nurses employed by the facility. The calculation of the population of nurses for purposes of this attestation includes only nurses who have an employer-employee relationship with the facility (as defined in § 655.1102).

(b) The facility must maintain documentation (*e.g.,* payroll records, copies of H–1C petitions) that demonstrates its compliance with this attestation. The facility must make such documentation available to the Administrator in the event of an enforcement action pursuant to subpart M of this part.

§ § 655.1118 Element VIII—What are the limitations as to where the H–1C nonimmigrant may be employed?

The eighth attestation element requires that the facility attest that it will not authorize any H–1C nurse to perform services at any worksite not controlled by the facility or transfer any H–1C nurse from one worksite to another worksite, even if all of the worksites are controlled by the facility.

§ § 655.1130 What criteria does the Department use to determine whether or not to certify an Attestation?

(a) An Attestation form which is complete and has no obvious inaccuracies will be accepted for filing by ETA without substantive review, *except that* ETA will conduct a substantive review on particular attestation elements in the following limited circumstances:

(1) Determination of whether the hospital submitting the Attestation is a qualifying ''facility'' (*see* § 655.1110(c)(ii), regarding the documentation required, and the process for review);

(2) Where the facility attests that it is taking or will take a ''timely and significant step'' other than those identified on the Form ETA 9081 (*see* § 655.1114(b)(2)(v), regarding the documentation required, and the process for review);

(3) Where the facility asserts that taking a second ''timely and significant step'' is unreasonable (*see* § 655.1114(c), regarding the documentation required, and the process for review).

(b) The certifying officer will act on the Attestation in a timely manner. If the officer does not contact the facility for information or make any determination within 30 days of receiving the Attestation, the Attestation shall be accepted for filing. If ETA receives information contesting the truth of the statements attested to or compliance with an Attestation prior to the determination to accept or reject the Attestation for filing, such information shall not be made part of ETA's administrative record on the Attestation but shall be referred to the Administrator to be processed as a complaint pursuant to subpart M of this part if such Attestation is accepted by ETA for filing.

(c) Upon the facility's submitting the Attestation to ETA and providing the notice required by § 655.1116, the Attestation shall be available for public examination at the facility. When ETA accepts the Attestation for filing, the Attestation will be made available for public examination in the Office of Workforce Security, Employment Training Administration, U.S. Department of Labor, Room C–4318, 200 Constitution Avenue, NW., Washington, DC 20210.

(d) *Standards for acceptance of Attestation.* ETA will accept the Attestation for filing under the following standards:

(1) The Attestation is complete and contains no obvious inaccuracies.

(2) The facility's explanation and documentation are sufficient to satisfy the requirements for the Attestation elements on which substantive review is conducted (as described in paragraph (a) of this section).

(3) The facility has no outstanding ''insufficient funds'' check(s) in connection with filing fee(s) for prior Attestation(s).

(4) The facility has no outstanding civil money penalties and/or has not failed to satisfy a remedy assessed by the Wage and Hour Administrator, under subpart M of this part, where that penalty or remedy assessment has become the final agency action.

(5) The facility has not been disqualified from approval of any petitions filed by, or on behalf of, the facility under section 204 or section 212(m) of the INA.

(e) *DOL not the guarantor.* DOL is not the guarantor of the accuracy, truthfulness or adequacy of an Attestation accepted for filing.

(f) *Attestation Effective and Expiration Dates.* An Attestation becomes filed and effective as of the date it is accepted and signed by the ETA certifying officer. Such Attestation is valid until the date that is the later of the end of the 12-month period beginning on the date of acceptance for filing with the Secretary, or the end of the period of admission (under INA section 101(a)(15)(H)(i)(c)) of the last alien with respect to whose admission the Attestation was applied, unless the Attestation is suspended or invalidated earlier than such date pursuant to § 655.1132.

§ 655.1132 When will the Department suspend or invalidate an approved Attestation?

(a) Suspension or invalidation of an Attestation may result where: the facility's check for the filing fee is not honored by a financial institution; a Board of Alien Labor Certification Appeals (BALCA) decision reverses an ETA certification of the Attestation; ETA finds that it made an error in its review and certification of the Attestation; an enforcement proceeding has finally determined that the facility failed to meet a condition attested to, or that there was a misrepresentation of material fact in an Attestation; the facility has failed to pay civil money penalties and/or failed to satisfy a remedy assessed by the Wage and Hour Administrator, where that penalty or remedy assessment has become the final agency action. If an Attestation is suspended or invalidated, ETA will notify INS.

(b) *BALCA decision or final agency action in an enforcement proceeding.* If an Attestation is suspended or invalidated as a result of a BALCA decision overruling an ETA acceptance of the Attestation for filing, or is suspended or invalidated as a result of an enforcement action by the Administrator under subpart M of this part, such suspension or invalidation may not be separately appealed, but shall be merged with appeals on the underlying matter.

(c) *ETA action.* If, after accepting an Attestation for filing, ETA discovers that it erroneously accepted that Attestation for filing and, as a result, ETA suspends or invalidates that acceptance, the facility may appeal such suspension or invalidation under § 655.1135 as if that suspension or invalidation were a decision to reject the Attestation for filing.

(d) A facility must comply with the terms of its Attestation, even if such Attestation is suspended, invalidated or expired, as long as any H–1C nurse is at the facility, unless the Attestation is superseded by a subsequent Attestation accepted for filing by ETA.

§ 655.1135 What appeals procedures are available concerning ETA's actions on a facility's Attestation?

(a) *Appeals of acceptances or rejections.* Any interested party may appeal ETA's acceptance or rejection of

an Attestation submitted by a facility for filing. However, such an appeal shall be limited to ETA's determination on one or more of the attestation elements for which ETA conducts a substantive review (as described in § 655.1130(a)). Such appeal must be filed no later than 30 days after the date of the acceptance or rejection, and will be considered under the procedures set forth at paragraphs (d) and (f) of this section.

(b) *Appeal of invalidation or suspension.* An interested party may appeal ETA's invalidation or suspension of a filed Attestation due to a discovery by ETA that it made an error in its review of the Attestation, as described in § 655.1132.

(c) *Parties to the appeal.* In the case of an appeal of an acceptance, the facility will be a party to the appeal; in the case of the appeal of a rejection, invalidation, or suspension, the collective bargaining representative (if any) representing nurses at the facility shall be a party to the appeal. Appeals shall be in writing; shall set forth the grounds for the appeal; shall state if de novo consideration by BALCA is requested; and shall be mailed by certified mail within 30 calendar days of the date of the action from which the appeal is taken (*i.e.,* the acceptance, rejection, suspension or invalidation of the Attestation).

(d) *Where to file appeals.* Appeals made under this section must be in writing and must be mailed by certified mail to: Director, Office of Workforce Security, Employment Training Administration, U.S. Department of Labor, Room C–4318, 200 Constitution Avenue, NW., Washington, DC 20210.

(e) *Transmittal of the case file to BALCA.* Upon receipt of an appeal under this section, the Certifying Office shall send to BALCA a certified copy of the ETA case file, containing the Attestation and supporting documentation and any other information or data considered by ETA in taking the action being appealed. The administrative law judge chairing BALCA shall assign a panel of one or more administrative law judges who serve on BALCA to review the record for legal sufficiency and to consider and rule on the appeal.

(f) *Consideration on the record; de novo hearings.* BALCA may not remand, dismiss, or stay the case, except as provided in paragraph (h) of this section, but may otherwise consider the appeal on the record or in a *de novo* hearing (on its own motion or on a party's request). Interested parties and *amici* curiae may submit briefs in accordance with a schedule set by BALCA. The ETA official who made the determination which was appealed will be represented by the Associate Solicitor for Employment and Training Legal Services, Office of the Solicitor, Department of Labor, or the Associate Solicitor's designee. If BALCA determines to hear the appeal on the record without a *de novo* hearing, BALCA shall render a decision within 30 calendar days after BALCA's receipt of the case file. If BALCA determines to hear the appeal through a *de novo* hearing, the procedures contained in 29 CFR part 18 will apply to such hearings, except that:

(1) The appeal will not be considered to be a complaint to which an answer is required.

(2) BALCA shall ensure that, at the request of the appellant, the hearing is scheduled to take place within a reasonable period after BALCA's receipt of the case file (see also the time period described in paragraph (f)(4) of this section).

(3) Technical rules of evidence, such as the Federal Rules of Evidence and subpart B of the Rules of Practice and Procedure for Administrative Hearings Before the Office of Administrative Law Judges (29 CFR part 18, subpart B), will not apply to any hearing conducted pursuant to this subpart, but rules or principles designed to assure production of the most credible evidence available, and to subject testimony to test by cross-examination, shall be applied where reasonably necessary by BALCA in conducting the hearing. BALCA may exclude irrelevant, immaterial, or unduly repetitious evidence. The certified copy of the case file transmitted to BALCA by the Certifying Officer must be made part of the evidentiary record of the case and need not be moved into evidence.

(4) BALCA's decision shall be rendered within 120 calendar days after BALCA's receipt of the case file.

(g) *Dismissals and stays.* If BALCA determines that the appeal is solely a question of misrepresentation by the facility or is solely a complaint of the facility's nonperformance of the Attestation, BALCA shall dismiss the case and refer the matter to the Administrator, Wage and Hour Division, for action under subpart M. If BALCA determines that the appeal is partially a question of misrepresentation by the facility, or is partially a complaint of the facility's nonperformance of the Attestation, BALCA shall refer the matter to the Administrator, Wage and Hour Division, for action under subpart M of this part and shall stay BALCA consideration of the case pending final agency action on such referral. During such stay, the 120-day period described in paragraph (f)(1)(iv) of this section shall be suspended.

(h) *BALCA's decision.* After consideration on the record or a *de novo* hearing, BALCA shall either affirm or reverse ETA's decision, and shall so notify the appellant; and any other parties.

(i) *Decisions on Attestations.* With respect to an appeal of the acceptance, rejection, suspension or invalidation of an Attestation, the decision of BALCA shall be the final decision of the Secretary, and no further review shall be given to the matter by any DOL official.

§ 655.1150 What materials must be available to the public?

(a) *Public examination at ETA.* ETA will make available for public examination at the Office of Workforce Security, Employment Training Administration, U.S. Department of Labor, Room C–4318, 200 Constitution Avenue, NW., Washington, DC 20210, a list of facilities which have filed Attestations; a copy of the facility's Attestation(s) and any supporting documentation; and a copy of each of the facility's H–1C petitions (if any) to INS along with the INS approval notices (if any).

(b) *Public examination at facility.* For the duration of the Attestation's validity and thereafter for so long as the facility employs any H–1C nurse under the Attestation, the facility must maintain a separate file containing a copy of the Attestation, a copy of the prevailing wage determination, a description of the facility pay system or a copy of the facility's pay schedule if either document exists, copies of the notices provided under § 655.1115 and § 655.1116, a description of the ''timely and significant steps'' as described in § 655.1114, and any other documentation required by this part to be contained in the public access file. The facility must make this file available to any interested parties within 72 hours upon written or oral request. If a party requests a copy of the file, the facility shall provide it and any charge for such copy shall not exceed the cost of reproduction.

(c) *ETA Notice to public.* ETA will periodically publish a notice in the **Federal Register** announcing the names and addresses of facilities which have submitted Attestations; facilities which have Attestations on file; facilities which have submitted Attestations which have been rejected for filing; and facilities which have had Attestations suspended.

Subpart M—What are the Department's enforcement obligations with respect to H–1C Attestations?

§ 655.1200 What enforcement authority does the Department have with respect to a facility's H–1C Attestations?

(a) The Administrator shall perform all the Secretary's investigative and enforcement functions under 8 U.S.C. 1182(m) and subparts L and M of this part.

(b) The Administrator, either because of a complaint or otherwise, shall conduct such investigations as may be appropriate and, in connection therewith, enter and inspect such places and such records (and make transcriptions thereof), question such persons and gather such information as deemed necessary by the Administrator to determine compliance with the matters to which a facility has attested under section 212(m) of the INA (8 U.S.C. 1182(m)) and subparts L and M of this part.

(c) A facility being investigated must make available to the Administrator such records, information, persons, and places as the Administrator deems appropriate to copy, transcribe, question, or inspect. A facility must fully cooperate with any official of the Department of Labor performing an investigation, inspection, or law enforcement function under 8 U.S.C. 1182(m) or subparts L or M of this part. Such cooperation shall include producing documentation upon request. The Administrator may deem the failure to cooperate to be a violation, and take such further actions as the Administrator considers appropriate. (Note: Federal criminal statutes prohibit certain interference with a Federal officer in the performance of official duties. 18 U.S.C. 111 and 1114.)

(d) No facility may intimidate, threaten, restrain, coerce, blacklist, discharge, or in any manner discriminate against any person because such person has:

(1) Filed a complaint or appeal under or related to section 212(m) of the INA (8 U.S.C. 1182(m)) or subpart L or M of this part;

(2) Testified or is about to testify in any proceeding under or related to section 212(m) of the INA (8 U.S.C. 1182(m)) or subpart L or M of this part.

(3) Exercised or asserted on behalf of himself/herself or others any right or protection afforded by section 212(m) of the INA (8 U.S.C. 1182(m)) or subpart L or M of this part.

(4) Consulted with an employee of a legal assistance program or an attorney on matters related to the Act or to subparts L or M of this part or any other DOL regulation promulgated under 8 U.S.C. 1182(m).

(5) In the event of such intimidation or restraint as are described in this paragraph, the Administrator may deem the conduct to be a violation and take such further actions as the Administrator considers appropriate.

(e) A facility subject to subparts L and M of this part must maintain a separate file containing its Attestation and required documentation, and must make that file or copies thereof available to interested parties, as required by § 655.1150. In the event of a facility's failure to maintain the file, to provide access, or to provide copies, the Administrator may deem the conduct to be a violation and take such further actions as the Administrator considers appropriate.

(f) No facility may seek to have an H–1C nurse, or any other nurse similarly employed by the employer, or any other employee waive rights conferred under the Act or under subpart L or M of this part. In the event of such waiver, the Administrator may deem the conduct to be a violation and take such further actions as the Administrator considers appropriate. This prohibition of waivers does not prevent agreements to settle litigation among private parties, and a waiver or modification of rights or obligations in favor of the Secretary shall be valid for purposes of enforcement of the provisions of the Act or subpart L and M of this part.

(g) The Administrator shall, to the extent possible under existing law, protect the confidentiality of any complainant or other person who provides information to the Department.

§ 655.1205 What is the Administrator's responsibility with respect to complaints and investigations?

(a) The Administrator, through investigation, shall determine whether a facility has failed to perform any attested conditions, misrepresented any material facts in an Attestation (including misrepresentation as to compliance with regulatory standards), or otherwise violated the Act or subpart L or M of this part. The Administrator's authority applies whether an Attestation is expired or unexpired at the time a complaint is filed. (Note: Federal criminal statutes provide for fines and/or imprisonment for knowing and willful submission of false statements to the Federal Government. 18 U.S.C. 1001; *see also* 18 U.S.C. 1546.)

(b) Any aggrieved person or organization may file a complaint of a violation of the provisions of section 212(m) of the INA (8 U.S.C. 1182(m)) or subpart L or M of this part. No particular form of complaint is required, except that the complaint shall be written or, if oral, shall be reduced to writing by the Wage and Hour Division official who receives the complaint. The complaint must set forth sufficient facts for the Administrator to determine what part or parts of the Attestation or regulations have allegedly been violated. Upon the request of the complainant, the Administrator shall, to the extent possible under existing law, maintain confidentiality about the complainant's identity; if the complainant wishes to be a party to the administrative hearing proceedings under this subpart, the complainant shall then waive confidentiality. The complaint may be submitted to any local Wage and Hour Division office; the addresses of such offices are found in local telephone directories. Inquiries concerning the enforcement program and requests for technical assistance regarding compliance may also be submitted to the local Wage and Hour Division office.

(c) The Administrator shall determine whether there is reasonable cause to believe that the complaint warrants investigation and, if so, shall conduct an investigation, within 180 days of the receipt of a complaint. If the Administrator determines that the complaint fails to present reasonable cause for an investigation, the Administrator shall so notify the complainant, who may submit a new complaint, with such additional information as may be necessary.

(d) When an investigation has been conducted, the Administrator shall, within 180 days of the receipt of a complaint, issue a written determination, stating whether a basis exists to make a finding that the facility failed to meet a condition of its Attestation, made a misrepresentation of a material fact therein, or otherwise violated the Act or subpart L or M. The determination shall specify any sanctions imposed due to violations. The Administrator shall provide a notice of such determination to the interested parties and shall inform them of the opportunity for a hearing pursuant to § 655.1220.

§ 655.1210 What penalties and other remedies may the Administrator impose?

(a) The Administrator may assess a civil money penalty not to exceed $1,000 per nurse per violation, with the total penalty not to exceed $10,000 per violation. The Administrator also may impose appropriate remedies, including the payment of back wages, the performance of attested obligations such

as providing training, and reinstatement and/or wages for laid off U.S. nurses.

(b) In determining the amount of civil money penalty to be assessed for any violation, the Administrator will consider the type of violation committed and other relevant factors. The matters which may be considered include, but are not limited to, the following:

(1) Previous history of violation, or violations, by the facility under the Act and subpart L or M of this part;

(2) The number of workers affected by the violation or violations;

(3) The gravity of the violation or violations;

(4) Efforts made by the violator in good faith to comply with the Attestation as provided in the Act and subparts L and M of this part;

(5) The violator's explanation of the violation or violations;

(6) The violator's commitment to future compliance, taking into account the public health, interest, or safety; and

(7) The extent to which the violator achieved a financial gain due to the violation, or the potential financial loss or potential injury or adverse effect upon the workers.

(c) The civil money penalty, back wages, and any other remedy determined by the Administrator to be appropriate, are immediately due for payment or performance upon the assessment by the Administrator, or the decision by an administrative law judge where a hearing is requested, or the decision by the Secretary where review is granted. The facility must remit the amount of the civil money penalty, by certified check or money order made payable to the order of ''Wage and Hour Division, Labor.'' The remittance must be delivered or mailed to the Wage and Hour Division Regional Office for the area in which the violation(s) occurred. The payment of back wages, monetary relief, and/or the performance or any other remedy prescribed by the Administrator will follow procedures established by the Administrator. The facility's failure to pay the civil money penalty, back wages, or other monetary relief, or to perform any other assessed remedy, will result in the rejection by ETA of any future Attestation submitted by the facility until such payment or performance is accomplished.

(d) The Federal Civil Penalties Inflation Adjustment Act of 1990, as amended (28 U.S.C. 2461 note), requires that inflationary adjustments to civil money penalties in accordance with a specified cost-of-living formula be made, by regulation, at least every four years. The adjustments are to be based on changes in the Consumer Price Index for all Urban Consumers (CPI–U) for the U.S. City Average for All Items. The adjusted amounts will be published in the **Federal Register**. The amount of the penalty in a particular case will be based on the amount of the penalty in effect at the time the violation occurs.

§ 655.1215 How are the Administrator's investigation findings issued?

(a) The Administrator's determination, issued under § 655.1205(d), shall be served on the complainant, the facility, and other interested parties by personal service or by certified mail at the parties' last known addresses. Where service by certified mail is not accepted by the party, the Administrator may exercise discretion to serve the determination by regular mail. Where the complainant has requested confidentiality, the Administrator shall serve the determination in a manner which will not breach that confidentiality.

(b) The Administrator's written determination required by § 655.1205(c) shall:

(1) Set forth the determination of the Administrator and the reason or reasons therefor; prescribe any remedies or penalties including the amount of any unpaid wages due, the actions required for compliance with the facility Attestation, and the amount of any civil money penalty assessment and the reason or reasons therefor.

(2) Inform the interested parties that they may request a hearing under § 655.1220.

(3) Inform the interested parties that if a request for a hearing is not received by the Chief Administrative Law Judge within 10 days of the date of the determination, the determination of the Administrator shall become final and not appealable.

(4) Set forth the procedure for requesting a hearing, and give the address of the Chief Administrative Law Judge.

(5) Inform the parties that, under § 655.1255, the Administrator shall notify the Attorney General and ETA of the occurrence of a violation by the employer.

§ 655.1220 Who can appeal the Administrator's findings and what is the process?

(a) Any interested party desiring review of a determination issued under § 655.1205(d), including judicial review, must make a request for an administrative hearing in writing to the Chief Administrative Law Judge at the address stated in the notice of determination. If such a request for an administrative hearing is timely filed, the Administrator's determination shall be inoperative unless and until the case is dismissed or the Administrative Law Judge issues an order affirming the decision.

(b) An interested party may request a hearing in the following circumstances:

(1) Where the Administrator determines that there is no basis for a finding of violation, the complainant or other interested party may request a hearing. In such a proceeding, the party requesting the hearing shall be the prosecuting party and the facility shall be the respondent; the Administrator may intervene as a party or appear as *amicus curiae* at any time in the proceeding, at the Administrator's discretion.

(2) Where the Administrator determines that there is a basis for a finding of violation, the facility or other interested party may request a hearing. In such a proceeding, the Administrator shall be the prosecuting party and the facility shall be the respondent.

(c) No particular form is prescribed for any request for hearing permitted by this part. However, any such request shall:

(1) Be dated;

(2) Be typewritten or legibly written;

(3) Specify the issue or issues stated in the notice of determination giving rise to such request;

(4) State the specific reason or reasons why the party requesting the hearing believes such determination is in error;

(5) Be signed by the party making the request or by an authorized representative of such party; and

(6) Include the address at which such party or authorized representative desires to receive further communications relating thereto.

(d) The request for such hearing must be received by the Chief Administrative Law Judge, at the address stated in the Administrator's notice of determination, no later than 10 days after the date of the determination. An interested party which fails to meet this 10-day deadline for requesting a hearing may thereafter participate in the proceedings only by consent of the administrative law judge, either through intervention as a party under 29 CFR 18.10 (b) through (d) or through participation as an *amicus curiae* under 29 CFR 18.12.

(e) The request may be filed in person, by facsimile transmission, by certified or regular mail, or by courier service. For the requesting party's protection, if the request is filed by mail, it should be certified mail. If the request is filed by facsimile transmission, the original of the request, signed by the requestor or authorized representative, must be filed

within 10 days of the date of the Administrator's notice of determination.

(f) Copies of the request for a hearing must be sent by the requestor to the Wage and Hour Division official who issued the Administrator's notice of determination, to the representative(s) of the Solicitor of Labor identified in the notice of determination, and to all known interested parties.

§ 655.1225 What are the rules of practice before an ALJ?

(a) Except as specifically provided in this subpart, and to the extent they do not conflict with the provisions of this subpart, the ''Rules of Practice and Procedure for Administrative Hearings Before the Office of Administrative Law Judges'' established by the Secretary at 29 CFR part 18 shall apply to administrative proceedings under this subpart.

(b) As provided in the Administrative Procedure Act, 5 U.S.C. 556, any oral or documentary evidence may be received in proceedings under this part. The Federal Rules of Evidence and subpart B of the Rules of Practice and Procedure for Administrative Hearings Before the Office of Administrative Law Judges (29 CFR part 18, subpart B) do not apply, but principles designed to ensure production of relevant and probative evidence shall guide the admission of evidence. The administrative law judge may exclude evidence which is immaterial, irrelevant, or unduly repetitive.

§ 655.1230 What time limits are imposed in ALJ proceedings?

(a) Under this subpart, a party may serve any pleading or document by regular mail. Service is complete upon mailing to the last known address. No additional time for filing or response is authorized where service is by mail. In the interest of expeditious proceedings, the administrative law judge may direct the parties to serve pleadings or documents by a method other than regular mail.

(b) Two (2) copies of all pleadings and other documents in any administrative law judge proceeding shall be served on the attorneys for the Administrator. One copy must be served on the Associate Solicitor, Division of Fair Labor Standards, Office of the Solicitor, U.S. Department of Labor, 200 Constitution Avenue N.W., Washington, D.C. 20210, and one copy on the attorney representing the Administrator in the proceeding.

(c) Time will be computed beginning with the day following the action and includes the last day of the period unless it is a Saturday, Sunday, or Federally-observed holiday, in which case the time period includes the next business day.

§ 655.1235 What are the ALJ proceedings?

(a) Upon receipt of a timely request for a hearing filed in accordance with § 655.1220, the Chief Administrative Law Judge shall appoint an administrative law judge to hear the case.

(b) Within seven (7) days following the assignment of the case, the administrative law judge shall notify all interested parties of the date, time, and place of the hearing. All parties shall be given at least five (5) days notice of such hearing.

(c) The date of the hearing shall be not more than 60 days from the date of the Administrator's determination. Because of the time constraints imposed by the Act, no requests for postponement shall be granted except for compelling reasons and by consent of all the parties to the proceeding.

(d) The administrative law judge may prescribe a schedule by which the parties are permitted to file a pre-hearing brief or other written statement of fact or law. Any such brief or statement shall be served upon each other party in accordance with § 655.1230. Posthearing briefs will not be permitted except at the request of the administrative law judge. When permitted, any such brief shall be limited to the issue or issues specified by the administrative law judge, shall be due within the time prescribed by the administrative law judge, and shall be served on each other party in accordance with § 655.1230.

§ 655.1240 When and how does an ALJ issue a decision?

(a) Within 90 days after receipt of the transcript of the hearing, the administrative law judge shall issue a decision.

(b) The decision of the administrative law judge shall include a statement of findings and conclusions, with reasons and basis therefore, upon each material issue presented on the record. The decision shall also include an appropriate order which may affirm, deny, reverse, or modify, in whole or in part, the determination of the Administrator; the reason or reasons for such order shall be stated in the decision. The administrative law judge shall not render determinations as to the legality of a regulatory provision or the constitutionality of a statutory provision.

(c) The decision shall be served on all parties in person or by certified or regular mail.

§ 655.1245 Who can appeal the ALJ's decision and what is the process?

(a) The Administrator or any interested party desiring review of the decision and order of an administrative law judge, including judicial review, must petition the Department's Administrative Review Board (Board) to review the ALJ's decision and order. To be effective, such petition must be received by the Board within 30 days of the date of the decision and order. Copies of the petition must be served on all parties and on the administrative law judge.

(b) No particular form is prescribed for any petition for the Board's review permitted by this subpart. However, any such petition must:

(1) Be dated;

(2) Be typewritten or legibly written;

(3) Specify the issue or issues stated in the administrative law judge's decision and order giving rise to such petition;

(4) State the specific reason or reasons why the party petitioning for review believes such decision and order are in error;

(5) Be signed by the party filing the petition or by an authorized representative of such party;

(6) Include the address at which such party or authorized representative desires to receive further communications relating thereto; and

(7) Attach copies of the administrative law judge's decision and order, and any other record documents which would assist the Board in determining whether review is warranted.

(c) Whenever the Board determines to review the decision and order of an administrative law judge, a notice of the Board's determination must be served upon the administrative law judge and upon all parties to the proceeding within 30 days after the Board's receipt of the petition for review. If the Board determines that it will review the decision and order, the order shall be inoperative unless and until the Board issues an order affirming the decision and order.

(d) Within 15 days of receipt of the Board's notice, the Office of Administrative Law Judges shall forward the complete hearing record to the Board.

(e) The Board's notice shall specify:

(1) The issue or issues to be reviewed;

(2) The form in which submissions must be made by the parties (*e.g.*, briefs, oral argument);

(3) The time within which such submissions must be made.

(f) All documents submitted to the Board must be filed with the Administrative Review Board, Room S–

4309, U.S. Department of Labor, Washington, D.C. 20210. An original and two copies of all documents must be filed. Documents are not deemed filed with the Board until actually received by the Board. All documents, including documents filed by mail, must be received by the Board either on or before the due date.

(g) Copies of all documents filed with the Board must be served upon all other parties involved in the proceeding. Service upon the Administrator must be in accordance with § 655.1230(b).

(h) The Board's final decision shall be issued within 180 days from the date of the notice of intent to review. The Board's decision shall be served upon all parties and the administrative law judge.

(i) Upon issuance of the Board's decision, the Board shall transmit the entire record to the Chief Administrative Law Judge for custody in accordance with § 655.1250.

§ 655.1250 Who is the official record keeper for these administrative appeals?

The official record of every completed administrative hearing procedure provided by subparts L and M of this part shall be maintained and filed under the custody and control of the Chief Administrative Law Judge. Upon receipt of a complaint seeking review of the final agency action in a United States District Court, the Chief Administrative Law Judge shall certify the official record and shall transmit such record to the clerk of the court.

§ 655.1255 What are the procedures for debarment of a facility based on a finding of violation?

(a) The Administrator shall notify the Attorney General and ETA of the final determination of a violation by a facility upon the earliest of the following events:

(1) Where the Administrator determines that there is a basis for a finding of violation by a facility, and no timely request for hearing is made under § 655.1220; or

(2) Where, after a hearing, the administrative law judge issues a decision and order finding a violation by a facility, and no timely petition for review to the Board is made under §§ 655.1245; or

(3) Where a petition for review is taken from an administrative law judge's decision and the Board either declines within 30 days to entertain the appeal, under § 655.1245(c), or the Board affirms the administrative law judge's determination; or

(4) Where the administrative law judge finds that there was no violation by a facility, and the Board, upon review, issues a decision under § 655.1245(h), holding that a violation was committed by a facility.

(b) The Attorney General, upon receipt of the Administrator's notice under paragraph (a) of this section, shall not approve petitions filed with respect to that employer under section 212(m) of the INA (8 U.S.C. 1182(m)) during a period of at least 12 months from the date of receipt of the Administrator's notification.

(c) ETA, upon receipt of the Administrator's notice under paragraph (a) of this section, shall suspend the employer's Attestation(s) under subparts L and M of this part, and shall not accept for filing any Attestation submitted by the employer under subparts L and M of this part, for a period of 12 months from the date of receipt of the Administrator's notification or for a longer period if one is specified by the Attorney General for visa petitions filed by that employer under section 212(m) of the INA.

§ 655.1260 Can Equal Access to Justice Act attorney fees be awarded?

A proceeding under subpart L or M of this part is not subject to the Equal Access to Justice Act, as amended, 5 U.S.C. 504. In such a proceeding, the administrative law judge shall have no authority to award attorney fees and/or other litigation expenses under the provisions of the Equal Access to Justice Act.

Signed at Washington, DC, this 11th day of August, 2000.

Raymond Bramucci,

Assistant Secretary for Employment and Training, Employment and Training Administration.

T. Michael Kerr,

Administrator, Wage and Hour Division, Employment Standards Administration.

BILLING CODE 4510–30–P

APPENDIX I

ETA Form 9081

[This appendix will not appear in the Code of Federal Regulations.]

Attestation for H-1C
Nonimmigrant Nurses

U.S. Department of Labor
Employment and Training Administration

ETA Form 9081
OMB Approval:
Expiration:

I. Applicant's Information

(1) Full Legal Name of Applicant

(2) Federal Employer I.D. Number (9 digits) (EIN from IRS) -

(3) Applicant's Telephone Number - /

(4) Return FAX Number -

(5) Contact's Telephone Number (Optional - If contact is the hiring official leave blank.) - /

(6) Applicant's Address (Number / Street)

City | State | Postal Code

(7) Contact's Name (Optional - If contact is the hiring official leave blank.) Last name on the first line, first name & middle initial on the second line.

(8) Correspondence Address (only use this area if correspondence should be sent to a location other than the Applicant)
(Number / Street/ Post Office Box or Rural Route)

City | State | Postal Code

E-mail Address

@

II. Location of Facility

(1) County

City | State | Postal Code

(2) Census Tract (if known)

Complaints alleging misrepresentation of material facts in this Attestation and/or failure to comply with the terms of this Attestation may be filed with any office of the Wage and Hour Division of the United States Department of Labor.

Employer's Control Number

Employer's Control Number must be the same on all three (3) pages, including the last page

Draft

Attestation for H-1C Nonimmigrant Nurses

U.S. Department of Labor
Employment and Training Administration

ETA Form 9081
OMB Approval:
Expiration:

ATTESTATIONS: *See instructions and regulations (20 CFR Part 655, Subparts L & M)*
Sections III through X on this form are the required attestations.
Place an X in the appropriate boxes below:

III. Eligibility

(1) ☐ The hospital meets all of the following facility requirements: 1) it is a "subpart (d) hospital," 2) which was located in a health professional shortage area on March 31, 1997, and 3) had at least 190 acute care beds with at least 35% of its acute care inpatient days reimbursed by Medicare and at least 28% of its acute care inpatient days reimbursed by Medicaid as reported on the hospital's Form HCFA-2552-92, Worksheet S-3 for the fiscal year 1994 cost reporting period.

AND Mark the one appropriate circle below:

(2) ○ (a) This facility was determined to meet the eligibility requirements on a previous attestation certified as DOL Case Number : ☐ - ☐☐☐☐☐ - ☐☐☐☐☐

OR

○ (b) The facility's Form HCFA-2552, Worksheet S-3, Part I, and Worksheet S, Parts I and II, are attached.

IV. No Adverse Effect

☐ The employment of the H-1C nurse(s) will not adversely affect the wages and working conditions of registered nurses similarly employed.

V. Facility Wage

☐ The H-1C nurses employed at the facility will be paid the wage rate for registered nurses similarly employed by the facility.

VI. Recruitment and Retention of Registered Nurses

Timely and Significant Steps (Mark (X) all of the appropriate boxes.)

☐ The facility has taken and is taking timely and significant steps designed to recruit and retain sufficient registered nurses who are United States citizens or immigrants who are authorized to perform nursing services, in order to remove as quickly as reasonably possible the dependence of the facility on nonimmigrant registered nurses.

The following timely and significant steps are being taken by this facility (mark two of items 1 through 9, unless item 10 is marked, in which case mark one of items (1) through (9); or unless item (11)(B) is marked, in which case, items (1) through (10) need not be marked):

(1) ☐ Operating a training program for registered nurses at the facility or financing (or providing participation in) a training program for registered nurses elsewhere.

(2) ☐ Providing career development programs and other methods of facilitating health care workers to become registered nurses.

(3) ☐ Paying registered nurses wages at a rate higher than currently being paid to registered nurses similarly employed in the geographic area.

(4) ☐ Providing reasonable opportunities for meaningful salary advancement by registered nurses.

(5) ☐ Providing monetary incentives to nurses for additional education, and for efforts by the nurses leading to increased recruitment and retention of U.S. nurses.

(6) ☐ Providing nurses with special perquisites for dependent care or housing assistance of a nature and/or extent that constitute a significant factor in inducing employment and retention of U.S. nurses.

(7) ☐ Providing nurses with non-mandatory work schedule options of a nature and/or extent that constitute a significant factor in inducing employment and retention of U.S. nurses.

(8) ☐ Providing training opportunities to U.S. workers not currently in health care occupations to become registered nurses by means of financial assistance (e.g., scholarship, loan or pay-back programs).

(9) ☐ Other step of comparable timeliness and significance in promoting the development, recruitment and retention of U.S. nurses (attach explanation).

(10) ☐ Only one timely and significant step has been and is being taken by this facility because a second step is unreasonable (attach explanation) -- Mark one *of the above boxes 1 to 9.*

(11) ☐ This facility will reduce or has reduced the number of nonimmigrant nurses it utilizes by at least 10%.

(A) ☐ This facility will, within the next year, reduce the number of nonimmigrant nurses it utilizes by at least 10% without reducing the quality and quantity of services provided. (Mark in first year and all succeeding years).

(B) ☐ Pursuant to its prior Attestation, this facility has reduced the number of nonimmigrant nurses it uses by 10% within one year of the date of such prior Attestation, without reducing the quality and quantity of services provided. (Mark in second and subsequent years) (If this item is marked, items (1) through (10) need not be marked).

DOL Case Number for the prior Attestation: ☐ - ☐☐☐☐☐ - ☐☐☐☐☐

Attestation for H-1C Nonimmigrant Nurses

U.S. Department of Labor
Employment and Training Administration

ETA Form 9081
OMB Approval:
Expiration:

VII. No Strike/Lockout or Layoff

☐ There is not a strike/lockout in the course of a labor dispute and the employment of H-1C nurses is not intended or designed to influence an election for a bargaining representative for registered nurses of the facility. The facility did not lay off and will not layoff a RN employed by the facility within the period beginning 90 days before and ending 90 days after the filing of any H-1C petition. The facility will not interfere with the right of H-1C nurses to participate in or organize a union.

VIII. Notice

(1) General Notice *(Mark the one appropriate circle below)*:

○ (a) The facility has provided notice to the bargaining representative for nurses at the facility that this Attestation has been filed with ETA. The facility will, before filing a petition for H-1C nurses, also provide notice of the filing of a petition by the facility to the bargaining representative of registered nurses at the facility.

○ (b) There is no bargaining representative. The facility has provided notice that this Attestation has been filed with ETA. The facility will, before filing a petition for H-1C nurses, also provide notice of the filing of a petition by the facility to registered nurses at the facility.

(2) Individual Notice *(Mark an X in the box below)*:

☐ A copy of this Attestation has been or will be provided to each registered nurse employed at the facility within 30 days of its filing.

IX. Limitation on Number of H-1C Nurses Employed

☐ The facility will not, at any time, employ a number of H-1C nurses that exceeds 33% of the total number of registered nurses employed by the facility.

X. Limitation on Where H-1C Nurses May be Employed

☐ The facility will not authorize any H-1C nurse to perform services at any worksite not controlled by the facility or transfer any H-1C nurse from one worksite to another, even if all of the worksites are controlled by the facility.

XI. Declaration Of Facility

Pursuant to 28 U.S.C. 1746, I declare under penalty of perjury that the information provided on this form is true and accompanying statements and documentation are true and correct. In addition, I declare that I will comply with the Department of Labor regulations (20 CFR Part 655, Subparts L and M) governing this program, and in particular, that I will make this Attestation, supporting documentation, and other records, files and documents available to officials of the Department of Labor, upon such official's request, during any investigation under this Attestation or the Immigration and Nationality Act.

NOTE: Falsification of any statements on this form may subject the employer to civil or criminal prosecution (see 18 U.S.C. 1001), as well as to civil money penalties and debarment.

Hiring Official's Name - Last name on the first line, first name & middle initial on the second line.

Title of Hiring or Other Designated Official

Signature – DO NOT let signature extend beyond the box.

M M / D D / Y Y Y Y
Date Signed

AN APPLICATION CERTIFIED BY DOL MUST BE FILED IN SUPPORT OF AN H-1C VISA PETITION WITH INS.

FOR U.S. GOVERNMENT AGENCY USE ONLY:

I acknowledge that this Attestation is hereby accepted for filing and will be valid through _____(date),
(12 months from the date it is accepted for filing).

Signature and Title of Authorized DOL Official | ETA Case No. | Date

Persons are not required to respond to this collection of information unless it displays a currently valid OMB control number. Respondents obligation to reply to these reporting requirements are mandatory (INA Act, Section 205). Public reporting burden for this collection of information is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Workforce Security, Department of Labor, Room C-4318, 200 Constitution Avenue, NW., Washington, DC 20210. (Paperwork Reduction Project 1205-).

ETA 9081 (July 2000)

Employer's Control Number

Employer's Control Number must be the same on all three (3) pages, including this page

Draft

INSTRUCTIONS FOR COMPLETING FORM ETA 9081

ATTESTATION FOR H-1C NONIMMIGRANTS

IMPORTANT: READ INSTRUCTIONS CAREFULLY BEFORE COMPLETING FORM

If you hand write the form, print legibly in ink using a medium to thick pen. Print *only* in CAPITAL LETTERS and avoid contact with the edge of the boxes. If you use a typewriter to complete the form use a font equivalent to 12-14 pt. Center each letter in the box and use *only* CAPITAL LETTERS.

Submit a completed, signed and dated original and duplicate of Form ETA 9081 and a non-refundable check or money order in the amount of $250 U.S. dollars made out to the U.S. Department of Labor, along with one (1) copy of any required explanatory statements and documents to: Chief, Division of Foreign Labor Certifications, Office of Workforce Security, Employment and Training Administration, Department of Labor, 200 Constitution Avenue, N.W., Room C-4318, Washington, D.C. 20210.

Knowingly and willfully furnishing any false information in the preparation of this form, attachments and any explanatory statements thereto, is a felony punishable by fine or imprisonment, or both (18 U.S.C. 1001). Other penalties apply as well to fraud and misuse of this immigration document (18 U.S.C. 1546) and to perjury with respect to this form (18 U.S.C. 1546 and 1621).

Citations below to "regulations" are citations to the provisions of 20 CFR Part 655, Subparts L and M.

Item I. Applicant's Information

(1) Name of Applicant: Enter full legal name of the applicant. Some abbreviation may be required for long names.

(2) Federal Employer Identification Number (EIN) (9 digits): Enter the applicant's federal employer identification number assigned by the Internal Revenue Service.

(3) Applicant's Telephone Number: Enter the applicant's telephone number with an extension, if available.

(4) Return FAX Number: Enter the applicant's fax (facsimile machine) number.

(5) Contact's Telephone Number (optional): Enter the area code and telephone number of the person to whom questions regarding the Attestation should be directed.

(6) Applicant's Address: The first two lines are for the street address. The last line is for the

city, county, state, and postal code.

(7) Contact's Name: Enter the name of the person to whom questions regarding the Attestation should be directed.

(8) Correspondence Address: Enter only if different from the facility's address. The first two lines are for the street address. The third line is for the city, state, and postal code. The last two lines are for an e-mail address.

Item II. Location of Facility

(1) County: The first two lines are for the name of the county, city, state and postal code in which the facility is located.

(2) Census Tract: Enter the name of the census tract in which the facility is located, if known.

ATTESTATIONS

In order to be eligible to hire nonimmigrant alien (H-1C) nurses, a hospital must attest to the conditions listed in items III through X by marking (X) in the box for each item and by signing the Attestation form. The Attestation cannot be accepted for filing if the explanations and information required for items III (1), VI (9), and VI (10) are not attached to the Form 9081. See § 655.1110(c)(1) of the regulations for guidance on the supporting information and documentation that must be attached to the Form 9081. See §§ 655.1111 through .1118 for complete information on the requirements for each attested element and the documentation required to be maintained by the facility.

Item III. Eligibility:

(1) To be an eligible "facility," the hospital must mark the box for item III (1), by which the hospital attests that it meets all of the following requirements:

1) it is a "subpart (d) hospital" as defined in § 1886(d)(1)(B) of the Social Security Act (42 U.S.C. ww(d)(1)(B));

2) it was located in a health professional shortage area (HPSA) on March 31, 1997 (see 20 FR 29395 (May 30, 1997) for a list of HPSAs); and

3) it had at least 190 acute care beds with at least 35% of its acute care inpatient days reimbursed by Medicare and 28% of its acute care inpatient days reimbursed by Medicaid, as determined by its settled cost report for the fiscal year 1994 cost reporting period (see Form HCFA-2552, Worksheet S-3, Part I, and Worksheet S, Parts I and II).

(2) In addition, the hospital must mark either box (a) or box (b):

(a) If the facility has a previous Attestation certified by DOL, it must attest that it continues to be an eligible facility (by marking the first box for item (a)) and report the 8 digit Case Number in the blocks provided.

(b) A copy of the hospital's Form HCFA-2552-92, Worksheet S-3, Part I; and Worksheet S, Parts I and II, for the fiscal year 1994 cost reporting period must be

submitted with this form.

Item IV. No Adverse Effect:
The hospital must attest that the employment of H-1C nurses will not adversely affect the wages and working conditions of registered nurses similarly employed. To make this attestation, the hospital must mark the box for item IV, by which the hospital attests that unless wages for registered nurses are covered by a collective bargaining agreement, it has obtained a prevailing wage determination from the State Employment Security Agency (SESA) and is paying both U.S. and H-1C nurses at least the prevailing wage for the geographic area. The hospital is also attesting that it will provide the same working conditions to U.S. and H-1C nurses.

Item V. Facility Wage:
The hospital must attest that the H-1C nurses employed at the hospital will be paid the wage rate for registered nurses similarly employed by the hospital. To make this attestation, the hospital must mark the box for item V, by which the hospital attests that H-1C nurses will not be paid less than similarly employed U.S. nurses, even if the wages paid U.S. nurses are higher than the prevailing wage level.

Item VI. Recruitment and Retention of Registered Nurses:
Timely and Significant Steps: The hospital must attest that it has taken and is taking timely and significant steps designed to recruit and retain sufficient registered nurses who are United States citizens or immigrants who are authorized to perform registered nursing services, in order to remove as quickly as reasonably possible the dependence of the hospital on nonimmigrant registered nurses. To make this attestation, the hospital must mark the appropriate blocks for item VI, as follows --

Items (1) through (8): Specified Steps. These items identify the timely and significant steps which are described in detail in the regulations at 20 CFR 655.1114. The hospital must mark *two* of these items, unless item (9), (10), or (11)(B) is marked. The hospital is required to comply with all items marked.

Item (9): Alternative Step. This item authorizes the hospital to identify a timely and significant step *other than* those specified in items (1) through (8). If the hospital marks this item, it must attach an explanation of the alternative step. *See* the regulation at 20 CFR 655.1114(b)(2)(v).

Item (10): Second Step is Unreasonable. This item allows the hospital to assert that it is taking only one timely and significant step (from items (1) through (9)) because taking a second step is unreasonable. If the hospital marks this item, it must attach an explanation. *See* the regulation at 20 CFR 655.1114(c) (*note* additional step (1) through (8) required).

Item (11): Performance-based Alternative Step. This item allows the hospital to satisfy its obligation by declaring its intention to reduce its use of nonimmigrants by at least 10% within the coming year, and then achieving that goal. For the first year and subsequent years, the hospital must mark the box for item (11)(A), which declares the hospital's intention to make the reduction in the use of nonimmigrant nurses in the following year. (*Note:* For the first year, this item

(11)(A) is *in addition to other steps* in items (1) through (10), and for subsequent years this item (11)(A) is *in addition to* item (11)(B)). For the second year (and subsequent years, if appropriate), the hospital must mark the box for item (11)(B), which declares that the hospital achieved the 10% reduction in the immediately preceding year. (*Note:* This item (11)(B) satisfies the timely and significant steps requirement, and no other items from (1) through (10) need be marked.)

Item VII. No Strike/Lockout or Layoff:
The hospital must attest that there is not a strike or lockout in the course of a labor dispute and that it did not lay off and will not lay off a RN employed by the facility within the period beginning 90 days before and ending 90 days after the filing of any H-1C petition. In addition, the hospital must attest that the employment of H-1C nurse(s) is not intended or designed to influence an election for a bargaining representative for RNs of the facility and that it will not interfere with the right of H-1C nurses to organize a union. To make this attestation, the hospital must mark the box for item VII.

Item VIII. Notice:
A hospital must attest that, at the time of filing of the petition for H-1C nurses, notice of filing of the Attestation and the petition for H-1C nurses has been provided by the hospital to the bargaining representative of registered nurses at the facility or, where there is no such bargaining representative, notice of the filing of the Attestation and the petition for H-1C nurses has been provided to registered nurses at the facility through hard copy posting in conspicuous locations or through electronic communication. The hospital must also attest that individual copies of the Attestation, either hard copy or electronically, will be provided to each registered nurse employed at the facility within 30 days of its filing. To make this attestation, the hospital must check one of the boxes in item (1) *and* item (2).

Item IX. Limitation on Number of H-1C Nurses Employed:
The hospital must attest that it will not, at any time, employ a number of H-1C nurses that exceeds 33% of the total number of registered nurses employed by the hospital. To make this attestation, the hospital must mark the box for item IX.

Item X. Limitation on Where H-1C Nurses May be Employed:
The hospital must attest that it will not authorize any H-1C nurse to perform services at any worksite not controlled by the hospital or transfer any H-1C nurse from one worksite to another, even if all of the worksites are controlled by the hospital. To make this attestation, the hospital must mark item X.

Item XI. Declaration of Facility: One copy of this form must bear the original signature of the official designated by the facility to act on its behalf (such as the hiring official). By signing this form the official is attesting on behalf of the facility to items III through X and all of the elements included in those items on the Form 9081 and to the accuracy of the information provided on the form and in the explanatory statements and supporting documents. Furthermore, by signing this form the official is declaring that the facility will comply with the Department of Labor regulations

(20 CFR Part 655, Subparts L and M) governing this program and make available to officials of the Department of Labor, upon request, this Attestation, supporting documentation and other records, files and documents during any investigation under this Attestation or the Immigration and Nationality Act. False statements are subject to Federal criminal penalties, as stated above.

If the Attestation form is accepted for filing, the Department shall document such acceptance on the original and copy of Form ETA 9081 submitted. The original of the Attestation form indicating the Department's acceptance will be returned to the facility. The facility may then make a copy of the accepted Attestation and file visa petitions with INS for H-1C nurses in accordance with INS regulations. The facility shall include a copy of the accepted Form ETA 9081 with each visa petition filed with the INS.

A copy of this Attestation, along with any explanatory statements and supporting documentation, and a copy of each of the facility's H-1C petitions (if any) to INS and INS approval notices (if any), will be available for public inspection at the ETA National Office in Room C-4318, 200 Constitution Avenue, N.W., Washington, D.C. 20210. The facility must submit a copy of an H-1C visa petition to the ETA national office at the same time that it is submitted to the INS. The address is:

Chief, Division of Foreign Labor Certification
Office of Workforce Security
Employment and Training Administration
U.S. Department of Labor
200 Constitution Avenue, N.W., Room C-4318
Washington, D.C. 20210

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Federal Register

Tuesday,
August 22, 2000

Part V

Department of the Interior

Fish and Wildlife Service

50 CFR Part 20

Migratory Bird Hunting Proposed Frameworks for Late-Season Bird Hunting Regulations; Proposed Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

RIN 1018–AG08

Migratory Bird Hunting; Proposed Frameworks for Late-Season Migratory Bird Hunting Regulations

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; supplemental.

SUMMARY: The Fish and Wildlife Service (hereinafter Service or we) is proposing to establish the 2000–01 late-season hunting regulations for certain migratory game birds. We annually prescribe frameworks, or outer limits, for dates and times when hunting may occur and the number of birds that may be taken and possessed in late seasons. These frameworks are necessary to allow State selections of seasons and limits and to allow recreational harvest at levels compatible with population and habitat conditions.

DATES: You must submit comments on the proposed migratory bird hunting late-season frameworks by September 8, 2000.

ADDRESSES: Send your comments on these proposals to the Chief, Division of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, room 634-Arlington Square, 1849 C Street, NW., Washington, DC 20240. All comments received, including names and addresses, will become part of the public record. You may inspect comments during normal business hours in room 634, Arlington Square Building, 4401 N. Fairfax Drive, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Jonathan Andrew, Chief, or Ron W. Kokel, Division of Migratory Bird Management, U.S. Fish and Wildlife Service, (703) 358–1714.

SUPPLEMENTARY INFORMATION:

Regulations Schedule for 2000

On April 25, 2000, we published in the **Federal Register** (65 FR 24260) a proposal to amend 50 CFR part 20. The proposal dealt with the establishment of seasons, limits, and other regulations for migratory game birds under §§ 20.101 through 20.107, 20.109, and 20.110 of subpart K. On June 20, 2000, we published in the **Federal Register** (65 FR 38400) a second document providing supplemental proposals for early- and late-season migratory bird hunting regulations frameworks and the proposed regulatory alternatives for the 2000–01 duck hunting season. The June 20 supplement also provided detailed information on the 2000–01 regulatory schedule and announced the Service Migratory Bird Regulations Committee and Flyway Council meetings.

On June 21–22, 2000, we held meetings that reviewed information on the current status of migratory shore and upland game birds and developed 2000–01 migratory game bird regulations recommendations for these species plus regulations for migratory game birds in Alaska, Puerto Rico, and the Virgin Islands; special September waterfowl seasons in designated States; special sea duck seasons in the Atlantic Flyway; and extended falconry seasons. In addition, we reviewed and discussed preliminary information on the status of waterfowl as it relates to the development and selection of the regulatory packages for the 2000–01 regular waterfowl seasons.

On July 31, we published in the **Federal Register** (65 FR 46840) a third document specifically dealing with the proposed frameworks for early-season regulations. The July 31 supplement also established the final regulatory alternatives for the 2000–01 duck hunting season. We will publish a rulemaking establishing final frameworks for early-season migratory bird hunting regulations for the 2000–01 season in late August.

On August 2–3, 2000, we held meetings, as announced in the April 25 and June 20 **Federal Registers**, to review the status of waterfowl. This document deals specifically with proposed frameworks for the late-season migratory bird hunting regulations. It will lead to final frameworks from which States may select season dates, shooting hours, areas, and limits.

We have considered all pertinent comments received through August 4, 2000, in developing this document. In addition, new proposals for certain late-season regulations are provided for public comment. Comment periods are specified above under **DATES**. We will publish final regulatory frameworks for late-season migratory game bird hunting in the **Federal Register** on or about September 25, 2000.

Population Status and Harvest

The following paragraphs provide a brief summary of information on the status and harvest of waterfowl excerpted from various reports. For more detailed information on methodologies and results, complete copies of the various reports are available at the address indicated under the caption **ADDRESSES** or from our website at http://migratorybirds.fws.gov.

Status of Ducks

Federal, provincial, and State agencies conduct surveys each spring to estimate the size of breeding populations and to evaluate the conditions of the habitats. These surveys are conducted using fixed-wing aircraft and encompass principal breeding areas of North America, and cover over 2.0 million square miles. The Traditional survey area is comprised of Alaska, Canada, and the northcentral U.S., and includes approximately 1.3 million square miles. The Eastern survey area includes parts of Ontario, Quebec, Labrador, Newfoundland, Nova Scotia, Prince Edward Island, New Brunswick, New York, and Maine, an area of approximately 0.7 million square miles.

In the Western or Traditional survey area, conditions were much drier this spring than the previous 6 years. These dry conditions are reflected in the Prairie May ponds estimate of 3.9 ± 0.1 million, down 41 percent from 1999 and 20 percent below the 1974–99 average. Conditions ranged from poor in much of Alberta and parts of Montana and Saskatchewan to fair to good in most other areas. Only portions of northern Manitoba and the Dakotas were in excellent condition. In June, much of the prairie received heavy rains. While this may have increased breeding habitat quantity and quality, heavy rains in the Dakotas may have caused flooding and loss of nests. Southern Saskatchewan and Manitoba were in generally fair condition, and the Dakotas were in generally good condition, while most of Northern Saskatchewan and Manitoba were in good to excellent condition. In Alaska, a significant cooling down changed an early warm spring into a cool, late spring, resulting in a 2–3 week later-than-normal ice breakup. In Alaska, a later spring generally results in lower production. Overall, May habitat conditions in the traditional survey area were poor to good, improving to the north and east.

Winter and spring were also warm and dry in the Eastern survey area. A seemingly early spring cooled down markedly, especially in Labrador, Newfoundland, and Eastern Quebec. In these easternmost regions, spring was 2–3 weeks behind normal. Water levels in southwestern Ontario, Maine, Nova Scotia, and New Brunswick are higher this year than last year. However, southern Ontario and southern Quebec are drier than normal. In southwest Ontario, Maine, and the Maritimes, heavy thunderstorms in May caused severe flooding and may have caused much renesting. Overall, habitat

conditions in the east are generally good, with the exception of some areas of southern Ontario and southern/central Quebec, where low water levels resulted in fair to poor habitat conditions. Overall, the survey area was in generally good condition, and production is expected to be good this year.

The 2000 total duck population estimate for the traditional survey area was 41.8 ± 0.7 million birds. This was similar to last year's record estimate of 43.4 ± 0.7 million birds, and still 27 percent above the 1955–99 average. Mallard abundance was 9.5 ± 0.3 million, which is 12 percent below last year's record estimate but still 27 percent above the 1955–99 average. Blue-winged teal abundance was estimated at a record high of 7.4 ± 0.4 million. This was similar to last year's estimate of 7.1 million, and 69 percent above the 1955–99 average. Gadwall (3.2 ± 0.2, +100 percent), green-winged teal (3.2 ± 0.2 million, +80 percent), northern shovelers (3.5 ± 0.2 million, +73 percent), and redheads (0.9 ± 0.1 million, +50 percent) were all above their long-term averages, while northern pintails (2.9 ± 0.2 million, −33 percent) and scaup (4.0 ± 0.2 million, −25 percent) were again below their long-term averages. Green-winged teal was the only species that increased over 1999, an increase of 21 percent.

This year, new areas have again been included in the Eastern survey area. In addition, we have redefined the total duck composition of this area to include scoters and mergansers, because they are important breeding species in this survey area. Therefore, the eastern 1999 total duck estimate used this year is not the same as that published last year. The 2000 total duck population estimate for the eastern survey area was 3.2 ± 0.2 million birds, similar to last year's total duck estimate of 3.2 ± 0.2 million birds. Abundances of individual species were similar to last year, with the exception of scoters (182 ± 59 thousand, +288 percent) and green-winged teal (202 ± 29 thousand, −52 percent).

The preliminary estimate of the total-duck fall-flight index is 90 million birds, which is 13 percent lower than last year. The fall flight is predicted to include 11.3 million mallards, 16.2 percent lower than last year ($P<0.01$).

Status of Geese and Swans

Most goose and swan populations in North America remain numerically sound, and the size of most fall flights will be similar to or increased from last year. Of the 29 populations of geese and swans on which we report, 9 appear to have increased since last year, 7 appear to have decreased, 9 appear to have changed little, and no comparisons were possible for the remaining 4. Some of the annual variation reflects differences in the timing of surveys. Of the 24 populations for which data spanning the last 10 years were available, 13 have exhibited a significant increasing trend (5 of 7 *Anser* populations, 2 of 2 swan populations, and 6 of 15 *Branta* populations), 1 showed evidence of significant decline (1 of 7 *Anser* populations), while 10 appeared stable (9 of 15 *Branta* populations, 1 of 7 *Anser* populations, 1 swan population).

As in previous years, forecasts for production of young in 2000 varied regionally based largely on spring weather and habitat conditions. Generally, spring phenology was later than normal in northern Quebec, the Hudson Bay Lowlands, the central and western Arctic, the high Arctic, and the north slope and interior of Alaska; this should lead to less-than-average production for geese nesting there. Along the west coast of Alaska, seasons were slightly later than normal, but average to above-average production is expected for geese and swans nesting in those areas. For temperate-zone breeding geese, nesting conditions are generally good. Although parts of the prairies are drier this year than last, higher than normal precipitation over the past several years means that permanent and semipermanent ponds are still readily available for brood-rearing. Conditions through most of the West are average to above-average, though low water levels are expected to limit goose production in British Columbia. Habitat conditions for nesting geese were excellent east of the Mississippi River due to average to above-average precipitation.

Waterfowl Harvest and Hunter Activity

During the 1999–2000 hunting season, duck stamp sales were slightly above sales in 1998, and hunter numbers remain well below the highs observed during the early 1970s. U.S. waterfowl hunters hunted about 1 percent fewer days and bagged about 7 percent fewer ducks, 3 percent fewer geese and 24 percent more coots than in 1998.

The number of ducks harvested during the 1999–2000 hunting season was similar to the numbers that were harvested during the early 1970s. The increased harvest during the last few years is a reflection of the more liberal hunting seasons offered and the increased duck abundance resulting from the improved water availability and habitat conditions that occurred in the prairie-pothole area. Of the five species of ducks that are most important in the bag, in order of importance: The number of mallards harvested decreased 2 percent; the number of green-winged teal decreased 6 percent; the number of gadwall decreased 2 percent; the number of wood ducks increased 5 percent; and the number of blue-winged teal increased 1 percent.

The overall harvest of geese last year decreased 3 percent from that of 1998–99. Increases in goose harvests over the last decade largely reflect the increased numbers of resident or giant Canada geese, although increases in other populations of Canada geese and other goose species, including snow geese, have occurred. In the United States, harvest of Canada geese decreased 7 percent, snow geese decreased 1 percent, blue geese decreased 30 percent, Ross' geese increased 87 percent, white-fronted geese increased 57 percent, and brant decreased 39 percent from 1998–99.

Review of Public Comments and Flyway Council Recommendations

The preliminary proposed rulemaking, which appeared in the April 25 **Federal Register**, opened the public comment period for migratory game bird hunting regulations. The supplemental proposed rule, which appeared in the June 20 **Federal Register**, defined the public comment period for the proposed regulatory alternatives for the 2000–01 duck hunting season. The public comment period for the proposed regulatory alternatives ended July 7, 2000. Late-season comments and comments pertaining to the proposed alternatives are summarized below and numbered in the order used in the April 25 **Federal Register** document. Only the numbered items pertaining to late-season issues and the proposed regulatory alternatives for which written comments were received are included. Consequently, the issues do not follow in direct numerical or alphabetical order.

We received recommendations from all four Flyway Councils. Some recommendations supported continuation of last year's frameworks. Due to the comprehensive nature of the annual review of the frameworks performed by the Councils, support for continuation of last year's frameworks is assumed for items for which no recommendations were received. Council recommendations for changes in the frameworks are summarized below.

We seek additional information and comments on the recommendations in this supplemental proposed rule. New proposals and modifications to previously described proposals are

discussed below. Wherever possible, they are discussed under headings corresponding to the numbered items in the April 25, 2000, **Federal Register** document.

1. Ducks

Categories used to discuss issues related to duck harvest management are: (A) Harvest Strategy Considerations, (B) Regulatory Alternatives, (C) Zones and Split Seasons, and (D) Special Seasons/Species Management. The categories correspond to previously published issues/discussion, and only those containing substantial recommendations are discussed below.

A. General Harvest Strategy

Council Recommendations: Beginning with the 2000–01 season, the Atlantic, Mississippi, Central, and Pacific Flyway Councils, in a joint recommendation, recommended that the appropriate regulatory alternative for duck-hunting seasons in the Atlantic Flyway be based on the status of eastern mallards and an objective to maximize long-term harvest. The Flyway Councils also recommended that the regulatory choice for all other Flyways be based on the status of midcontinent mallards and an objective to maximize long-term harvest, while maintaining population size above the goal of the North American Waterfowl Management Plan. Finally, the Flyway Councils recommended further evaluation of the implications of this recommendation for other mallard stocks and for other duck species.

Service Response: Since implementation of Adaptive Harvest Management (AHM) in 1995, the regulatory choice for all Flyways has been based exclusively on the status of midcontinent mallards. This year, we have proposed two alternatives for modifying the current AHM protocol to account for eastern mallards. Both alternatives allow for a different regulatory choice in the Atlantic Flyway than in the remainder of the country. The first alternative involves a regulatory choice in the Atlantic Flyway based on the status of both eastern and midcontinent mallards. The second alternative involves a regulatory choice in the Atlantic Flyway that is based exclusively on the status of eastern mallards. Both alternatives are expected to increase the frequency of liberal regulations in the Atlantic Flyway, because eastern mallard biology and the associated harvest-management objective suggest allowable harvest rates that are higher than those for midcontinent mallards.

We support the second alternative for the 2000–01 hunting season; i.e., that the regulatory choice in the Atlantic Flyway should be based exclusively on the status of eastern mallards, and that the regulatory choice for the remaining Flyways should be based exclusively on the status of midcontinent mallards. We make this recommendation, however, with the clear understanding that there must be further assessment of the consequences of this decision for mallard population segments of concern, and for other duck species. The move to Flyway-specific regulations is perhaps the most significant change in duck harvest management since the advent of the Flyway system. And the decisions we make relative to eastern mallards have important implications for how we modify AHM to account for western mallards and for other species such as pintails and wood ducks. Therefore, we suggest that the AHM Working Group continue to place a high priority on its investigations into multiple-stock management.

B. Regulatory Alternatives

Council Recommendations: The Upper-Region Regulations Committee of the Mississippi Flyway Council, and the Atlantic, Central, Pacific Flyway Councils recommended adopting the ''liberal'' alternative for the 1999–2000 duck hunting season.

The Lower-Region Regulations Committee of the Mississippi Flyway Council recommended adoption of the ''liberal'' alternative, except that they recommend the framework opening and closing dates in all regulations packages be the Saturday nearest September 23 and the Sunday nearest January 28, with no penalties in days.

Written Comments: An individual from South Carolina requested a January 31 framework closing date.

An individual from California supported not increasing season lengths or bag limits.

Service Response: The set of regulatory alternatives for this year, including specification of season lengths, bag limits, and framework dates, was finalized in the July 31 **Federal Register**, with the finalization of the 2000–01 regulatory alternatives. In establishing these alternatives, we reiterated our desire to maintain current framework-date specifications through the 2002–03 hunting season, or until such time that the Flyway Councils can develop an approach that adequately addresses the concerns of the Service and a majority of States. Based on discussions to date, we are not optimistic that such an approach is forthcoming in the short term. Therefore, we support the joint Flyway Council recommendation, in which the AHM Working Group is charged with developing a set of guidelines and schedule for modifying the current set of regulatory alternatives by July 2002. These guidelines should consider all facets of the regulatory alternatives, including the desire by some States to extend framework dates beyond October 1–January 20.

For the 2000 hunting season, we recommend the ''liberal'' regulatory alternative (as described in the July 31 **Federal Register**) for all Flyways, based on 10.5 million midcontinent mallards, 2.4 million ponds in Prairie Canada, and 890,000 eastern mallards.

C. Zones and Split Seasons

Council Recommendations: The Upper- and Lower-Region Regulations Committees of the Mississippi Flyway Council, and the Atlantic, Central, and Pacific Flyway Councils, in a joint recommendation, recommended that the Service allow three zones, with two-way splits in each zone, as an additional option for duck season configurations in 2001–2005. In addition, the Flyway Councils recommend that States with existing grand-fathered status be allowed to retain that status and that Alaska be granted greater flexibility to modify its zone and split configurations, without loss of grand-fathered status, than is permissible under the current criteria. Finally, the Committee recommends that no changes be made regarding the current status and criteria for the High Plains Management Unit.

Service Response: Zone and split seasons are ''special regulations'' designed to distribute hunting opportunities and harvests according to temporal, geographic, and demographic variability in waterfowl populations. These regulations are not intended to substantially change the pattern of harvest distribution among States within a Flyway, nor should these options detrimentally change the harvest distribution pattern among species or populations at either the State or Flyway level. Most States began to experiment with zoning after formal evaluation criteria were put into place in 1977. By 1985, 36 States used zones or 3-way split seasons for duck seasons. To address the proliferations in these seasons, in 1985 we placed a moratorium on further use of these special regulations until a review could be completed. In 1990, we completed a comprehensive review of these special regulations. This review of over 40 assessments of splits and zones had equivocal results. The vast majority of these experiments failed to provide evidence of significant impacts on duck populations. However, we found that

most studies were inconclusive because of poor selection and unreliable estimation of response variables, lack of statistical tests to differentiate between real and perceived changes, and an inability to establish adequate experimental controls.

Based on this review, we established a long-term strategy for the use of zones and split options. The purpose of this strategy was to limit both the number of options and the frequency that modifications could be made. These controls or guidelines were deemed necessary to preserve and enhance our ability to regulate and evaluate harvest pressure on ducks. Changes in seasons would be limited to 5-year intervals, with the first ''open season'' in 1991, the second in 1996, and the third will be next year.

When the zone/split-season guidelines were established in 1990, most States with zone/split arrangements were using one of the three options established. Some States, however, had completed experiments with different zone/split arrangements and had fulfilled the reporting requirements for these experiments. These arrangements included three, four, and five zones with two-way splits in each zone. These States were offered a one-time chance to grandfather those arrangements, with the provision that if they ever wanted to change them, their zoning arrangement would have to conform to one of the three options offered under the guidelines.

In 1996, the guidelines were modified to allow greater flexibility in season structures within the three options established in 1990. We believe that the current guidelines achieve their intended objectives, while allowing States sufficient flexibility to address differences in physiography, climate, etc., and believe that the guidelines need not be changed.

D. Special Seasons/Species Management

i. Black Ducks

Council Recommendations: The Atlantic Flyway Council recommended all States in the Atlantic Flyway be allowed to offer one black duck in the daily bag limit for up to 60 days, providing each State achieve a minimum 25 percent harvest reduction for the 1977–81 base period.

Service Response: We believe that the current level of harvest reduction on black ducks, achieved since the 1983 Environmental Assessment, should be maintained as a conservation measure. The harvest strategy has been supported and maintained for many years by the Atlantic Flyway Council and, in the absence of a revised strategy, is consistent with our objective to improve the status of black duck populations. Black ducks continue to be a species of concern and remain below the population objective. We believe that a conservative approach to harvesting black ducks is appropriate until an international harvest strategy is agreed upon between Canada and the United States. We would encourage the Atlantic and Mississippi Flyway Councils to work cooperatively with the Service and Canada to develop and implement an international harvest strategy as soon as possible.

ii. Canvasbacks

Council Recommendations: All four Flyway Councils recommended a daily bag limit of one canvasback in the 2000–01 hunting season as prescribed by the Canvasback Harvest Strategy.

Service Response: We continue to support the harvest strategy adopted in 1994. However, harvest data collected since the strategy was implemented indicate that observed harvests in the United States and Canada tend to be higher than those currently used in the population model, some of which were based on data collected several decades ago. We believe that more contemporary estimates would better reflect current harvest pressure. Therefore, as we stated last year and consistent with our proposal in April of this year (65 FR 24264), we have replaced the old harvest values with the average of harvests observed during the 1994–97 hunting seasons.

Even when accounting for the higher harvest levels, current population and habitat status suggest that a daily bag limit of one canvasback per day during the 2000–01 season will result in a harvest within levels allowed by the strategy. We will continue to monitor the performance of the harvest strategy.

iii. Pintails

Council Recommendations: All four Flyway Councils recommended a daily bag limit of one pintail in the 2000–01 hunting season as prescribed by the Interim Pintail Harvest Strategy.

Service Response: We recommend the continued use of the interim harvest strategy for a fourth year. Considering the current status of the population (2.9 million breeding birds) and the expected recruitment rate (0.76), the strategy prescribes a bag limit of one pintail for all Flyways under the liberal alternative.

iv. Scaup

Council Recommendations: The Upper- and Lower-Region Regulations Committees of the Mississippi Flyway Council, and the Atlantic and Central Flyway Councils recommended a daily bag limit of three scaup for the 2000–01 hunting season.

The Pacific Flyway Council recommended a daily bag limit of four scaup in the Pacific Flyway for the 2000–01 hunting season.

Service Response: In 1999, we restricted the bag limit of scaup to three in the Atlantic, Mississippi, and Central Flyways and to four in the Pacific Flyway and asked to work with the Flyways to develop a harvest management strategy for scaup. Only limited progress toward a strategy has been made, and further technical work is needed; it is too early to judge the effects of the harvest restriction with only 1 year's data. This year, we propose that the restrictions put in place last year continue and ask the Flyway Councils to direct their technical committees to continue dialog with us, building toward a consensus strategy to guide the harvest management of this species.

4. Canada Geese

Council Recommendations: The Upper-Region Regulations Committee of the Mississippi Flyway Council recommended a number of changes in season lengths, bag limits, zones, and quotas for Canada geese in Wisconsin, Michigan, Indiana, and Illinois, primarily to allow a small increase in the harvest of Mississippi Valley Population (MVP) Canada geese.

The Lower-Region Regulations Committee of the Mississippi Flyway Council also recommended several changes in season lengths, quotas, etc., primarily to allow a small increase in the harvest of MVP Canada geese. The Committee also recommended a 23-day season statewide in Arkansas, a 7-day increase in the west zone. The previous 16-day season and the remainder of the State closure were self-imposed by the State. All of these changes are based on improved population status and current management plans. The Committee further recommended that in Tennessee, in lieu of tagging in the Kentucky/Barkley Lakes Zone, all geese harvested must be taken to designated check stations and checked officially.

The Pacific Flyway Council made several recommendations for Canada geese. The Council recommended that the Flyway-wide prohibition of take of Aleutian Canada geese be removed if the Service completes the delisting process. Existing special management areas in Oregon and California closed to take of Canada geese to protect Aleutians and reduce the harvest of cackling geese will

be maintained until a population objective and harvest strategy are established by the Council. The Council also recommended that, in a Service-approved investigation, the State must obtain quantitative information on hunter compliance (mandatory check stations) of those regulations aimed at reducing the take of dusky Canada geese. Lastly, the Council recommended some minor modifications to the cackling Canada goose frameworks.

Service Response: We concur with the recommended changes in the Mississippi Flyway. Most of these changes are based on the improved population status of MVP geese and are consistent with the current management plan.

Regarding the recommendation from the Pacific Flyway Council on Aleutian Canada geese, since delisting is not final at this time, we do not see how the removal of all restrictions on the take of Aleutian Canada geese could be accomplished this year. In addition, administrative concerns would also need to be addressed, even if the delisting final rule were to be issued between now and the proposed opening date for this year's hunting seasons. We note, however, that we support the general intent of this recommendation, which is not to increase the harvest level of Aleutian Canada geese, but to remove the take prohibition in those portions of the affected States where Aleutian Canada geese are only infrequently encountered. However, we do not believe that the proposed changes can be accommodated during this regulations cycle. We also appreciate the timely and efficient manner in which the Pacific Flyway has pulled together the management plan for this species. This plan will serve as an excellent road-map to the future for this species.

Regarding dusky Canada geese, we understand the importance of maintaining hunting opportunities in the Dusky Canada goose quota zones in Washington and Oregon. Additionally, we recognize this is a shared responsibility and one the States and Federal government have actively supported since their inception. However, we want to be clear about the need to monitor the harvest for any goose season to be held in this area. We believe that both the Flyway Council and the Service are in agreement that monitoring is a necessary condition of these seasons, based on the recommendation submitted by the Pacific Flyway Council. We intend to continue to work with the Pacific Flyway Council and the affected States to avoid season closures. However, States must agree to promptly close all goose seasons in this zone should monitoring programs be eliminated for any reason.

We concur with the recommended framework modifications for cackling Canada geese.

C. Special Late Seasons

Council Recommendations: The Atlantic Flyway Council recommended a change to the southern boundary of the late season Coastal zone boundary in Massachusetts and a change to the New Jersey southern winter special Canada goose season boundaries.

The Upper-Region Regulations Committee of the Mississippi Flyway Council recommended that the experimental late season for Canada geese in the Central Michigan Goose Management Unit should be continued for 1 year to allow completion of data analysis and an additional year of data collection.

Service Response: We concur with the recommended changes in the Atlantic and Mississippi Flyways.

5. White-fronted Geese

Council Recommendations: The Central Flyway Council recommended that the season length for Mid-Continent White-fronted geese in the East Tier be 95 days, except for the Eastern Goose Zone of Texas where it would be unchanged (86 days).

Service Response: We believe that equitable hunting opportunity between the Mississippi Flyway and the East Tier of the Central Flyway is appropriate because Mid-Continent white-fronted geese are managed as one population. This equitable approach is consistent with the ''base regulations'' identified in the cooperative management plan. Finally, in the absence of any guidance for liberalizations, we believe that this level of liberalization should be viewed as the ''liberal alternative'' beyond the ''base regulations'' identified in the management plan for these harvest areas. Thus, we do not support the proposed increase of 9 days.

7. Snow and Ross' Geese

Council Recommendations: The Atlantic Flyway Council recommended that following the close of duck season, New Jersey be allowed additional splits in the coastal zone snow goose season to accommodate a special hunt at Forsythe National Wildlife Refuge impoundments. They further recommended that the experimental seasons established last year in Maryland and Delaware be allowed to continue for another year.

The Upper-and Lower-Region Regulations Committees of the Mississippi Flyway Council, and the Atlantic and Central Flyway Councils recommended that baiting regulations for light geese, when all other waterfowl, except falconry, seasons are closed and during the Light Goose Conservation Order during the 2000–01 season (prior to completion of the Environmental Impact Statement), be the same as those currently implemented for doves. Further, the Flyway Councils urge strong support for these changes by all States, nongovernmental organizations, and the Service.

Service Response: We endorse the request by New Jersey to allow additional split seasons in their coastal zone for snow geese following the close of their duck season. Last year, we approved an increase in the number of split seasons in Delaware and Maryland for the 1999–00 season to provide temporary relief pending an evaluation. We agreed to explore its effectiveness in reducing agricultural damage and wetland degradation by requiring an evaluation prior to this year's approval. Also, we asked both States to seek landowner support by allowing hunters access on their fields to hunt snow geese. We believe that New Jersey should be afforded the same opportunity to determine the effectiveness of this measure to reduce wetland degradations and agricultural damages. This provision is experimental and granted for 1 year only, pending an evaluation.

Regarding baiting regulations for snow geese, baiting regulations for the ''light goose only'' portions of the regular season and the Light Goose Conservation Order were covered under special rules published February 1999. Although these original rules were withdrawn in May 1999, they were subsequently reinstated without change by Congress and signed into law in November 1999. Known as the Arctic Tundra Habitat Emergency Conservation Act, this law ensures that population control measures for Mid-Continent Light Geese will remain in place without change during the preparation of the EIS. However, the provisions of the February 1999 Conservation Order specified area closures and did not include any changes to the current baiting regulations. Additionally, the Act passed in November reinstated the February 1999 Conservation Order rather than enabling ''a conservation order.'' Because of this, changes to the Conservation-Order provisions cannot be made until after the completion of the EIS. Therefore, we believe that

changes in baiting regulations for these seasons should more appropriately be addressed in the more comprehensive EIS process that is currently under way.

8. Swans

Council Recommendations: The Upper- and Lower-Region Regulations Committees of the Mississippi Flyway Council, and the Atlantic, Central, and Pacific Flyway Councils, in a joint recommendation, recommended that States with Eastern Population (EP) tundra swan hunting seasons be allowed to issue a second swan permit to interested resident and nonresident hunters from permits remaining after the initial drawing.

The Pacific Flyway Council recommended no change, with one exception, from last year's frameworks for tundra swan seasons in the Pacific Flyway. The single change proposed is for a 1-week extension in season framework dates in Utah.

Service Response: We support the Joint Flyway Recommendation that would allow States with Eastern Tundra Swan seasons to issue a second hunting permit to hunters, if permits from the initial drawing were unused. This issuance of a second permit would be allowed only if there are no outstanding requests for additional permits and with the concurrence of participating States. In accordance with the Flyways' approved Hunt Plan, any unused portion of these permits are available for temporary redistribution to participating States upon request. Issuance of a second permit to a hunter by a State is subject to evaluation to determine success rates and must be identified in the State's annual report to the Service.

Regarding the general swan seasons in the Pacific Flyway, we recently addressed this issue in an environmental assessment to reconcile conflicting strategies for managing two swan species in the Pacific Flyway. Namely, the assessment evaluated the following strategies: (1) To enhance the winter range distribution of the less abundant Rocky Mountain Population (RMP) of trumpeter swans (*Cygnus buccinator*) by severely restricting or eliminating Tundra swan (*C. columbianus*) hunting, or both, in portions of the Pacific Flyway currently open to Tundra swan hunting, and (2) to optimize hunting of the more numerous and widely distributed Western Population (WP) of Tundra swans in the Pacific Flyway by not further restricting hunting seasons to benefit the range distribution of trumpeter swans. The preferred alternative identified in the EA proposed a balance between these two competing strategies by continuing on an operational basis a general swan season in portions of Montana and Nevada and proposing a new 3-year experiment in Utah. The experimental hunt in Utah would be based on further reductions in the swan season that would allow the continued taking of any species of swan (*Cygnus sp.*) subject to: (1) A limited, but biologically acceptable, quota on the take of trumpeter swans, and (2) modification of the already limited take and restricted seasons on Tundra swans to enhance the likelihood that Trumpeter swans would be successful in expanding their winter range, and (3) a program to monitor the effectiveness of this action. We would continue with our participation in the State-Federal effort to enhance the winter-range distribution of trumpeter swans.

More specifically, implementation of the preferred alternative would allow us to continue to establish a hunting season on all swan species in designated portions of Montana and Nevada, within the Pacific Flyway. Current constraints imposed upon these swan hunting seasons would be continued, and specific areas open to swan hunting in Montana and Nevada would remain. Additionally, we would continue to require the monitoring of swan harvests, by mail in Montana, and by examination in Nevada, with appropriate provisions for season closure to be implemented by States should assigned quotas of trumpeter swans be reached.

In Utah, we would continue the area and time restrictions imposed since 1995 while also implementing further restrictions on areas where Tundra swan hunting is allowed. More specifically, we would close all lands north of the Bear River Migratory Bird Refuge to all swan hunting in Utah, reduce the quota on allowable take of trumpeter swans in Utah from 15 to 10, and reduce the number of Tundra swan permits issued in Utah from 2,750 to 2,000. We would also extend the framework closing date from the first to the second Sunday in December.

In the EA, comments identified the potential impact of harvest in Utah as the main issue regarding appropriate management action needed to address the problem concerning the winter distribution of RMP trumpeter swans. These comments indicated that there was a wide disparity of opinion on the actual impact of this limited harvest on the redistribution of RMP trumpeter swans. Given the uncertainty and disparate views on this particular issue, the preferred alternative establishes a new 3-year experiment to assess the impacts of these further restrictions in Utah. During this time, we would request the States, through the Pacific Flyway Council, other Federal agencies, and interested nongovernmental organizations, to participate with the Service in development of a comprehensive implementation plan for addressing specific issues regarding RMP trumpeter swan management in this region. We will complete our portion of this implementation plan during 2001, and will request the other cooperators to complete their portions no later than July 2002. This plan and results from the new 3-year experiment will serve as the basis for our evaluation of this new experiment.

Additionally, we will assume a leadership role in attempting to enhance trumpeter swan status and breeding distribution within the Pacific Flyway through increased efforts directed at establishment of breeding trumpeter swans in suitable habitats throughout the Pacific Flyway. We would continue to support cooperative efforts to address the winter distribution issues by working with the States and other partners. We would also support limited winter capture and translocation on a case-by-case basis when circumstances developed that seemed to warrant such activity. We do not plan to employ winter translocations as the main method to address the winter distribution problem of RMP trumpeter swans, but rather as a method to limit risk to swans from direct over-winter mortality, if necessary.

While we recognize that the Pacific Flyway Council does not believe adequate data exists to support the proposed restrictions in Utah, others believe the data to support even greater restrictions are well established. We urge the Council to view the next 3-year experimental period in Utah as an opportunity to improve this situation and hope the Council will take the requested implementation plan very seriously. We trust the Council will work with us to complete this plan and begin to implement actions that will help address this problem so that we are not faced with a similar situation in 3 years.

Copies of the evaluation, the EA, and the Finding of No Significant Impact are available at the address indicated under the caption **ADDRESSES** or from our website at http://migratorybirds.fws.gov.

Public Comment Invited

The Department of the Interior's policy is, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. We intend that adopted final rules be as responsive as possible to all concerned

interests and, therefore, seek the comments and suggestions of the public, other concerned governmental agencies, nongovernmental organizations, and other private interests on these proposals. Accordingly, we invite interested persons to submit written comments, suggestions, or recommendations regarding the proposed regulations to the address indicated under the caption **ADDRESSES.**

Special circumstances involved in the establishment of these regulations limit the amount of time that we can allow for public comment. Specifically, two considerations compress the time in which the rulemaking process must operate: (1) The need to establish final rules at a point early enough in the summer to allow affected State agencies to appropriately adjust their licensing and regulatory mechanisms; and (2) the unavailability, before mid-June, of specific, reliable data on this year's status of some waterfowl and migratory shore and upland game bird populations. Therefore, we believe that to allow comment periods past the dates specified is contrary to the public interest.

Before promulgation of final migratory game bird hunting regulations, we will take into consideration all comments received. Such comments, and any additional information received, may lead to final regulations that differ from these proposals. You may inspect comments received on the proposed annual regulations during normal business hours at our office in room 634, 4401 North Fairfax Drive, Arlington, Virginia. For each series of proposed rulemakings, we will establish specific comment periods. We will consider, but possibly may not respond in detail to, each comment. However, we will summarize all comments received during the comment period and respond to them after the closing date in the final rule.

NEPA Consideration

NEPA considerations are covered by the programmatic document, ''Final Supplemental Environmental Impact Statement: Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (FSES 88–14),'' filed with the Environmental Protection Agency on June 9, 1988. We published a Notice of Availability in the **Federal Register** on June 16, 1988 (53 FR 22582). We published our Record of Decision on August 18, 1988 (53 FR 31341). Additionally, issues pertaining to swan hunting in the Pacific Flyway were covered under a separate NEPA document, ''Swan Hunting in the Pacific Flyway,'' issued July 12, 2000, with a Finding of No Significant Impact issued July 23, 2000. Copies are available from the address indicated under the caption **ADDRESSES.**

Endangered Species Act Consideration

Prior to issuance of the 2000–01 migratory game bird hunting regulations, we will consider provisions of the Endangered Species Act of 1973, as amended, (16 U.S.C. 1531–1543; hereinafter the Act) to ensure that hunting is not likely to jeopardize the continued existence of any species designated as endangered or threatened or modify or destroy its critical habitat and that the proposed action is consistent with conservation programs for those species. Consultations under Section 7 of this Act may cause us to change proposals in this and future supplemental proposed rulemakings.

Executive Order (E.O.) 12866

While this individual supplemental rule was not reviewed by the Office of Management and Budget (OMB), the migratory bird hunting regulations are economically significant and are annually reviewed by OMB under E.O. 12866. E.O. 12866 requires each agency to write regulations that are easy to understand.

We invite comments on how to make this rule easier to understand, including answers to questions such as the following: (1) Are the requirements in the rule clearly stated? (2) Does the rule contain technical language or jargon that interferes with its clarity? (3) Does the format of the 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? (5) Is the description of the rule in the ''Supplementary Information'' section of the preamble helpful in understanding the rule? What else could we do to make the rule easier to understand?

Send a copy of any comments that concern how we could make this 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

Regulatory Flexibility Act

These regulations have a significant economic impact on substantial numbers of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). We analyzed the economic impacts of the annual hunting regulations on small business entities in detail and issued a Small Entity Flexibility Analysis (Analysis) in 1998. The Analysis documented the significant beneficial economic effect on a substantial number of small entities. The primary source of information about hunter expenditures for migratory game bird hunting is the National Hunting and Fishing Survey, which is conducted at 5-year intervals. The Analysis was based on the 1996 National Hunting and Fishing Survey and the U.S. Department of Commerce's County Business Patterns, from which it was estimated that migratory bird hunters would spend between $429 million and $1,084 million at small businesses in 1998. Copies of the Analysis are available upon request from the address indicated under the caption **ADDRESSES.**

Small Business Regulatory Enforcement Fairness Act

This rule is a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. For the reasons outlined above, this rule has an annual effect on the economy of $100 million or more. However, because this rule establishes hunting seasons, we do not plan to defer the effective date under the exemption contained in 5 U.S.C. 808(1).

Paperwork Reduction Act

We examined these regulations under the Paperwork Reduction Act of 1995. We utilize the various recordkeeping and reporting requirements imposed under regulations established in 50 CFR part 20, Subpart K, in the formulation of migratory game bird hunting regulations.

Specifically, OMB has approved the information collection requirements of the Migratory Bird Harvest Information Program and assigned clearance number 1018–0015 (expires 9/30/2001). This information is used to provide a sampling frame for voluntary national surveys to improve our harvest estimates for all migratory game birds in order to better manage these populations. OMB has also approved the information collection requirements of the Sandhill Crane Harvest Questionnaire and assigned clearance number 1018–0023 (expires 9/30/2003). The information from this survey is used to estimate the magnitude and the geographical and temporal distribution of harvest, and the portion it constitutes of the total population.

A Federal 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.

Unfunded Mandates Reform Act

We have determined and certify, in compliance with the requirements of the Unfunded Mandates Reform Act, 2 U.S.C. 1502 *et seq.*, that this rulemaking will not ''significantly or uniquely'' affect small governments, and will not produce a Federal mandate of $100 million or more in any given year on local or State government or private entities. Therefore, this proposed rule is not a ''significant regulatory action'' under the Unfunded Mandates Reform Act.

Civil Justice Reform—Executive Order 12988

The Department, in promulgating this proposed rule, has determined that this rule will not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of E.O. 12988.

Takings Implication Assessment

In accordance with Executive Order 12630, this proposed rule, authorized by the Migratory Bird Treaty Act, does not have significant takings implications and does not affect any constitutionally protected property rights. This rule will not result in the physical occupancy of property, the physical invasion of property, or the regulatory taking of any property. In fact, this rule will allow hunters to exercise otherwise unavailable privileges, and, therefore, reduces restrictions on the use of private and public property.

Federalism Effects

Due to the migratory nature of certain species of birds, the Federal Government has been given responsibility over these species by the Migratory Bird Treaty Act. We annually prescribe frameworks from which the States make selections and employ guidelines to establish special regulations on Federal Indian reservations and ceded lands. This process preserves the ability of the States and Tribes to determine which seasons meet their individual needs. Any State or Tribe may be more restrictive than the Federal frameworks at any time. The frameworks are developed in a cooperative process with the States and the Flyway Councils. This process allows States to participate in the development of frameworks from which they will make selections, thereby having an influence on their own regulations. These rules do not have a substantial direct effect on fiscal capacity, change the roles or responsibilities of Federal or State governments, or intrude on State policy or administration. Therefore, in accordance with Executive Order 13132, these regulations do not have significant federalism effects and do not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

List of Subjects in 50 CFR Part 20

Exports, Hunting, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

The rules that eventually will be promulgated for the 2000–01 hunting season are authorized under 16 U.S.C. 703–712 and 16 U.S.C. 742 a–j.

Dated: August 15, 2000.

Stephen C. Saunders,

Acting Assistant Secretary for Fish and Wildlife and Parks.

Proposed Regulations Frameworks for 2000–01 Late Hunting Seasons on Certain Migratory Game Birds

Pursuant to the Migratory Bird Treaty Act and delegated authorities, the Department has approved frameworks for season lengths, shooting hours, bag and possession limits, and outside dates within which States may select seasons for hunting waterfowl and coots between the dates of September 1, 2000, and March 10, 2001.

General

Dates: All outside dates noted below are inclusive.

Shooting and Hawking (taking by falconry) Hours: Unless otherwise specified, from one-half hour before sunrise to sunset daily.

Possession Limits: Unless otherwise specified, possession limits are twice the daily bag limit.

Flyways and Management Units

Waterfowl Flyways:

Atlantic Flyway—includes Connecticut, Delaware, Florida, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, and West Virginia.

Mississippi Flyway—includes Alabama, Arkansas, Illinois, Indiana, Iowa, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Ohio, Tennessee, and Wisconsin.

Central Flyway—includes Colorado (east of the Continental Divide), Kansas, Montana (Counties of Blaine, Carbon, Fergus, Judith Basin, Stillwater, Sweetgrass, Wheatland, and all counties east thereof), Nebraska, New Mexico (east of the Continental Divide except the Jicarilla Apache Indian Reservation), North Dakota, Oklahoma, South Dakota, Texas, and Wyoming (east of the Continental Divide).

Pacific Flyway—includes Alaska, Arizona, California, Idaho, Nevada, Oregon, Utah, Washington, and those portions of Colorado, Montana, New Mexico, and Wyoming not included in the Central Flyway.

Management Units:

High Plains Mallard Management Unit—roughly defined as that portion of the Central Flyway which lies west of the 100th meridian.

Definitions: For the purpose of hunting regulations listed below, the collective terms ''dark'' and ''light'' geese include the following species:

Dark geese—Canada geese, white-fronted geese, brant, and all other goose species except light geese.

Light geese—snow (including blue) geese and Ross' geese.

Area, Zone, and Unit Descriptions: Geographic descriptions related to late-season regulations are contained in a later portion of this document.

Area-Specific Provisions: Frameworks for open seasons, season lengths, bag and possession limits, and other special provisions are listed below by Flyway.

Compensatory Days in the Atlantic Flyway: In the Atlantic Flyway States of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Jersey, North Carolina, Pennsylvania, Virginia, and West Virginia, where Sunday hunting is prohibited statewide by State law, all Sundays are closed to all take of migratory waterfowl (including mergansers and coots).

Atlantic Flyway

Ducks, Mergansers, and Coots

Outside Dates: Between October 1 and January 20.

Hunting Seasons and Duck Limits: 60 days and daily bag limit of 6 ducks, including no more than 4 mallards (2 hens), 3 scaup, 1 black duck, 1 pintail, 1 mottled duck, 1 fulvous whistling duck, 2 wood ducks, 2 redheads, 1 canvasback, and 4 scoters.

Closures: The season on harlequin ducks is closed.

Sea Ducks: Within the special sea duck areas, during the regular duck season in the Atlantic Flyway, States may choose to allow the above sea duck limits in addition to the limits applying to other ducks during the regular duck season. In all other areas, sea ducks may be taken only during the regular open season for ducks and are part of the regular duck season daily bag (not to exceed 4 scoters) and possession limits.

Merganser Limits: The daily bag limit of mergansers is 5, only 1 of which may be a hooded merganser.

Coot Limits: The daily bag limit is 15 coots.

Lake Champlain Zone, New York: The waterfowl seasons, limits, and shooting hours shall be the same as those selected for the Lake Champlain Zone of Vermont.

Zoning and Split Seasons: Delaware, Florida, Georgia, Maryland, North Carolina, Rhode Island, South Carolina, and Virginia may split their seasons into three segments; Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Vermont, and West Virginia may select hunting seasons by zones and may split their seasons into two segments in each zone.

Canada Geese

Season Lengths, Outside Dates, and Limits: Specific regulations for Canada geese are shown below by State. Unless specified otherwise, seasons may be split into two segments. In areas within States where the framework closing date for Atlantic Population (AP) goose seasons overlaps with special late season frameworks for resident geese, the framework closing date for AP goose season is January 14.

Connecticut: North Atlantic Population (NAP) Zone: A 40-day season may be held between October 1 and December 15 with a 2-bird daily bag limit.

Atlantic Population (AP) Zone: A 15-day season may be held concurrent with the duck season between November 1 and January 20 with a 1-bird daily bag limit.

South Zone: A special experimental season may be held in the between January 15 and February 15, with a 5-bird daily bag limit.

Delaware: A 6-day season may be held concurrent with the duck season between November 15 and January 20 with a 1-bird daily bag limit (tagging required to harvest). The harvest of Canada geese is limited to 2,100.

Florida: A 70-day season may be held between November 15 to February 15, with a 5-bird daily bag limit.

Georgia: In specific areas, a 70-day season may be held between November 15 and February 15, with a 5-bird daily bag limit.

Maine: A 40-day season may be held Statewide between October 1 and December 15 with a 2-bird daily bag limit.

Maryland: Southern James Bay Population (SJBP) Zone: A 40-day season may be held between November 15 to January 14, with a 2-bird daily bag limit. The season may be split 3-ways. Additionally, an experimental season may be held from January 15 to February 15, with a 5-bird daily bag limit.

AP Zone: A 6-day season may be held concurrent with the duck season between November 15 and January 20 with a 1-bird daily bag limit (tagging required to harvest). The harvest of Canada geese is limited to 12,200.

Massachusetts: NAP Zone: A 40-day season may be held between October 1 to December 15 with a 2-bird daily bag limit. Additionally, a special season may be held from January 15 to February 15, with a 5-bird daily bag limit.

AP Zone: A 15-day season may be held concurrent with the duck season between November 1 and January 20 with a 1-bird daily bag limit.

New Hampshire: A 40-day season may be held statewide between October 1 and December 15 with a 2-bird daily bag limit.

New Jersey: Statewide: A 15-day season may be held concurrent with the duck season between November 1 and January 20 with a 1-bird daily bag limit.

Special Late Goose Season Area: An experimental season may be held in designated areas of North and South New Jersey from January 15 to February 15, with a 5-bird daily bag limit.

New York: SJBP Zone: A 70-day season may be held between November 1 and January 30, with a 2-bird daily bag limit.

NAP Zone: A 40-day season may be held between October 1 and December 31 with a 2-bird daily bag limit.

Special Late Goose Season Area: An experimental season may be held between January 15 and February 15, with a 5-bird daily bag limit in designated areas of Chemung, Delaware, Tioga, Broome, Sullivan, Westchester, Nassau, Suffolk, Orange, Dutchess, Putnam, and Rockland Counties.

AP Zone: A 15-day season may be held concurrent with the duck season between November 1 and January 20 with a 1-bird daily bag limit.

North Carolina: A 46-day season may be held between October 1 and November 15, with a 2-bird daily bag limit Statewide, except for the Northeast Hunt Unit and Northampton County.

Pennsylvania: SJBP Zone: A 40-day season may be held between November 15 to January 14, with a 2-bird daily bag limit.

AP Zone: A 15-day season may be held concurrent with the duck season between November 1 and January 20 with a 1-bird daily bag limit.

Special Late Goose Season Area: An experimental season may be held from January 15 to February 15 with a 5-bird daily bag limit.

Pymatuning Zone: A 35-day season may be held between October 1 and January 20, with a 1-bird daily bag limit.

Rhode Island: A 40-day season may be held between October 1 and December 15 with a 2-bird daily bag limit. An experimental season may be held in a designated area from January 15 to February 15, with a 5-bird daily bag limit.

South Carolina: In designated areas, a 70-day season may be held during November 15 to February 15, with a 5-bird daily bag limit.

Vermont: A 15-day season may be held concurrent with the duck season between November 1 and January 20 with a 1-bird daily bag limit.

Virginia: SJBP Zone: A 40-day season may be held between November 15 to January 14, with a 2-bird daily bag limit. Additionally, an experimental season may be held between January 15 to February 15, with a 5-bird daily bag limit.

AP Zone: A 6-day season may be held concurrent with the duck season between November 15 and January 20 with a 1-bird daily bag limit.

Back Bay Area: Season is closed.

West Virginia: A 70-day season may be held between October 1 and January 31, with a 3-bird daily bag limit.

Light Geese

Season Lengths, Outside Dates, and Limits: States may select a 107-day season between October 1 and March 10, with a 15-bird daily bag limit and no possession limit. States may split their seasons into three segments, except in Delaware, Maryland, and New Jersey, where following the completion of their duck season, and until March 10, Delaware and Maryland may split the remaining portion of the season to hunt on Mondays, Wednesdays, Fridays, and Saturdays only, and New Jersey may split the remaining portion of the season to hunt on Fridays and Saturdays only.

Brant

Season Lengths, Outside Dates, and Limits: States may select a 50-day season between October 1 and January 20, with a 2-bird daily bag limit. States may split their seasons into two segments.

Mississippi Flyway

Ducks, Mergansers, and Coots

Outside Dates: Between the Saturday nearest October 1 (September 30) and the Sunday nearest January 20 (January 21). Seasons in Alabama, Mississippi, and Tennessee may extend to January 31.

Hunting Seasons and Duck Limits: 60 days (51 days in Alabama, Mississippi, and Tennessee), with a daily bag limit of 6 ducks, including no more than 4

mallards (no more than 2 of which may be females), 3 mottled ducks, 3 scaup, 1 black duck, 1 pintail, 2 wood ducks, 1 canvasback, and 2 redheads.

Merganser Limits: The daily bag limit is 5, only 1 of which may be a hooded merganser. In States that include mergansers in the duck bag limit, the daily limit is the same as the duck bag limit, only one of which may be a hooded merganser.

Coot Limits: The daily bag limit is 15 coots.

Zoning and Split Seasons: Alabama, Illinois, Indiana, Iowa, Kentucky, Louisiana, Michigan, Mississippi, Missouri, Ohio, Tennessee, and Wisconsin may select hunting seasons by zones.

In Alabama, Indiana, Iowa, Kentucky, Louisiana, Michigan, Mississippi, Ohio, Tennessee, and Wisconsin, the season may be split into two segments in each zone.

In Minnesota and Arkansas, the season may be split into three segments.

Geese

Split Seasons: Seasons for geese may be split into three segments. Three-way split seasons for Canada geese require Mississippi Flyway Council and U.S. Fish and Wildlife Service approval, and a 3-year evaluation, by each participating State.

Season Lengths, Outside Dates, and Limits: States may select seasons for light geese not to exceed 107 days with 20 geese daily between the Saturday nearest October 1 (September 30) and March 10; for white-fronted geese not to exceed 86 days with 2 geese daily or 107 days with 1 goose daily between the Saturday nearest October 1 (September 30) and the Sunday nearest February 15 (February 18); and for brant not to exceed 70 days with 2 brant daily or 107 days with 1 brant daily between the Saturday nearest October 1 (September 30) and January 31. There is no possession limit for light geese. Specific regulations for Canada geese and exceptions to the above general provisions are shown below by State. Except as noted below, the outside dates for Canada geese are the Saturday nearest October 1 (September 30) and January 31.

Alabama: In the Southern James Bay Population (SJBP) Goose Zone, the season for Canada geese may not exceed 35 days. Elsewhere, the season for Canada geese may extend for 70 days in the respective duck-hunting zones. The daily bag limit is 2 Canada geese.

Arkansas: The season for Canada geese may extend for 23 days. The season may extend to February 15. The daily bag limit is 2 Canada geese.

Illinois: The total harvest of Canada geese in the State will be limited to 127,000 birds. The possession limit is 10 Canada geese.

(a) North Zone—The season for Canada geese will close after 91 days or when 21,500 birds have been harvested in the Northern Illinois Quota Zone, whichever occurs first. The daily bag limit is 3 Canada geese.

(b) Central Zone—The season for Canada geese will close after 91 days or when 24,700 birds have been harvested in the Central Illinois Quota Zone, whichever occurs first. The daily bag limit is 3 Canada geese.

(c) South Zone—The harvest of Canada geese in the Southern Illinois and Rend Lake Quota Zones will be limited to 32,900 and 4,650 birds, respectively. The season for Canada geese in each zone will close after 91 days or when the harvest limit has been reached, whichever occurs first. The daily bag limit is 3 Canada geese. In the Southern Illinois Quota Zone, if any of the following conditions exist after December 20, the State, after consultation with the Service, will close the season by emergency order with 48 hours notice:

(1) Average body weights of adult female geese less than 3,200 grams as measured from a weekly sample of a minimum of 50 geese.

(2) Starvation or a major disease outbreak resulting in observed mortality exceeding 5,000 birds in 10 days, or a total mortality exceeding 10,000 birds.

In the remainder of the South Zone, the season may extend for 91 days or until both the Southern Illinois and Rend Lake Quota Zones have been closed, whichever occurs first. The daily bag limit is 3 Canada geese.

Indiana: The total harvest of Canada geese in the state will be limited to 28,300 birds. The daily bag limit is 2 Canada geese.

(a) Posey County—The season for Canada geese will close after 65 days or when the Canada goose harvest at Hovey Lake Fish and Wildlife Area exceeds 1,500 birds, whichever occurs first.

(b) Remainder of the State—The season for Canada geese will extend for 65 days, except in the SJBP Zone, where the season may not exceed 35 days.

Iowa: The season may extend for 70 days. The daily bag limit is 2 Canada geese.

Kentucky: (a) Western Zone—The season for Canada geese may extend for 61 days (76 days in Fulton County), and the harvest will be limited to 23,800 birds. Of the 23,800-bird quota, 15,470 birds will be allocated to the Ballard Reporting Area and 4,520 birds will be allocated to the Henderson/Union Reporting Area. If the quota in either reporting area is reached prior to completion of the 61-day season, the season in that reporting area will be closed. If the quotas in both the Ballard and Henderson/Union reporting areas are reached prior to completion of the 61-day season, the season in the counties and portions of counties that comprise the Western Goose Zone (listed in State regulations) may continue for an additional 7 days, not to exceed a total of 61 days (76 days in Fulton County). The season in Fulton County may extend to February 15. The daily bag limit is 2 Canada geese.

(b) Pennyroyal/Coalfield Zone—The season may extend for 35 days. The daily bag limit is 2 Canada geese.

(c) Remainder of the State—The season may extend for 50 days. The daily bag limit is 2 Canada geese.

Louisiana: The season for Canada geese may extend for 9 days. During the season, the daily bag limit is 1 Canada goose and 2 white-fronted geese with an 86-day white-fronted goose season or 1 white-fronted goose with a 107-day season. Hunters participating in the Canada goose season must possess a special permit issued by the State.

Michigan: The total harvest of Canada geese in the State will be limited to 73,200 birds.

(a) North Zone—The framework opening date for all geese is September 16 and the season for Canada geese may extend for 18 days. The daily bag limit is 2 Canada geese.

(b) Middle Zone—The framework opening date for all geese is September 16 and the season for Canada geese may extend for 18 days. The daily bag limit is 2 Canada geese.

(c) South Zone:

(1) Allegan County GMU—The Canada goose season will close after 25 days or when 1,100 birds have been harvested, whichever occurs first. The daily bag limit is 1 Canada goose.

(2) Muskegon Wastewater GMU—The Canada goose season will close after 25 days or when 350 birds have been harvested, whichever occurs first. The daily bag limit is 2 Canada geese.

(3) Saginaw County GMU—The Canada goose season will close after 50 days or when 2,000 birds have been harvested, whichever occurs first. The daily bag limit is 1 Canada goose.

(4) Tuscola/Huron GMU—The Canada goose season will close after 50 days or when 750 birds have been harvested, whichever occurs first. The daily bag limit is 1 Canada goose.

(5) Remainder of the South Zone—The framework opening date for all geese is September 16 and the season for

Canada geese may extend for 18 days. The daily bag limit is 2 Canada geese.

(d) Southern Michigan GMU—A special Canada goose season may be held between January 6 and February 4. The daily bag limit is 5 Canada geese.

(e) Central Michigan GMU—An experimental special Canada goose season may be held between January 6 and February 4. The daily bag limit is 5 Canada geese.

Minnesota: (a) West Zone:

(1) West Central Zone—The season for Canada geese may extend for 30 days. In the Lac Qui Parle Zone, the season will close after 30 days or when 16,000 birds have been harvested, whichever occurs first. Throughout the West Central Zone, the daily bag limit is 1 Canada goose.

(2) Remainder of West Zone—The season for Canada geese may extend for 40 days. The daily bag limit is 1 Canada goose.

(b) Northwest Zone—The season for Canada geese may extend for 40 days. The daily bag limit is 1 Canada goose.

(c) Remainder of the State—The season for Canada geese may extend for 70 days. The daily bag limit is 2 Canada geese.

(d) Special Late Canada Goose Season—An experimental Special Canada goose season of up to 10 days may be held in December, except in the West Central and Lac qui Parle Goose zones. During the special season, the daily bag limit is 5 Canada geese, except in the Southeast Goose Zone, where the daily bag limit is 2.

Mississippi: The season for Canada geese may extend for 70 days. The daily bag limit is 3 Canada geese.

Missouri: (a) Swan Lake Zone—The season for Canada geese may extend for 70 days, with no more than 30 days occurring after November 30. The season may be split into 3 segments. The daily bag limit is 2 Canada geese.

(b) Southeast Zone—The season for Canada geese may extend for 70 days. The season may be split into 3 segments, provided that at least 1 segment occurs prior to December 1. The daily bag limit is 3 Canada geese through October 31, and 2 Canada geese thereafter.

(c) Remainder of the state:

(1) North Zone—The season for Canada geese may extend for 70 days, with no more than 30 days occurring after November 30. The season may be split into 3 segments, provided that 1 segment of at least 9 days occurs prior to October 15. The daily bag limit is 3 Canada geese through October 31, and 2 Canada geese thereafter.

(2) Middle Zone—The season for Canada geese may extend for 70 days, with no more than 30 days occurring after November 30. The season may be split into 3 segments, provided that 1 segment of at least 9 days occurs prior to October 15. The daily bag limit is 3 Canada geese through October 31, and 2 Canada geese thereafter.

(3) South Zone—The season for Canada geese may extend for 70 days. The season may be split into 3 segments, provided that at least 1 segment occurs prior to December 1. The daily bag limit is 3 Canada geese through October 31, and 2 Canada geese thereafter.

Ohio: The season for Canada geese may extend for 70 days in the respective duck-hunting zones, with a daily bag limit of 2 Canada geese, except in the Lake Erie SJBP Zone, where the season may not exceed 30 days and the daily bag limit is 1 Canada goose. A special experimental Canada goose season of up to 22 days, beginning the first Saturday after January 10, may be held in selected areas of the State. During the special season, the daily bag limit is 2 Canada geese.

Tennessee: (a) Northwest Zone—The season for Canada geese will close after 76 days or when 8,900 birds have been harvested, whichever occurs first. The season may extend to February 15. A 6,400-bird harvest quota will be monitored in the Reelfoot Quota Zone. The remaining 2,500 quota will be assigned to the area outside the Reelfoot Zone. If the quota in the Reelfoot Quota Zone is reached prior to completion of the 76-day season, the season in the entire Northwest Zone will close. The daily bag limit is 2 Canada geese.

(b) Southwest Zone—The season for Canada geese may extend for 61 days, and the harvest will be limited to 1,000 birds. The daily bag limit is 2 Canada geese.

(c) Kentucky/Barkley Lakes Zone—The season for Canada geese will close after 50 days or when 1,800 birds have been harvested, whichever occurs first. All geese harvested must be taken to a designated check station and checked. The daily bag limit is 2 Canada geese. In lieu of the quota and checking requirement above, the State may select either a 50-day season with a 1-bird daily bag limit or a 35-day season with a 2-bird daily bag limit for this Zone.

(d) Remainder of the State—The season for Canada geese may extend for 70 days. The daily bag limit is 2 Canada geese.

Wisconsin: The total harvest of Canada geese in the State will be limited to 83,900 birds.

(a) Horicon Zone—The framework opening date for all geese is September 16. The harvest of Canada geese is limited to 39,600 birds. The season may not exceed 95 days. All Canada geese harvested must be tagged. The daily bag limit is 2 Canada geese and the season limit will be the number of tags issued to each permittee.

(b) Collins Zone—The framework opening date for all geese is September 16. The harvest of Canada geese is limited to 1,300 birds. The season may not exceed 68 days. All Canada geese harvested must be tagged. The daily bag limit is 2 Canada geese and the season limit will be the number of tags issued to each permittee.

(c) Exterior Zone—The framework opening date for all geese is September 23. The harvest of Canada geese is limited to 38,500 birds, with 500 birds allocated to the Mississippi River Subzone. The season may not exceed 94 days, except in the Mississippi River Subzone, where the season may not exceed 80 days. The daily bag limit is 2 Canada geese. In that portion of the Exterior Zone outside the Mississippi River Subzone, the progress of the harvest must be monitored, and the season closed, if necessary, to ensure that the harvest does not exceed 38,500 birds.

Additional Limits: In addition to the harvest limits stated for the respective zones above, an additional 4,500 Canada geese may be taken in the Horicon Zone under special agricultural permits.

Quota Zone Closures: When it has been determined that the quota of Canada geese allotted to the Northern Illinois, Central Illinois, Southern Illinois, and Rend Lake Quota Zones in Illinois, Posey County in Indiana, the Ballard and Henderson-Union Subzones in Kentucky, the Allegan County, Muskegon Wastewater, Saginaw County, and Tuscola/Huron Goose Management Units in Michigan, the Lac Qui Parle Zone in Minnesota, the Northwest and Kentucky/Barkley Lakes (if applicable) Zones in Tennessee, and the Exterior Zone in Wisconsin will have been filled, the season for taking Canada geese in the respective zone (and associated area, if applicable) will be closed by either the Director upon giving public notice through local information media at least 48 hours in advance of the time and date of closing, or by the State through State regulations with such notice and time (not less than 48 hours) as they deem necessary.

Central Flyway

Ducks, Mergansers, and Coots

Outside Dates: Between September 30 and January 21.

Hunting Seasons and Duck Limits:

(1) High Plains Mallard Management Unit (roughly defined as that portion of

the Central Flyway which lies west of the 100th meridian): 97 days and a daily bag limit of 6 ducks, including no more than 5 mallards (no more than 2 of which may be hens), 1 mottled duck, 1 canvasback, 1 pintail, 2 redheads, 3 scaup, and 2 wood ducks. The last 23 days may start no earlier than the Saturday nearest December 10 (December 9).

(2) Remainder of the Central Flyway: 74 days and a daily bag limit of 6 ducks, including no more than 5 mallards (no more than 2 of which may be hens), 1 mottled duck, 1 canvasback, 1 pintail, 2 redheads, 3 scaup, and 2 wood ducks.

Merganser Limits: The daily bag limit is 5 mergansers, only 1 of which may be a hooded merganser. In States that include mergansers in the duck daily bag limit, the daily limit may be the same as the duck bag limit, only one of which may be a hooded merganser.

Coot Limits: The daily bag limit is 15 coots.

Zoning and Split Seasons: Kansas (Low Plains portion), Montana, Nebraska (Low Plains portion), New Mexico, Oklahoma (Low Plains portion), South Dakota (Low Plains portion), Texas (Low Plains portion), and Wyoming may select hunting seasons by zones.

In Kansas, Montana, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, and Wyoming, the regular season may be split into two segments.

In Colorado, the season may be split into three segments.

Geese

Split Seasons: Seasons for geese may be split into three segments. Three-way split seasons for Canada geese require Central Flyway Council and U.S. Fish and Wildlife Service approval, and a 3-year evaluation by each participating State.

Outside Dates: For dark geese, seasons may be selected between the outside dates of the Saturday nearest October 1 (September 30) and the Sunday nearest February 15 (February 18). For light geese, outside dates for seasons may be selected between the Saturday nearest October 1 (September 30) and March 10. In the Rainwater Basin Light Goose Area (East and West) of Nebraska, temporal and spatial restrictions consistent with the experimental late-winter snow goose hunting strategy endorsed by the Central Flyway Council in July 1999, are required.

Season Lengths and Limits:

Light Geese: States may select a light goose season not to exceed 107 days. The daily bag limit for light geese is 20 with no possession limit.

Dark Geese: In Kansas, Nebraska, North Dakota, Oklahoma, South Dakota, and the Eastern Goose Zone of Texas, States may select a season for Canada geese (or any other dark goose species except white-fronted geese) not to exceed 95 days with a daily bag limit of 3. Additionally, in the Eastern Goose Zone of Texas, an alternative season of 107 days with a daily bag limit of 1 Canada goose may be selected. For white-fronted geese, these States may select either a season of 86 days with a bag limit of 2 or a 107-day season with a bag limit of 1.

In South Dakota, for Canada geese in the Big Stone Power Plant Area of Dark Goose Unit 1, the daily bag limit is 3 until November 30 and 2 thereafter.

In Colorado, Montana, New Mexico and Wyoming, States may select seasons not to exceed 107 days. The daily bag limit for dark geese is 5 in the aggregate.

In the Western Goose Zone of Texas, the season may not exceed 107 days. The daily bag limit for Canada geese (or any other dark goose species except white-fronted geese) is 5. The daily bag limit for white-fronted geese is 1.

Pacific Flyway

Ducks, Mergansers, Coots, and Common Moorhens

Hunting Seasons and Duck Limits: Concurrent 107 days and daily bag limit of 7 ducks and mergansers, including no more than 2 female mallards, 1 pintail, 4 scaup, 2 redheads and 1 canvasback.

The season on coots and common moorhens may be between the outside dates for the season on ducks, but not to exceed 107 days.

Coot and Common Moorhen Limits: The daily bag and possession limits of coots and common moorhens are 25, singly or in the aggregate.

Outside Dates: Between the Saturday nearest October 1 (September 30) and the Sunday nearest January 20 (January 21).

Zoning and Split Seasons: Arizona, California, Idaho, Nevada, Oregon, Utah, and Washington may select hunting seasons by zones.

Arizona, California, Idaho, Nevada, Oregon, Utah, and Washington may split their seasons into two segments.

Colorado, Montana, New Mexico, and Wyoming may split their seasons into three segments.

Colorado River Zone, California: Seasons and limits shall be the same as seasons and limits selected in the adjacent portion of Arizona (South Zone).

Geese

Season Lengths, Outside Dates, and Limits: Except as subsequently noted, 100-day seasons may be selected, with outside dates between the Saturday nearest October 1 (September 30), and the Sunday nearest January 20 (January 21), and the basic daily bag limits are 3 light geese and 4 dark geese, except in California, Oregon, and Washington, where the dark goose bag limit does not include brant.

Split Seasons: Unless otherwise specified, seasons for geese may be split into up to 3 segments. Three-way split seasons for Canada geese and white-fronted geese require Pacific Flyway Council and U.S. Fish and Wildlife Service approval and a 3-year evaluation by each participating State.

Brant Season—A 16-consecutive-day season may be selected in Oregon and Washington, and a 30-consecutive-day season may be selected in California. In these States, the daily bag limit is 2 brant and is in addition to dark goose limits.

Closures: There will be no open season on Aleutian Canada geese in the Pacific Flyway. The States of California, Oregon, and Washington must include a statement on the closure for that subspecies in their respective regulations leaflet. Emergency closures may be invoked for all Canada geese should Aleutian Canada goose distribution patterns or other circumstances justify such actions.

Arizona: The daily bag limit for dark geese is 3.

California: Northeastern Zone—White-fronted geese and cackling Canada geese may be taken only during the first 44 days of the goose season. The daily bag limit is 3 geese and may include no more than 2 dark geese; including not more than 1 cackling Canada goose.

Colorado River Zone—The seasons and limits must be the same as those selected in the adjacent portion of Arizona (South Zone).

Southern Zone—The daily bag limit for dark geese is 3 geese.

Balance-of-the-State Zone—A 79-day season may be selected. Limits may not include more than 3 geese per day, of which not more than 2 may be white-fronted geese and not more than 1 may be a cackling Canada goose. Three areas in the Balance-of-the-State Zone are restricted in the hunting of certain geese:

(1) In the Counties of Del Norte and Humboldt, there will be no open season for Canada geese, except for the Special September Canada goose hunt in Humboldt County.

(2) In the Sacramento Valley Special Management Area (West), the season on white-fronted geese must end on or before December 14, and, in the

Sacramento Valley Special Management Area (East), there will be no open season for Canada geese.

(3) In the San Joaquin Valley Special Management Area, there will be no open season for Canada geese.

Colorado: The daily bag limit for dark geese is 3 geese.

Idaho: Northern Unit—The daily bag limit is 4 geese, including 4 dark geese, but not more than 3 light geese.

Southwest Unit and Southeastern Unit—The daily bag limit on dark geese is 4.

Montana: West of Divide Zone and East of Divide Zone—The daily bag limit of dark geese is 4.

Nevada: The daily bag limit for dark geese is 3 except in the Lincoln and Clark County Zone, where the daily bag limit of dark geese is 2.

New Mexico: The daily bag limit of dark geese is 3.

Oregon: Except as subsequently noted, the dark goose daily bag limit is 4, including not more than 1 cackling Canada goose.

Lake County Zone—The daily dark goose bag limit may not include more than 2 white-fronted geese.

Western Zone—In the Special Canada Goose Management Area, except for designated areas, there shall be no open season on Canada geese. In the designated areas, individual quotas shall be established which collectively shall not exceed 165 dusky Canada geese. See section on quota zones. In those designated areas, the daily bag limit of dark geese is 4 and may include 4 cackling Canada geese.

Utah: The daily bag limit for dark geese is 3 geese.

Washington: The daily bag limit is 4 geese, including 4 dark geese but not more than 3 light geese.

West Zone—In the Lower Columbia River Special Goose Management Area, except for designated areas, there shall be no open season on Canada geese. In the designated areas, individual quotas shall be established which collectively shall not exceed 85 dusky Canada geese. See section on quota zones. In this area, the daily bag limit of dark geese is 4 and may include 4 cackling Canada geese.

Wyoming: The daily bag limit is 4 dark geese.

Quota Zones: Seasons on dark geese must end upon attainment of individual quotas of dusky Canada geese allotted to the designated areas of Oregon and Washington. The September Canada goose season, the regular goose season, any special late dark goose season, and any extended falconry season, combined, must not exceed 107 days and the established quota of dusky Canada geese must not be exceeded. Hunting of dark geese in those designated areas shall only be by hunters possessing a State-issued permit authorizing them to do so. In a Service-approved investigation, the State must obtain quantitative information on hunter compliance of those regulations aimed at reducing the take of dusky Canada geese and eliminating the take of Aleutian Canada geese. If the monitoring program cannot be conducted, for any reason, the season must immediately close. In the designated areas of the Washington Quota Zone, a special late dark goose season may be held between the Saturday following the close of the general goose season and March 10. The daily bag limit may not include Aleutian Canada geese. In the Special Canada Goose Management Area of Oregon, the framework closing date is extended to the Sunday closest to March 1 (March 4). In the Special Canada Goose Management Area of Oregon, the framework closing date is extended to the Sunday closest to March 1 (Feb. 28). Regular dark goose seasons may be split into 3 segments within the Oregon and Washington quota zones. The 3-way split seasons are considered experimental for the next 3 years. An evaluation of the 3-way split seasons is required and must be submitted by July, 2002.

Swans

In designated areas of Utah, Nevada, and the Pacific Flyway portion of Montana, an open season for taking a limited number of swans may be selected. Permits will be issued by States and will authorize each permittee to take no more than 1 swan per season. The season may open no earlier than the Saturday nearest October 1 (September 30). The States must implement a harvest-monitoring program to measure the species composition of the swan harvest. In Utah and Nevada, the harvest-monitoring program must require that all harvested swans or their species-determinant parts be examined by either State or Federal biologists for the purpose of species classification. All States should use appropriate measures to maximize hunter compliance in providing bagged swans for examination or, in the case of Montana, reporting bill-measurement and color information. All States must achieve at least a 10 percent compliance rate or subsequent permits will be reduced by 10 percent. All States must provide to the Service by June 30, 2001, a report covering harvest, hunter participation, reporting compliance, and monitoring of swan populations in the designated hunt areas. These seasons will be subject to the following conditions:

In Utah, no more than 2,000 permits may be issued. The season must end no later than the second Sunday in December (December 10) or upon attainment of 10 trumpeter swans in the harvest, whichever occurs earliest.

In Nevada, no more than 650 permits may be issued. The season must end no later than the Sunday following January 1 (January 7) or upon attainment of 5 trumpeter swans in the harvest, whichever occurs earliest.

In Montana, no more than 500 permits may be issued. The season must end no later than December 1.

Tundra Swans

In the Central Flyway portion of Montana, and in North Carolina, North Dakota, South Dakota (east of the Missouri River), and Virginia, an open season for taking a limited number of tundra swans may be selected. Permits will be issued by States that authorize the take of no more than 1 tundra swan per permit. A second permit may be issued to hunters from unused permits remaining after the first drawing. The States must obtain harvest and hunter participation data. These seasons will be subject to the following conditions:

In the Atlantic Flyway

—The season will be experimental.
—The season may be 90 days, from October 1 to January 31.
—In North Carolina, no more than 5,000 permits may be issued.
—In Virginia, no more than 600 permits may be issued.

In the Central Flyway

—The season may be 107 days and must occur during the light goose season.
—In the Central Flyway portion of Montana, no more than 500 permits may be issued.
—In North Dakota, no more than 2,000 permits may be issued.
—In South Dakota, no more than 1,500 permits may be issued.

Area, Unit and Zone Descriptions

Ducks (Including Mergansers) and Coots

Atlantic Flyway

Connecticut

North Zone: That portion of the State north of I–95.

South Zone: Remainder of the State.

Maine

North Zone: That portion north of the line extending east along Maine State Highway 110 from the New Hampshire and Maine border to the intersection of

Maine State Highway 11 in Newfield; then north and east along Route 11 to the intersection of U.S. Route 202 in Auburn; then north and east on Route 202 to the intersection of Interstate Highway 95 in Augusta; then north and east along I–95 to Route 15 in Bangor; then east along Route 15 to Route 9; then east along Route 9 to Stony Brook in Baileyville; then east along Stony Brook to the United States border.

South Zone: Remainder of the State.

Massachusetts

Western Zone: That portion of the State west of a line extending south from the Vermont border on I–91 to MA 9, west on MA 9 to MA 10, south on MA 10 to U.S. 202, south on U.S. 202 to the Connecticut border.

Central Zone: That portion of the State east of the Berkshire Zone and west of a line extending south from the New Hampshire border on I–95 to U.S. 1, south on U.S. 1 to I–93, south on I–93 to MA 3, south on MA 3 to U.S. 6, west on U.S. 6 to MA 28, west on MA 28 to I–195, west to the Rhode Island border; except the waters, and the lands 150 yards inland from the high-water mark, of the Assonet River upstream to the MA 24 bridge, and the Taunton River upstream to the Center St.-Elm St. bridge shall be in the Coastal Zone.

Coastal Zone: That portion of Massachusetts east and south of the Central Zone.

New Hampshire

Coastal Zone: That portion of the State east of a line extending west from Maine border in Rollinsford on NH 4 to the city of Dover, south to NH 108, south along NH 108 through Madbury, Durham, and Newmarket to NH 85 in Newfields, south to NH 101 in Exeter, east to NH 51 (Exeter-Hampton Expressway), east to I–95 (New Hampshire Turnpike) in Hampton, and south along I–95 to the Massachusetts border.

Inland Zone: That portion of the State north and west of the above boundary.

New Jersey

Coastal Zone: That portion of the State seaward of a line beginning at the New York border in Raritan Bay and extending west along the New York border to NJ 440 at Perth Amboy; west on NJ 440 to the Garden State Parkway; south on the Garden State Parkway to the shoreline at Cape May and continuing to the Delaware border in Delaware Bay.

North Zone: That portion of the State west of the Coastal Zone and north of a line extending west from the Garden State Parkway on NJ 70 to the New Jersey Turnpike, north on the turnpike to U.S. 206, north on U.S. 206 to U.S. 1 at Trenton, west on U.S. 1 to the Pennsylvania border in the Delaware River.

South Zone: That portion of the State not within the North Zone or the Coastal Zone.

New York

Lake Champlain Zone: The U.S. portion of Lake Champlain and that area east and north of a line extending along NY 9B from the Canadian border to U.S. 9, south along U.S. 9 to NY 22 south of Keesville; south along NY 22 to the west shore of South Bay, along and around the shoreline of South Bay to NY 22 on the east shore of South Bay; southeast along NY 22 to U.S. 4, northeast along U.S. 4 to the Vermont border.

Long Island Zone: That area consisting of Nassau County, Suffolk County, that area of Westchester County southeast of I–95, and their tidal waters.

Western Zone: That area west of a line extending from Lake Ontario east along the north shore of the Salmon River to I–81, and south along I–81 to the Pennsylvania border.

Northeastern Zone: That area north of a line extending from Lake Ontario east along the north shore of the Salmon River to I–81, south along I–81 to NY 49, east along NY 49 to NY 365, east along NY 365 to NY 28, east along NY 28 to NY 29, east along NY 29 to I–87, north along I–87 to U.S. 9 (at Exit 20), north along U.S. 9 to NY 149, east along NY 149 to U.S. 4, north along U.S. 4 to the Vermont border, exclusive of the Lake Champlain Zone.

Southeastern Zone: The remaining portion of New York.

Pennsylvania

Lake Erie Zone: The Lake Erie waters of Pennsylvania and a shoreline margin along Lake Erie from New York on the east to Ohio on the west extending 150 yards inland, but including all of Presque Isle Peninsula.

Northwest Zone: The area bounded on the north by the Lake Erie Zone and including all of Erie and Crawford Counties and those portions of Mercer and Venango Counties north of I–80.

North Zone: That portion of the State east of the Northwest Zone and north of a line extending east on I–80 to U.S. 220, Route 220 to I–180, I–180 to I–80, and I–80 to the Delaware River.

South Zone: The remaining portion of Pennsylvania.

Vermont

Lake Champlain Zone: The U.S. portion of Lake Champlain and that area north and west of the line extending from the New York border along U.S. 4 to VT 22A at Fair Haven; VT 22A to U.S. 7 at Vergennes; U.S. 7 to the Canadian border.

Interior Zone: The remaining portion of Vermont.

West Virginia

Zone 1: That portion outside the boundaries in Zone 2.

Zone 2 (Allegheny Mountain Upland): That area bounded by a line extending south along U.S. 220 through Keyser to U.S. 50; U.S. 50 to WV 93; WV 93 south to WV 42; WV 42 south to Petersburg; WV 28 south to Minnehaha Springs; WV 39 west to U.S. 219; U.S. 219 south to I-64; I–64 west to U.S. 60; U.S. 60 west to U.S. 19; U.S. 19 north to I–79, I–79 north to U.S. 48; U.S. 48 east to the Maryland border; and along the border to the point of beginning.

Mississippi Flyway

Alabama

South Zone: Mobile and Baldwin Counties.

North Zone: The remainder of Alabama.

Illinois

North Zone: That portion of the State north of a line extending east from the Iowa border along Illinois Highway 92 to Interstate Highway 280, east along I–280 to I–80, then east along I–80 to the Indiana border.

Central Zone: That portion of the State south of the North Zone to a line extending east from the Missouri border along the Modoc Ferry route to Modoc Ferry Road, east along Modoc Ferry Road to Modoc Road, northeasterly along Modoc Road and St. Leo's Road to Illinois Highway 3, north along Illinois 3 to Illinois 159, north along Illinois 159 to Illinois 161, east along Illinois 161 to Illinois 4, north along Illinois 4 to Interstate Highway 70, east along I–70 to the Bond County line, north and east along the Bond County line to Fayette County, north and east along the Fayette County line to Effingham County, east and south along the Effingham County line to I–70, then east along I–70 to the Indiana border.

South Zone: The remainder of Illinois.

Indiana

North Zone: That portion of the State north of a line extending east from the Illinois border along State Road 18 to U.S. Highway 31, north along U.S. 31 to U.S. 24, east along U.S. 24 to Huntington, then southeast along U.S. 224 to the Ohio border.

Ohio River Zone: That portion of the State south of a line extending east from the Illinois border along Interstate

Highway 64 to New Albany, east along State Road 62 to State 56, east along State 56 to Vevay, east and north on State 156 along the Ohio River to North Landing, north along State 56 to U.S. Highway 50, then northeast along U.S. 50 to the Ohio border.

South Zone: That portion of the State between the North and Ohio River Zone boundaries.

Iowa

North Zone: That portion of the State north of a line extending east from the Nebraska border along State Highway 175 to State 37, southeast along State 37 to U.S. Highway 59, south along U.S. 59 to Interstate Highway 80, then east along I–80 to the Illinois border.

South Zone: The remainder of Iowa.

Kentucky

West Zone: All counties west of and including Butler, Daviess, Ohio, Simpson, and Warren Counties.

East Zone: The remainder of Kentucky.

Louisiana

West Zone: That portion of the State west of a line extending south from the Arkansas border along Louisiana Highway 3 to Bossier City, east along Interstate Highway 20 to Minden, south along Louisiana 7 to Ringgold, east along Louisiana 4 to Jonesboro, south along U.S. Highway 167 to Lafayette, southeast along U.S. 90 to Houma, then south along the Houma Navigation Channel to the Gulf of Mexico through Cat Island Pass.

East Zone: The remainder of Louisiana.

Catahoula Lake Area: All of Catahoula Lake, including those portions known locally as Round Prairie, Catfish Prairie, and Frazier's Arm. See State regulations for additional information.

Michigan

North Zone: The Upper Peninsula.

Middle Zone: That portion of the Lower Peninsula north of a line beginning at the Wisconsin border in Lake Michigan due west of the mouth of Stony Creek in Oceana County; then due east to, and easterly and southerly along the south shore of, Stony Creek to Scenic Drive, easterly and southerly along Scenic Drive to Stony Lake Road, easterly along Stony Lake and Garfield Roads to Michigan Highway 20, east along Michigan 20 to U.S. Highway 10 Business Route (BR) in the city of Midland, east along U.S. 10 BR to U.S. 10, east along U.S. 10 to Interstate Highway 75/U.S. Highway 23, north along I–75/U.S. 23 to the U.S. 23 exit at Standish, east along U.S. 23 to Shore Road in Arenac County, east along Shore Road to the tip of Point Lookout, then on a line directly east 10 miles into Saginaw Bay, and from that point on a line directly northeast to the Canada border.

South Zone: The remainder of Michigan.

Mississippi

Zone 1: Hancock, Harrison, and Jackson Counties.

Zone 2: The remainder of Mississippi.

Missouri

North Zone: That portion of Missouri north of a line running west from the Illinois border along Interstate Highway 70 to U.S. Highway 54, south along U.S. 54 to U.S. 50, then west along U.S. 50 to the Kansas border.

South Zone: That portion of Missouri south of a line running west from the Illinois border along Missouri Highway 34 to Interstate Highway 55; south along I–55 to U.S. Highway 62, west along U.S. 62 to Missouri 53, north along Missouri 53 to Missouri 51, north along Missouri 51 to U.S. 60, west along U.S. 60 to Missouri 21, north along Missouri 21 to Missouri 72, west along Missouri 72 to Missouri 32, west along Missouri 32 to U.S. 65, north along U.S. 65 to U.S. 54, west along U.S. 54 to Missouri 32, south along Missouri 32 to Missouri 97, south along Missouri 97 to Dade County NN, west along Dade County NN to Missouri 37, west along Missouri 37 to Jasper County N, west along Jasper County N to Jasper County M, west along Jasper County M to the Kansas border.

Middle Zone: The remainder of Missouri.

Ohio

North Zone: The Counties of Darke, Miami, Clark, Champaign, Union, Delaware, Licking (excluding the Buckeye Lake Area), Muskingum, Guernsey, Harrison and Jefferson and all counties north thereof.

Ohio River Zone: The Counties of Hamilton, Clermont, Brown, Adams, Scioto, Lawrence, Gallia and Meigs.

South Zone: That portion of the State between the North and Ohio River Zone boundaries, including the Buckeye Lake Area in Licking County bounded on the west by State Highway 37, on the north by U.S. Highway 40, and on the east by State 13.

Tennessee

Reelfoot Zone: All or portions of Lake and Obion Counties.

State Zone: The remainder of Tennessee.

Wisconsin

North Zone: That portion of the State north of a line extending east from the Minnesota border along State Highway 77 to State 27, south along State 27 and 77 to U.S. Highway 63, and continuing south along State 27 to Sawyer County Road B, south and east along County B to State 70, southwest along State 70 to State 27, south along State 27 to State 64, west along State 64/27 and south along State 27 to U.S. 12, south and east on State 27/U.S. 12 to U.S. 10, east on U.S. 10 to State 310, east along State 310 to State 42, north along State 42 to State 147, north along State 147 to State 163, north along State 163 to Kewaunee County Trunk A, north along County Trunk A to State 57, north along State 57 to the Kewaunee/Door County Line, west along the Kewaunee/Door County Line to the Door/Brown County Line, west along the Door/Brown County Line to the Door/Oconto/Brown County Line, northeast along the Door/Oconto County Line to the Marinette/Door County Line, northeast along the Marinette/Door County Line to the Michigan border.

South Zone: The remainder of Wisconsin.

Central Flyway

Kansas

High Plains Zone: That portion of the State west of U.S. 283.

Low Plains Early Zone: That portion of the State east of the High Plains Zone and west of a line extending south from the Nebraska border along KS 28 to U.S. 36, east along U.S. 36 to KS 199, south along KS 199 to Republic County Road 563, south along Republic County Road 563 to KS 148, east along KS 148 to Republic County Road 138, south along Republic County Road 138 to Cloud County Road 765, south along Cloud County Road 765 to KS 9, west along KS 9 to U.S. 24, west along U.S. 24 to U.S. 281, north along U.S. 281 to U.S. 36, west along U.S. 36 to U.S. 183, south along U.S. 183 to U.S. 24, west along U.S. 24 to KS 18, southeast along KS 18 to U.S. 183, south along U.S. 183 to KS 4, east along KS 4 to I–135, south along I–135 to KS 61, southwest along KS 61 to KS 96, northwest on KS 96 to U.S. 56, west along U.S. 56 to U.S. 281, south along U.S. 281 to U.S. 54, then west along U.S. 54 to U.S. 283.

Low Plains Late Zone: The remainder of Kansas.

Montana (Central Flyway Portion)

Zone 1: The Counties of Blaine, Carbon, Carter, Daniels, Dawson, Fallon, Fergus, Garfield, Golden Valley, Judith Basin, McCone, Musselshell, Petroleum, Phillips, Powder River, Richland,

Roosevelt, Sheridan, Stillwater, Sweet Grass, Valley, Wheatland, Wibaux, and Yellowstone.

Zone 2: The remainder of Montana.

Nebraska

High Plains Zone: That portion of the State west of highways U.S. 183 and U.S. 20 from the South Dakota border to Ainsworth, NE 7 and NE 91 to Dunning, NE 2 to Merna, NE 92 to Arnold, NE 40 and NE 47 through Gothenburg to NE 23, NE 23 to Elwood, and U.S. 283 to the Kansas border.

Low Plains Zone 1: That portion of the State east of the High Plains Zone and north and east of a line extending from the South Dakota border along NE 26E Spur to U.S. 20, west on U.S. 20 to NE 12, west on NE 12 to the Knox/Keya Paha County line, south along the county line to the Niobrara River and along the Niobrara River to U.S. 183 (the High Plains Zone line). Where the Niobrara River forms the boundary, both banks will be in Zone 1.

Low Plains Zone 2: That portion of the State east of the High Plains Zone and bounded by designated highways and political boundaries starting on U.S. 73 at the Kansas border, north to NE 67, north to U.S. 75, north to NE 2, west to NE 43, north to U.S. 34, east to NE 63, north and west to U.S. 77, north to NE 92, west to U.S. 81, south to NE 66, west to NE 14, south to U.S. 34, west to NE 2, south to I–80, west to Hamilton/Hall County line (Gunbarrel Road), south to Giltner Road; west to U.S. 34, west to U.S. 136, east on U.S. 136 to NE 10, south to the State line, west to U.S. 283, north to NE 23, west to NE 47, north to U.S. 30, east to NE 14, north to NE 52, northwesterly to NE 91, west to U.S. 281, north to NE 91 in Wheeler County, west to U.S. 183, north to northerly boundary of Loup County, east along the north boundaries of Loup, Garfield, and Wheeler County, south along the east Wheeler County line to NE 70, east on NE 70 from Wheeler County to NE 14, south to NE 39, southeast to NE 22, east to U.S. 81, southeast to U.S. 30, east along U.S. 30 to U.S. 75, north along U.S. 75 to the Washington/Burt County line; then east along the county line to the Iowa border.

Low Plains Zone 3: The area east of the High Plains Zone, excluding Low Plains Zone 1, north of Low Plains Zone 2.

Low Plains Zone 4: The area east of the High Plains Zone and south of Zone 2.

New Mexico (Central Flyway Portion)

North Zone: That portion of the State north of I–40 and U.S. 54.

South Zone: The remainder of New Mexico.

North Dakota

High Plains Unit: That portion of the State south and west of a line from the South Dakota border along U.S. 83 and I–94 to ND 41, north to U.S. 2, west to the Williams/Divide County line, then north along the County line to the Canadian border.

Low Plains: The remainder of North Dakota.

Oklahoma

High Plains Zone: The Counties of Beaver, Cimarron, and Texas.

Low Plains Zone 1: That portion of the State east of the High Plains Zone and north of a line extending east from the Texas border along OK 33 to OK 47, east along OK 47 to U.S. 183, south along U.S. 183 to I–40, east along I–40 to U.S. 177, north along U.S. 177 to OK 33, west along OK 33 to I–35, north along I–35 to U.S. 60, west along U.S. 60 to U.S. 64, west along U.S. 64 to OK 132, then north along OK 132 to the Kansas border.

Low Plains Zone 2: The remainder of Oklahoma.

South Dakota

High Plains Unit: That portion of the State west of a line beginning at the North Dakota border and extending south along U.S. 83 to U.S. 14, east along U.S. 14 to Blunt-Canning Road in Blunt, south along Blunt-Canning Road to SD 34, east to SD 47, south to I–90, east to SD 47, south to SD 49, south to Colome and then continuing south on U.S. 183 to the Nebraska border.

North Zone: That portion of northeastern South Dakota east of the High Plains Unit and north of a line extending east along US 212 to SD 15, then north along SD 15 to Big Stone Lake at the Minnesota border.

South Zone: That portion of Gregory County east of SD 47, Charles Mix County south of SD 44 to the Douglas County line, south on SD 50 to Geddes, east on the Geddes Hwy. to U.S. 281, south on U.S. 281 and U.S. 18 to SD 50, south and east on SD 50 to Bon Homme County line, the Counties of Bon Homme, Yankton, and Clay south of SD 50, and Union County south and west of SD 50 and I–29.

Middle Zone: The remainder of South Dakota.

Texas

High Plains Zone: That portion of the State west of a line extending south from the Oklahoma border along U.S. 183 to Vernon, south along U.S. 283 to Albany, south along TX 6 to TX 351 to Abilene, south along U.S. 277 to Del Rio, then south along the Del Rio International Toll Bridge access road to the Mexico border.

Low Plains North Zone: That portion of northeastern Texas east of the High Plains Zone and north of a line beginning at the International Toll Bridge south of Del Rio, then extending east on U.S. 90 to San Antonio, then continuing east on I–10 to the Louisiana border at Orange, Texas.

Low Plains South Zone: The remainder of Texas.

Wyoming (Central Flyway portion)

Zone 1: The Counties of Converse, Goshen, Hot Springs, Natrona, Platte, Washakie, and that portion of Park County south of T58N and not within the boundary of the Shoshone National Forest.

Zone 2: The remainder of Wyoming.

Pacific Flyway

Arizona

Game Management Units (GMU) as follows:

South Zone: Those portions of GMUs 6 and 8 in Yavapai County, and GMUs 10 and 12B–45.

North Zone: GMUs 1–5, those portions of GMUs 6 and 8 within Coconino County, and GMUs 7, 9, 12A.

California

Northeastern Zone: That portion of the State east and north of a line beginning at the Oregon border; south and west along the Klamath River to the mouth of Shovel Creek; south along Shovel Creek to Forest Service Road 46N10; south and east along FS 46N10 to FS 45N22; west and south along FS 45N22 to U.S. 97 at Grass Lake Summit; south and west along U.S. 97 to I–5 at the town of Weed; south along I–5 to CA 89; east and south along CA 89 to the junction with CA 49; east and north on CA 49 to CA 70; east on CA 70 to U.S. 395; south and east on U.S. 395 to the Nevada border.

Colorado River Zone: Those portions of San Bernardino, Riverside, and Imperial Counties east of a line extending from the Nevada border south along U.S. 95 to Vidal Junction; south on a road known as ''Aqueduct Road'' in San Bernardino County through the town of Rice to the San Bernardino-Riverside County line; south on a road known in Riverside County as the ''Desert Center to Rice Road'' to the town of Desert Center; east 31 miles on I–10 to the Wiley Well Road; south on this road to Wiley Well; southeast along the Army-Milpitas Road to the Blythe, Brawley, Davis Lake intersections; south

on the Blythe-Brawley paved road to the Ogilby and Tumco Mine Road; south on this road to U.S. 80; east seven miles on U.S. 80 to the Andrade-Algodones Road; south on this paved road to the Mexican border at Algodones, Mexico.

Southern Zone: That portion of southern California (but excluding the Colorado River Zone) south and east of a line extending from the Pacific Ocean east along the Santa Maria River to CA 166 near the City of Santa Maria; east on CA 166 to CA 99; south on CA 99 to the crest of the Tehachapi Mountains at Tejon Pass; east and north along the crest of the Tehachapi Mountains to CA 178 at Walker Pass; east on CA 178 to U.S. 395 at the town of Inyokern; south on U.S. 395 to CA 58; east on CA 58 to I–15; east on I–15 to CA 127; north on CA 127 to the Nevada border.

Southern San Joaquin Valley Temporary Zone: All of Kings and Tulare Counties and that portion of Kern County north of the Southern Zone.

Balance-of-the-State Zone: The remainder of California not included in the Northeastern, Southern, and Colorado River Zones, and the Southern San Joaquin Valley Temporary Zone.

Idaho

Zone 1: Includes all lands and waters within the Fort Hall Indian Reservation, including private inholdings; Bannock County; Bingham County, except that portion within the Blackfoot Reservoir drainage; and Power County east of ID 37 and ID 39.

Zone 2: Includes the following Counties or portions of Counties: Adams; Bear Lake; Benewah; Bingham within the Blackfoot Reservoir drainage; those portions of Blaine west of ID 75, south and east of U.S. 93, and between ID 75 and U.S. 93 north of U.S. 20 outside the Silver Creek drainage; Bonner; Bonneville; Boundary; Butte; Camas; Caribou except the Fort Hall Indian Reservation; Cassia within the Minidoka National Wildlife Refuge; Clark; Clearwater; Custer; Elmore within the Camas Creek drainage; Franklin; Fremont; Idaho; Jefferson; Kootenai; Latah; Lemhi; Lewis; Madison; Nez Perce; Oneida; Power within the Minidoka National Wildlife Refuge; Shoshone; Teton; and Valley Counties.

Zone 3: Includes the following Counties or portions of Counties: Ada; Blaine between ID 75 and U.S. 93 south of U.S. 20 and that additional area between ID 75 and U.S. 93 north of U.S. 20 within the Silver Creek drainage; Boise; Canyon; Cassia except within the Minidoka National Wildlife Refuge; Elmore except the Camas Creek drainage; Gem; Gooding; Jerome; Lincoln; Minidoka; Owyhee; Payette; Power west of ID 37 and ID 39 except that portion within the Minidoka National Wildlife Refuge; Twin Falls; and Washington Counties.

Nevada

Lincoln and Clark County Zone: All of Clark and Lincoln Counties.

Remainder-of-the-State Zone: The remainder of Nevada.

Oregon

Zone 1: Clatsop, Tillamook, Lincoln, Lane, Douglas, Coos, Curry, Josephine, Jackson, Linn, Benton, Polk, Marion, Yamhill, Washington, Columbia, Multnomah, Clackamas, Hood River, Wasco, Sherman, Gilliam, Morrow and Umatilla Counties.

Columbia Basin Mallard Management Unit: Gilliam, Morrow, and Umatilla Counties.

Zone 2: The remainder of the State.

Utah

Zone 1: All of Box Elder, Cache, Daggett, Davis, Duchesne, Morgan, Rich, Salt Lake, Summit, Unitah, Utah, Wasatch, and Weber Counties and that part of Toole County north of I–80.

Zone 2: The remainder of Utah.

Washington

East Zone: All areas east of the Pacific Crest Trail and east of the Big White Salmon River in Klickitat County.

Columbia Basin Mallard Management Unit: Same as East Zone.

West Zone: All areas to the west of the East Zone.

Geese

Atlantic Flyway

Connecticut

NAP Zone: Statewide, except for Hartford and Litchfield Counties west of the Connecticut River.

AP Zone: Remainder of the State.

South Zone: Same as for ducks.

North Zone: Same as for ducks.

Maryland

SJBP Zone: Allegheny, Carroll, Frederick, Garrett, Washington counties and the portion of Montgomery County south of Interstate 270 and west of Interstate 495 to the Potomac River.

AP Zone: Remainder of the State.

Massachusetts

NAP Zone: Central Zone (same as for ducks) and that portion of the Coastal Zone that lies north of route 139 from Green Harbor.

AP Zone: Remainder of the State.

Special Late Season Area: That portion of the Coastal Zone (see duck zones) that lies north of Route 14, east of St. George Road, and east of the Powder Point Bridge.

New Hampshire

Same zones as for ducks.

New Jersey

North—that portion of the State within a continuous line that runs east along the New York State boundary line to the Hudson River; then south along the New York State boundary to its intersection with Route 440 at Perth Amboy; then west on Route 440 to its intersection with Route 287; then west along Route 287 to its intersection with Route 206 in Bedminster (Exit 18); then north along Route 206 to its intersection with Route 94: then west along Route 94 to the tollbridge in Columbia; then north along the Pennsylvania State boundary in the Delaware River to the beginning point.

South—that portion of the State within a continuous line that runs west from the Atlantic Ocean at Ship Bottom along Route 72 to Route 70; then west along Route 70 to Route 206; then south along Route 206 to Route 536; then west along Route 536 to Route 322; then west along Route 322 to Route 55; then south along Route 55 to Route 553 (Buck Road); then south along Route 553 to Route 40; then east along Route 40 to route 55; then south along Route 55 to Route 552 (Sherman Avenue); then west along Route 552 to Carmel Road; then south along Carmel Road to Route 49; then east along Route 49 to Route 555; then south along Route 555 to Route 553; then east along Route 553 to Route 649; then north along Route 649 to Route 670; then east along Route 670 to Route 47; then north along Route 47 to Route 548; then east along Route 548 to Route 49; then east along Route 49 to Route 50; then south along Route 50 to Route 9; then south along Route 9 to Route 625 (Sea Isle City Boulevard); then east along Route 625 to the Atlantic Ocean; then north to the beginning point.

New York

Special Late Season Area for Canada Geese: That area of Chemung County lying east of a continuous line extending south along State Route 13 from the Schuyler County line to State Route 17 and then south along Route 17 to the New York-Pennsylvania boundary; all of Tioga and Broome Counties; that area of Delaware, Sullivan, and Orange Counties lying southwest of a continuous line extending east along State Route 17 from the Broome County line to U.S. Route 209 at Wurtsboro and then south along Route 209 to the New

York-Pennsylvania boundary at Port Jervis, excluding areas on or within 50 yards of the Delaware River between the confluence of the West Branch and East Branch below Hancock and the mouth of the Shingle Kill (3 miles upstream from Port Jervis); that area of Orange, Rockland, Dutchess, Putnam and Westchester Counties lying southeast of a continuous line extending north along Route 17 from the New York-New Jersey boundary at Suffern to Interstate Route 87, then north along Route 87 to Interstate Route 84, then east along Route 84 to the northern boundary of Putnam County, then east along that boundary to the New York-Connecticut boundary; that area of Nassau and Suffolk Counties lying north of State Route 25A and west of a continuous line extending northward from State Route 25A along Randall Road (near Shoreham) to North Country Road, then east to Sound Road and then north to Long Island Sound and then due north to the New York-Connecticut boundary.

Long Island (NAP) Zone: Same as Long Island Duck Zone.

Southwest (SJBP) Zone: all of Allegany, Cattaraugus, and Chautaugua Counties; that area of Erie, Wyoming and Niagara Counties lying south and west of a continuous line extending from the Rainbow Bridge below Niagara Falls, north along the Robert Moses Parkway to US Route 62A, then east along Route 62A to US Route 62, then southeast along US Route 62 to Interstate Route 290, then south along Route 290 to Exit 50 of the NYS Thruway, then east along I–90 to State Route 98, then south along State Route 98 to the Cattaraugus County line; and that area of Steuben and Chemung Counties lying south of State Route 17.

AP Zone: Remainder of the State.

North Carolina

Regular Season for Canada Geese: Statewide, except for Northampton County and the Northeast Hunt Unit—Counties of Bertie, Camden, Chowan, Currituck, Dare, Hyde, Pasquotank, Perquimans, Tyrrell, and Washington.

Pennsylvania

SJBP Zone: Area from the New York State line west of U.S. Route 220 to intersection of I–180, west of I–180 to intersection of SR 147, west of SR 147 to intersection of U.S. Route 322, west of U.S. Route 322 to intersection of I–81, west of I–81 to intersection of I–83, west of I–83 to I–283, west of I–283 to SR 441, west of SR 441 to U.S. Route 30, west of U.S. Route 30 to I–83, west of I–83 to Maryland State line, except for the Pymatuning Zone.

Pymatuning Zone: Area south of SR 198 from the Ohio State line to the intersection of SR 18, to the intersection of US Route 322/SR 18, to the intersection of SR 3013, then south to the Crawford/Mercer County line.

Special Late Season Area for Canada Geese: Same as SJBP Zone and the area from New York State line east of U.S. Route 220 to intersection of I–180, east of I–180 to intersection of SR 147, east of SR 147 to intersection of U.S. Route 322, east of Route 322 to intersection of I–81, north of I–81 to intersection of I–80, north of I–80 to New Jersey State line.

AP Zone: Remainder of the State.

Rhode Island

Special Area for Canada Geese: Kent and Providence Counties and portions of the towns of Exeter and North Kingston within Washington County (see State regulations for detailed descriptions).

South Carolina

Canada Goose Area: Statewide except for Clarendon County and that portion of Lake Marion in Orangeburg County and Berkeley County.

Vermont

Same zones as for ducks.

Virginia

SJBP Zone and Special Late Season Area for Canada Geese: All areas west of I–95.

Back Bay Area: The waters of Back Bay and its tributaries and the marshes adjacent thereto, and on the land and marshes between Back Bay and the Atlantic Ocean from Sandbridge to the North Carolina line, and on and along the shore of North Landing River and the marshes adjacent thereto, and on and along the shores of Binson Inlet Lake (formerly known as Lake Tecumseh) and Red Wing Lake and the marshes adjacent thereto.

AP Zone: Remainder of the State.

West Virginia

Same zones as for ducks.

Mississippi Flyway

Alabama

Same zones as for ducks, but in addition:

SJBP Zone: That portion of Morgan County east of U.S. Highway 31, north of State Highway 36, and west of U.S. 231; that portion of Limestone County south of U.S. 72; and that portion of Madison County south of Swancott Road and west of Triana Road.

Arkansas

East Zone: Arkansas, Ashley, Chicot, Clay, Craighead, Crittenden, Cross, Desha, Drew, Greene, Independence, Jackson, Jefferson, Lawrence, Lee, Lincoln, Lonoke, Mississippi, Monroe, Phillips, Poinsett, Prairie, Pulaski, Randolph, St. Francis, White, and Woodruff Counties.

West Zone: Baxter, Benton, Boone, Carroll, Cleburne, Conway, Crawford, Faulkner, Franklin, Fulton, Izard, Johnson, Madison, Marion, Newton, Pope, Searcy, Sharp, Stone, Van Buren, and Washington Counties, and those portions of Logan, Perry, Sebastian, and Yell Counties lying north of a line extending east from the Oklahoma border along State Highway 10 to Perry, south on State 9 to State 60, then east on State 60 to the Faulkner County line.

Illinois

Same zones as for ducks, but in addition:

North Zone:

Northern Illinois Quota Zone: The Counties of McHenry, Lake, Kane, DuPage, and those portions of LaSalle and Will Counties north of Interstate Highway 80.

Central Zone:

Central Illinois Quota Zone: The Counties of Grundy, Woodford, Peoria, Knox, Fulton, Tazewell, Mason, Cass, Morgan, Pike, Calhoun, and Jersey, and those portions of LaSalle and Will Counties south of Interstate Highway 80.

South Zone:

Southern Illinois Quota Zone: Alexander, Jackson, Union, and Williamson Counties.

Rend Lake Quota Zone: Franklin and Jefferson Counties.

Indiana

Same zones as for ducks, but in addition:

SJBP Zone: Jasper, LaGrange, LaPorte, Starke, and Steuben Counties, and that portion of the Jasper-Pulaski Fish and Wildlife Area in Pulaski County.

Iowa

Same zones as for ducks.

Kentucky

Western Zone: That portion of the State west of a line beginning at the Tennessee border at Fulton and extending north along the Purchase Parkway to Interstate Highway 24, east along I–24 to U.S. Highway 641, north along U.S. 641 to U.S. 60, northeast along U.S. 60 to the Henderson County line, then south, east, and northerly along the Henderson County line to the Indiana border.

Ballard Reporting Area: That area encompassed by a line beginning at the northwest city limits of Wickliffe in Ballard County and extending westward to the middle of the Mississippi River, north along the Mississippi River and along the low-water mark of the Ohio River on the Illinois shore to the Ballard-McCracken County line, south along the county line to Kentucky Highway 358, south along Kentucky 358 to U.S. Highway 60 at LaCenter; then southwest along U.S. 60 to the northeast city limits of Wickliffe.

Henderson-Union Reporting Area: Henderson County and that portion of Union County within the Western Zone.

Pennyroyal/Coalfield Zone: Butler, Daviess, Ohio, Simpson, and Warren Counties and all counties lying west to the boundary of the Western Goose Zone.

Michigan

Same zones as for ducks, but in addition:

South Zone:

Tuscola/Huron Goose Management Unit (GMU): Those portions of Tuscola and Huron Counties bounded on the south by Michigan Highway 138 and Bay City Road, on the east by Colwood and Bay Port Roads, on the north by Kilmanagh Road and a line extending directly west off the end of Kilmanagh Road into Saginaw Bay to the west boundary, and on the west by the Tuscola-Bay County line and a line extending directly north off the end of the Tuscola-Bay County line into Saginaw Bay to the north boundary.

Allegan County GMU: That area encompassed by a line beginning at the junction of 136th Avenue and Interstate Highway 196 in Lake Town Township and extending easterly along 136th Avenue to Michigan Highway 40, southerly along Michigan 40 through the city of Allegan to 108th Avenue in Trowbridge Township, westerly along 108th Avenue to 46th Street, northerly ½ mile along 46th Street to 109th Avenue, westerly along 109th Avenue to I–196 in Casco Township, then northerly along I–196 to the point of beginning.

Saginaw County GMU: That portion of Saginaw County bounded by Michigan Highway 46 on the north; Michigan 52 on the west; Michigan 57 on the south; and Michigan 13 on the east.

Muskegon Wastewater GMU: That portion of Muskegon County within the boundaries of the Muskegon County wastewater system, east of the Muskegon State Game Area, in sections 5, 6, 7, 8, 17, 18, 19, 20, 29, 30, and 32, T10N R14W, and sections 1, 2, 10, 11, 12, 13, 14, 24, and 25, T10N R15W, as posted.

Special Canada Goose Seasons:

Southern Michigan GMU: That portion of the State, including the Great Lakes and interconnecting waterways and excluding the Allegan County GMU, south of a line beginning at the Ontario border at the Bluewater Bridge in the city of Port Huron and extending westerly and southerly along Interstate Highway 94 to I–69, westerly along I–69 to Michigan Highway 21, westerly along Michigan 21 to I–96, northerly along I–96 to I–196, westerly along I–196 to Lake Michigan Drive (M–45) in Grand Rapids, westerly along Lake Michigan Drive to the Lake Michigan shore, then directly west from the end of Lake Michigan Drive to the Wisconsin border.

Central Michigan GMU: That portion of the South Zone north of the Southern Michigan GMU, excluding the Tuscola/Huron GMU, Saginaw County GMU, and Muskegon Wastewater GMU.

Minnesota

West Zone: That portion of the state encompassed by a line beginning at the junction of State Trunk Highway (STH) 60 and the Iowa border, then north and east along STH 60 to U.S. Highway 71, north along U.S. 71 to Interstate Highway 94, then north and west along I–94 to the North Dakota border.

West Central Zone: That area encompassed by a line beginning at the intersection of State Trunk Highway (STH) 29 and U.S. Highway 212 and extending west along U.S. 212 to U.S. 59, south along U.S. 59 to STH 67, west along STH 67 to U.S. 75, north along U.S. 75 to County State Aid Highway (CSAH) 30 in Lac qui Parle County, west along CSAH 30 to the western boundary of the State, north along the western boundary of the State to a point due south of the intersection of STH 7 and CSAH 7 in Big Stone County, and continuing due north to said intersection, then north along CSAH 7 to CSAH 6 in Big Stone County, east along CSAH 6 to CSAH 21 in Big Stone County, south along CSAH 21 to CSAH 10 in Big Stone County, east along CSAH 10 to CSAH 22 in Swift County, east along CSAH 22 to CSAH 5 in Swift County, south along CSAH 5 to U.S. 12, east along U.S. 12 to CSAH 17 in Swift County, south along CSAH 17 to CSAH 9 in Chippewa County, south along CSAH 9 to STH 40, east along STH 40 to STH 29, then south along STH 29 to the point of beginning.

Lac qui Parle Zone: That area encompassed by a line beginning at the intersection of U.S. Highway 212 and County State Aid Highway (CSAH) 27 in Lac qui Parle County and extending north along CSAH 27 to CSAH 20 in Lac qui Parle County, west along CSAH 20 to State Trunk Highway (STH) 40, north along STH 40 to STH 119, north along STH 119 to CSAH 34 in Lac qui Parle County, west along CSAH 34 to CSAH 19 in Lac qui Parle County, north and west along CSAH 19 to CSAH 38 in Lac qui Parle County, west along CSAH 38 to U.S. 75, north along U.S. 75 to STH 7, east along STH 7 to CSAH 6 in Swift County, east along CSAH 6 to County Road 65 in Swift County, south along County 65 to County 34 in Chippewa County, south along County 34 to CSAH 12 in Chippewa County, east along CSAH 12 to CSAH 9 in Chippewa County, south along CSAH 9 to STH 7, southeast along STH 7 to Montevideo and along the municipal boundary of Montevideo to U.S. 212; then west along U.S. 212 to the point of beginning.

Northwest Zone: That portion of the state encompassed by a line extending east from the North Dakota border along U.S. Highway 2 to State Trunk Highway (STH) 32, north along STH 32 to STH 92, east along STH 92 to County State Aid Highway (CSAH) 2 in Polk County, north along CSAH 2 to CSAH 27 in Pennington County, north along CSAH 27 to STH 1, east along STH 1 to CSAH 28 in Pennington County, north along CSAH 28 to CSAH 54 in Marshall County, north along CSAH 54 to CSAH 9 in Roseau County, north along CSAH 9 to STH 11, west along STH 11 to STH 310, and north along STH 310 to the Manitoba border.

Special Canada Goose Seasons:

Southeast Zone: That part of the state within the following described boundaries: beginning at the intersection of U. S. Highway 52 and the south boundary of the Twin Cities Metro Canada Goose Zone; thence along the U. S. Highway 52 to State Trunk Highway (STH) 57; thence along STH 57 to the municipal boundary of Kasson; thence along the municipal boundary of Kasson County State Aid Highway (CSAH) 13, Dodge County; thence along CSAH 13 to STH 30; thence along STH 30 to U. S. Highway 63; thence along U. S. Highway 63 to the south boundary of the state; thence along the south and east boundaries of the state to the south boundary of the Twin Cities Metro Canada Goose Zone; thence along said boundary to the point of beginning.

Missouri

Same zones as for ducks but in addition:

North Zone:

Swan Lake Zone: That area bounded by U.S. Highway 36 on the north, Missouri Highway 5 on the east,

Missouri 240 and U.S. 65 on the south, and U.S. 65 on the west.

Middle Zone:

Southeast Zone: That portion of the State encompassed by a line beginning at the intersection of Missouri Highway (MO) 34 and Interstate 55 and extending south along I–55 to U.S. Highway 62, west along U.S. 62 to MO 53, north along MO 53 to MO 51, north along MO 51 to U.S. 60, west along U.S. 60 to MO 21, north along MO 21 to MO 72, east along MO 72 to MO 34, then east along MO 34 to I–55.

Ohio

Same zones as for ducks but in addition:

North Zone:

Lake Erie SJBP Zone: That portion of the state encompassed by a line beginning in Lucas county at the Michigan state line on I–75, and extending south along I–75 to I–280, south along I–280 to I–80, east along I–80 to the Pennsylvania state line in Trumbull county, north along the Pennsylvania state line to SR 6 in Ashtabula county, west along SR 6 to the Lake/Cuyahoga county line, north along the Lake/Cuyahoga county line to the shore of Lake Erie.

Tennessee

Southwest Zone: That portion of the State south of State Highways 20 and 104, and west of U.S. Highways 45 and 45W.

Northwest Zone: Lake, Obion and Weakley Counties and those portions of Gibson and Dyer Counties not included in the Southwest Tennessee Zone.

Kentucky/Barkley Lakes Zone: That portion of the State bounded on the west by the eastern boundaries of the Northwest and Southwest Zones and on the east by State Highway 13 from the Alabama border to Clarksville and U.S. Highway 79 from Clarksville to the Kentucky border.

Wisconsin

Horicon Zone: That area encompassed by a line beginning at the intersection of State Highway 21 and the Fox River in Winnebago County and extending westerly along State 21 to the west boundary of Winnebago County, southerly along the west boundary of Winnebago County to the north boundary of Green Lake County, westerly along the north boundaries of Green Lake and Marquette Counties to State 22, southerly along State 22 to State 33, westerly along State 33 to U.S. Highway 16, westerly along U.S. 16 to Weyh Road, southerly along Weyh Road to County Highway O, southerly along County O to the west boundary of Section 31, southerly along the west boundary of Section 31 to the Sauk/Columbia County boundary, southerly along the Sauk/Columbia County boundary to State 33, easterly along State 33 to Interstate Highway 90/94, southerly along I–90/94 to State 60, easterly along State 60 to State 83, northerly along State 83 to State 175, northerly along State 175 to State 33, easterly along State 33 to U.S. Highway 45, northerly along U.S. 45 to the east shore of the Fond Du Lac River, northerly along the east shore of the Fond Du Lac River to Lake Winnebago, northerly along the western shoreline of Lake Winnebago to the Fox River, then westerly along the Fox River to State 21.

Collins Zone: That area encompassed by a line beginning at the intersection of Hilltop Road and Collins Marsh Road in Manitowoc County and extending westerly along Hilltop Road to Humpty Dumpty Road, southerly along Humpty Dumpty Road to Poplar Grove Road, easterly and southerly along Poplar Grove Road to County Highway JJ, southeasterly along County JJ to Collins Road, southerly along Collins Road to the Manitowoc River, southeasterly along the Manitowoc River to Quarry Road, northerly along Quarry Road to Einberger Road, northerly along Einberger Road to Moschel Road, westerly along Moschel Road to Collins Marsh Road, northerly along Collins Marsh Road to Hilltop Road.

Exterior Zone: That portion of the State not included in the Horicon or Collins Zones.

Mississippi River Subzone: That area encompassed by a line beginning at the intersection of the Burlington Northern & Santa Fe Railway and the Illinois border in Grant County and extending northerly along the Burlington Northern & Santa Fe Railway to the city limit of Prescott in Pierce County, then west along the Prescott city limit to the Minnesota border.

Rock Prairie Subzone: That area encompassed by a line beginning at the intersection of the Illinois border and Interstate Highway 90 and extending north along I–90 to County Highway A, east along County A to U.S. Highway 12, southeast along U.S. 12 to State Highway 50, west along State 50 to State 120, then south along 120 to the Illinois border.

Brown County Subzone: That area encompassed by a line beginning at the intersection of the Fox River with Green Bay in Brown County and extending southerly along the Fox River to State Highway 29, northwesterly along State 29 to the Brown County line, south, east, and north along the Brown County line to Green Bay, due west to the midpoint of the Green Bay Ship Channel, then southwesterly along the Green Bay Ship Channel to the Fox River.

Central Flyway

Colorado (Central Flyway Portion)

Northern Front Range Area: All lands in Adams, Boulder, Clear Creek, Denver, Gilpin, Jefferson, Larimer, and Weld Counties west of I–25 from the Wyoming border south to I–70; west on I–70 to the Continental Divide; north along the Continental Divide to the Jackson-Larimer County Line to the Wyoming border.

South Park/San Luis Valley Area: Alamosa, Chaffee, Conejos, Costilla, Custer, Fremont, Lake, Park, Teller, and Rio Grande Counties and those portions of Hinsdale, Mineral, and Saguache Counties east of the Continental Divide.

North Park Area: Jackson County.

Arkansas Valley Area: Baca, Bent, Crowley, Kiowa, Otero, and Prowers Counties.

Pueblo County Area: Pueblo County.

Remainder: Remainder of the Central Flyway portion of Colorado.

Eastern Colorado Late Light Goose Area: that portion of the State east of Interstate Highway 25.

Kansas

Light Geese

Unit 1: That portion of Kansas east of a line beginning at the intersection of the Nebraska border and KS 99, extending south along KS 99 to I–70 to U.S. 75, south on U.S. 75 to U.S. 54, west on U.S. 54 to KS 99, and then south on KS 99 to the Oklahoma border.

Unit 2: The remainder of Kansas, laying west of Unit 1.

Dark Geese

Marais des Cygnes Valley Unit: The area is bounded by the Missouri border to KS 68, KS 68 to U.S. 169, U.S. 169 to KS 7, KS 7 to KS 31, KS 31 to U.S. 69, U.S. 69 to KS 239, KS 239 to the Missouri border.

South Flint Hills Unit: The area is bounded by highways U.S. 50 to KS 57, KS 57 to U.S. 75, U.S. 75 to KS 39, KS 39 to KS 96, KS 96 to U.S. 77, U.S. 77 to U.S. 50.

Flint Hills Unit: That part of Kansas bounded by a line from the junction of I–35 and K–57, then south and east on K–57 to its junction US–75, then south on US–75 to its junction with K–39, then south and west on K–39 to its junction with K–96, then west on K–96 to its junction with US–77, then north on US–77 to its junction with I–70, then east on I–70 to its junction with US–75, then south on US–75 to its junction with I–35, then west on I–35 to its

junction with K–57, except federal and state sanctuaries.

Montana (Central Flyway Portion)

Sheridan County: Includes all of Sheridan County.

Remainder: Includes the remainder of the Central Flyway portion of Montana.

Nebraska

Dark Geese

North Unit: Keya Paha County east of U.S. 183 and all of Boyd County, including the boundary waters of the Niobrara River, all of Knox County and that portion of Cedar County west of U.S. 81.

Southcentral Unit: That area south and west of U.S. 281 at the Kansas/Nebraska border, north to Giltner Road (near Doniphan), east to NE 14, north to NE 91, west to U.S. 183, south to NE 92, west to NE 61, north to U.S. 2, west to the intersection of Garden, Grant, and Sheridan counties, then west along the northern border of Garden, Morrill, and Scotts Bluff counties to the Wyoming border.

Northcentral Unit: That area north of the Southcentral Unit and west of U.S. 183.

East Unit: The remainder of Nebraska.

Light Geese

Rainwater Basin Light Goose Area (West): The area bounded by the junction of U.S. 283 and U.S. 30 at Lexington, east on U.S. 30 to U.S. 281, south on U.S. 281 to NE 4, west on NE 4 to U.S. 34, continue west on U.S. 34 to U.S. 283, then north on U.S. 283 to the beginning.

Rainwater Basin Light Goose Area (East): The area bounded by the junction of U.S. 281 and U.S. 30 at Grand Island, north and east on U.S. 30 to NE 92, east on NE 92 to NE 15, south on NE 15 to NE 4, west on NE 4 to U.S. 281, north on U.S. 281 to the beginning.

Remainder of State: The remainder portion of Nebraska.

New Mexico (Central Flyway Portion)

Dark Geese

Middle Rio Grande Valley Unit: Sierra, Socorro, and Valencia counties.

Remainder: The remainder of the Central Flyway portion of New Mexico.

South Dakota

Canada Geese

Unit 1: Statewide except for Units 2.

Big Stone Power Plant Area: That portion of Grant and Roberts Counties east of SD 15 and north of SD 20.

Unit 2: Brule, Buffalo, Campbell, Charles Mix, Dewey, Gregory, Hughes, Hyde, Lyman, Potter, Stanley, Sully, and Walworth Counties and that portion of Corson County east of South Dakota State Highway 65.

Texas

West Unit: That portion of the State laying west of a line from the international toll bridge at Laredo; north along I–35 and I–35W to Fort Worth; northwest along U.S. 81 and U.S. 287 to Bowie; and north along U.S. 81 to the Oklahoma border.

East Unit: Remainder of State.

Wyoming (Central Flyway Portion)

Area 1: Hot Springs, Natrona, and Washakie Counties, and that portion of Park County south of T58N.

Area 2: Converse and Platte County.

Area 3: Albany, Big Horn, Campbell, Crook, Fremont, Johnson, Laramie, Niobrara, Sheridan, and Weston Counties and those portions of Carbon County east of the Continental Divide and Park County north of T58N.

Area 4: Goshen County.

Pacific Flyway

Arizona

GMU 22 and 23: Game Management Units 22 and 23.

Remainder of State: The remainder of Arizona.

California

Northeastern Zone: That portion of the State east and north of a line beginning at the Oregon border; south and west along the Klamath River to the mouth of Shovel Creek; south along Shovel Creek to Forest Service Road 46N10; south and east along FS 46N10 to FS 45N22; west and south along FS 45N22 to U.S. 97 at Grass Lake Summit; south and west along U.S. 97 to I–5 at the town of Weed; south along I–5 to CA 89; east and south along CA 89 to the junction with CA 49; east and north on CA 49 to CA 70; east on CA 70 to U.S. 395; south and east on U.S. 395 to the Nevada border.

Colorado River Zone: Those portions of San Bernardino, Riverside, and Imperial Counties east of a line extending from the Nevada border south along U.S. 95 to Vidal Junction; south on a road known as ''Aqueduct Road'' in San Bernardino County through the town of Rice to the San Bernardino-Riverside County line; south on a road known in Riverside County as the ''Desert Center to Rice Road'' to the town of Desert Center; east 31 miles on I–10 to the Wiley Well Road; south on this road to Wiley Well; southeast along the Army-Milpitas Road to the Blythe, Brawley, Davis Lake intersections; south on the Blythe-Brawley paved road to the Ogilby and Tumco Mine Road; south on this road to U.S. 80; east seven miles on U.S. 80 to the Andrade-Algodones Road; south on this paved road to the Mexican border at Algodones, Mexico.

Southern Zone: That portion of southern California (but excluding the Colorado River Zone) south and east of a line extending from the Pacific Ocean east along the Santa Maria River to CA 166 near the City of Santa Maria; east on CA 166 to CA 99; south on CA 99 to the crest of the Tehachapi Mountains at Tejon Pass; east and north along the crest of the Tehachapi Mountains to CA 178 at Walker Pass; east on CA 178 to U.S. 395 at the town of Inyokern; south on U.S. 395 to CA 58; east on CA 58 to I–15; east on I–15 to CA 127; north on CA 127 to the Nevada border.

Balance-of-the-State Zone: The remainder of California not included in the Northeastern, Southern, and the Colorado River Zones.

Del Norte and Humboldt Area: The Counties of Del Norte and Humboldt.

Sacramento Valley Special Management Area (East): That area bounded by a line beginning at the junction of the Gridley-Colusa Highway and the Cherokee Canal; west on the Gridley-Colusa Highway to Gould Road; west on Gould Road and due west 0.75 miles directly to Highway 45; south on Highway 45 to Highway 20; east on Highway 20 to West Butte Road; north on West Butte Road to Pass Road; west on Pass Road to West Butte Road; north on West Butte Road to North Butte Road; west on North Butte Road and due west 0.5 miles directly to the Cherokee Canal; north on the Cherokee Canal to the point of beginning.

Sacramento Valley Special Management Area (West): That area bounded by a line beginning at Willows south on I–5 to Hahn Road; easterly on Hahn Road and the Grimes-Arbuckle Road to Grimes; northerly on CA 45 to the junction with CA 162; northerly on CA 45/162 to Glenn; and westerly on CA 162 to the point of beginning in Willows.

San Joaquin Valley Special Management Area: That area bounded by a line beginning at the intersection of Highway 5 and Highway 120; south on Highway 5 to Highway 33; southeast on Highway 33 to Crows Landing Road; north on Crows Landing Road to Highway 99; north on Highway 99 to Highway 120; west on Highway 120 to the point of beginning.

Western Canada Goose Hunt Area: That portion of the above described Sacramento Valley Area lying east of a line formed by Butte Creek from the Gridley-Colusa Highway south to the Cherokee Canal; easterly along the Cherokee Canal and North Butte Road to

West Butte Road; southerly on West Butte Road to Pass Road; easterly on Pass Road to West Butte Road; southerly on West Butte Road to CA 20; and westerly along CA 20 to the Sacramento River.

Colorado (Pacific Flyway Portion)

West Central Area: Archuleta, Delta, Dolores, Gunnison, LaPlata, Montezuma, Montrose, Ouray, San Juan, and San Miguel Counties and those portions of Hinsdale, Mineral and Saguache Counties west of the Continental Divide.

State Area: The remainder of the Pacific-Flyway Portion of Colorado.

Idaho

Zone 1: Benewah, Bonner, Boundary, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce, and Shoshone Counties.

Zone 2: The Counties of Ada; Adams; Boise; Canyon; those portions of Elmore north and east of I–84, and south and west of I–84, west of ID 51, except the Camas Creek drainage; Gem; Owyhee west of ID 51; Payette; Valley; and Washington.

Zone 3: The Counties of Blaine; Camas; Cassia; those portions of Elmore south of I–84 east of ID 51, and within the Camas Creek drainage; Gooding; Jerome; Lincoln; Minidoka; Owyhee east of ID 51; Power within the Minidoka National Wildlife Refuge; and Twin Falls.

Zone 4: The Counties of Bear Lake; Bingham within the Blackfoot Reservoir drainage; Bonneville, Butte; Caribou except the Fort Hall Indian Reservation; Clark; Custer; Franklin; Fremont; Jefferson; Lemhi; Madison; Oneida; Power west of ID 37 and ID 39 except the Minidoka National Wildlife Refuge; and Teton.

Zone 5: All lands and waters within the Fort Hall Indian Reservation, including private inholdings; Bannock County; Bingham County, except that portion within the Blackfoot Reservoir drainage; and Power County east of ID 37 and ID 39.

In addition, goose frameworks are set by the following geographical areas: Northern Unit: Benewah, Bonner, Boundary, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce, and Shoshone Counties.

Southwestern Unit: That area west of the line formed by U.S. 93 north from the Nevada border to Shoshone, northerly on ID 75 (formerly U.S. 93) to Challis, northerly on U.S. 93 to the Montana border (except the Northern Unit and except Custer and Lemhi Counties).

Southeastern Unit: That area east of the line formed by U.S. 93 north from the Nevada border to Shoshone, northerly on ID 75 (formerly U.S. 93) to Challis, northerly on U.S. 93 to the Montana border, including all of Custer and Lemhi Counties.

Montana (Pacific Flyway Portion)

East of the Divide Zone: The Pacific Flyway portion of the State located east of the Continental Divide.

West of the Divide Zone: The remainder of the Pacific Flyway portion of Montana.

Nevada

Lincoln Clark County Zone: All of Lincoln and Clark Counties

Remainder-of-the-State Zone: The remainder of Nevada.

New Mexico (Pacific Flyway Portion)

North Zone: The Pacific Flyway portion of New Mexico located north of I–40.

South Zone: The Pacific Flyway portion of New Mexico located south of I–40.

Oregon

Southwest Zone: Douglas, Coos, Curry, Josephine and Jackson Counties.

Northwest Special Permit Zone: That portion of western Oregon west and north of a line running south from the Columbia River in Portland along I–5 to OR 22 at Salem; then east on OR 22 to the Stayton Cutoff; then south on the Stayton Cutoff to Stayton and due south to the Santiam River; then west along the north shore of the Santiam River to I–5; then south on I–5 to OR 126 at Eugene; then west on OR 126 to Greenhill Road; then south on Greenhill Road to Crow Road; then west on Crow Road to Territorial Hwy; then west on Territorial Hwy to OR 126; then west on OR 126 to OR 36; then north on OR 36 to Forest Road 5070 at Brickerville; then west and south on Forest Road 5070 to OR 126; then west on OR 126 to the Pacific Coast.

Northwest Zone: Those portions of Clackamas, Lane, Linn, Marion, Multnomah, and Washington Counties outside of the Northwest Special Permit Zone.

Closed Zone: Those portions of Coos, Curry, Douglas and Lane Counties west of US 101.

Eastern Zone: Hood River, Wasco, Sherman, Gilliam, Morrow, Umatilla, Deschutes, Jefferson, Crook, Wheeler, Grant, Baker, Union, and Wallowa Counties.

Lake County Zone: All of Lake County.

Utah

Washington County Zone: All of Washington County.

Remainder-of-the-State Zone: The remainder of Utah.

Washington

Eastern Washington: All areas east of the Pacific Crest Trail and east of the Big White Salmon River in Klickitat County.

Area 1: Lincoln, Spokane, and Walla Walla Counties; that part of Grant County east of a line beginning at the Douglas-Lincoln County line on WA 174, southwest on WA 174 to WA 155, south on WA 155 to US 2, southwest on US 2 to Pinto Ridge Road, south on Pinto Ridge Road to WA 28, east on WA 28 to the Stratford Road, south on the Stratford Road to WA 17, south on WA 17 to the Grant-Adams County line; those parts of Adams County east of State Highway 17; those parts of Franklin County east and south of a line beginning at the Adams-Franklin County line on WA 17, south on WA 17 to US 395, south on US 395 to I–182, west o I–182 to the Franklin-Benton County line; those parts of Benton County south of I–182 and I–82; and those parts of Klickitat County east of U.S. Highway 97.

Area 2: All of Okanongan, Douglas, and Kittitas Counties and those parts of Grant, Adams, Franklin, and Benton Counties not included in Eastern Washington Goose Management Area 1.

Area 3: All other parts of eastern Washington not included in Eastern Washington Goose Management Areas 1 and 2.

Western Washington: All areas west of the East Zone.

Area 1: Skagit, Island, and Snohomish Counties.

Area 2: Clark County, except portions south of the Washougal River, Cowlitz, Pacific, and Wahkiakum Counties, and that portion of Grays Harbor County south of U.S. highway 12 and east of U.S. highway 101.

Area 3: All parts of western Washington not included in Western Washington Goose Management Areas 1 and 2.

Lower Columbia River Early-Season Canada Goose Zone: Beginning at the Washington-Oregon border on the I–5 Bridge near Vancouver, Washington; north on I–5 to Kelso; west on Highway 4 from Kelso to Highway 401; south and west on Highway 401 to Highway 101 at the Astoria-Megler Bridge; west on Highway 101 to Gray Drive in the City of Ilwaco; west on Gray Drive to Canby Road; southwest on Canby Road to the North Jetty; southwest on the North Jetty to its end; southeast to the Washington-

Oregon border; upstream along the Washington-Oregon border to the point of origin.

Wyoming (Pacific Flyway Portion)

See State Regulations.

Bear River Area: That portion of Lincoln County described in State regulations.

Salt River Area: That portion of Lincoln County described in State regulations.

Eden-Farson Area: Those portions of Sweetwater and Sublette Counties described in State regulations.

Swans

Central Flyway

South Dakota

Aurora, Beadle, Brookings, Brown, Brule, Buffalo, Campbell, Clark, Codington, Davison, Deuel, Day, Edmunds, Faulk, Grant, Hamlin, Hand, Hanson, Hughes, Hyde, Jerauld, Kingsbury, Lake, Marshall, McCook, McPherson, Miner, Minnehaha, Moody, Potter, Roberts, Sanborn, Spink, Sully, and Walworth Counties.

Pacific Flyway

Montana (Pacific Flyway Portion)

Open Area: Cascade, Chouteau, Hill, Liberty, and Toole Counties and those portions of Pondera and Teton Counties lying east of U.S. 287–89.

Nevada

Open Area: Churchill, Lyon, and Pershing Counties.

Utah

Open Area: Those portions of Box Elder, Weber, Davis, Salt Lake, and Toole Counties lying west of I–15, north of I–80 and south of a line beginning from the Forest Street exit to the Bear River National Wildlife Refuge boundary, then north and west along the Bear River National Wildlife Refuge boundary to the farthest west boundary of the Refuge, then west along a line to Promontory Road, then north on Promontory Road to the intersection of SR 83, then north on SR 83 to I–84, then north and west on I–84 to State Hwy 30, then west on State Hwy 30 to the Nevada-Utah state line, then south on the Nevada-Utah state line to I–80.

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Federal Register

Tuesday,
August 22, 2000

Part VI

Department of Justice

Office of Justice Programs

Understanding and Monitoring the "Whys" Behind Juvenile Crime Trends; Notice

DEPARTMENT OF JUSTICE

Office of Justice Programs

[OJP (OJJDP)–1290]

Understanding and Monitoring the ''Whys'' Behind Juvenile Crime Trends

AGENCY: Office of Juvenile Justice and Delinquency Prevention, Office of Justice Programs, Justice.

ACTION: Announcement of discretionary competitive assistance grant.

SUMMARY: The Office of Juvenile Justice and Delinquency Prevention is issuing a solicitation for applications to undertake a definitive study of recent trends in juvenile crime and violence in order to better understand the factors correlated with these trends, and to be prepared to explain future trends in delinquency and youth violence. This 5-year research project will explore ways to determine the reasons for changes in local juvenile crime trends in the 1990's and to monitor them into the next millennium. Federal, State, and local policymakers need to have a better sense of what went right in communities where declines occurred and what went wrong where there were increases or where rates continued at high levels. Therefore, it is necessary to develop methods to understand and monitor the reasons for such changes. It is expected that the lessons learned from this inquiry will yield a number of tools that Federal, State and local policymakers and planners can use to anticipate, monitor, and explain future trends and to plan effective prevention and intervention strategies.

DATES: Applications must be received no later than 5 p.m. ET on October 23, 2000.

ADDRESSES: All application packages should be mailed or delivered to the Office of Juvenile Justice and Delinquency Prevention, c/o Juvenile Justice Resource Center, 2277 Research Boulevard, Mail Stop 2K, Rockville, MD 20850; 301–519–5535. Faxed or e-mailed applications will not be accepted. Interested applicants can obtain the *OJJDP Application Kit* from the Juvenile Justice Clearinghouse at 800–638–8736. The *Application Kit* is also available at OJJDP's Web site at www.ojjdp.ncjrs.org/grants/about/html#kit. (See ''Format '' and ''Delivery Instructions'' later in this announcement for instructions on required standards and the address to which applications must be sent.)

FOR FURTHER INFORMATION CONTACT: Barbara Allen-Hagen, Program Manager, Research and Program Development Division, Office of Juvenile Justice and Delinquency Prevention at 202–307–1308. [This is not a toll-free number.]

SUPPLEMENTARY INFORMATION:

Purpose

The purpose of this research project is to identify and understand the principal reasons behind the trends in juvenile crime and violence. As the national rates of youth violence have dropped substantially in recent years, a number of theories have been advanced to explain this trend. However, the lack of empirical evidence to fully support various theories enables proponents of vastly different policy orientations to claim victory for the recent declines and continue to assert their policy objectives. An important element to recognize in this debate is that not all localities have experienced the same trends in juvenile violent crime either during the increases in the late 1980's or in the subsequent declines beginning in the early 1990's. Further, there is considerable variation in local juvenile crime rates across the country. Federal, State, and local policymakers need to have a better sense of what went right in communities where declines occurred and what went wrong where there were increases or where rates continued at high levels. Therefore, it is necessary to develop methods to understand and monitor the reasons for such changes. It is expected that the lessons learned from this inquiry will yield a number of tools that Federal, State and local policymakers and planners can use to anticipate, monitor, and explain future trends and to plan effective prevention and intervention strategies.

Overview

Pursuant to Section 243 of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended (42 U.S.C. 5601 *et seq.*), the Office of Juvenile Justice and Delinquency Prevention (OJJDP) is authorized to conduct a variety of research, evaluation, and demonstration functions. Under this authority, the Office will fund a definitive study of recent trends in juvenile crime and violence in order to better understand the factors correlated with these trends and be able to explain future trends and developments in delinquency and youth violence. This 5-year research project will explore ways to determine the reasons for changes in juvenile crime trends in the 1990's and into the next millennium. It is expected that a research design, based on a thorough review of the literature, will be developed and applied in selected jurisdictions. The study will focus on local-level juvenile crime trends, exploring a wide range of factors, including demographics; economics; public policy; Federal, State and local programmatic and community initiatives; and spiritual and cultural trends and values as well as other potential variables that may help explain the trends. Both retrospective and prospective approaches are contemplated for building the capacity to better understand the ''whys'' of juvenile crime trends.

This program announcement seeks applications for the first phase (12 months) of this effort. OJJDP invites applications from organizations that have the capacity to effectively design and carry out both the first year and projected future support of the research project. Applicants must demonstrate that they understand and have the capacity to creatively address the theoretical and analytical challenges that this initiative presents in a scientifically defensible manner. During this first 12-month phase (fiscal year 2000), the research team will conduct a literature review; develop testable hypotheses, an appropriate research design, and a feasibility assessment of the study; develop a strategy for selecting appropriate localities for study; and recruit these localities to participate in the research if feasibility is established. Phase 2 (fiscal years 2001, 2002, and 2003) consists of refining and operationalizing the research design; implementing, testing, and refining the model (data collection and analysis tools) in the selected jurisdictions; analyzing the data; and producing interim reports to communicate the study activities to the field. Phase 3 (fiscal year 2004) involves the drafting of a final report, including the refinement of data collection and analysis tools for community use, revision, and dissemination.

Background

Evidence from both of the Nation's two primary data sources on juvenile crime—the National Crime Victimization Survey (NCVS) and the Federal Bureau of Investigation's (FBI's) Uniform Crime Reporting (UCR) program—presents a similar picture regarding the trends in juvenile violent crime over the past two decades. Both sources indicate a fairly stable pattern through most of the 1980's, then a sharp increase in juvenile violence in the latter part of the decade, lasting until the early 1990's, at which point the rates began a steady decline.

Based on crime victims' reports to the NCVS and homicides reported to the FBI:

• Between 1980 and 1989, the serious violent juvenile crime offending rate for the Nation fluctuated between 29 and 40 serious violent crimes per 1,000 youth between the ages of 12 and 17. Then came a 4-year, 53-percent rise from the 1989 rate of 34 per 1,000 up to a high of 52 per 1,000 in 1993. After the 1993 peak, the rates steadily declined over the next 5 years, dropping a total of 49 percent, down to 26.5 per 1,000 in 1998.[2]

• Estimates of the number of homicides known to involve juvenile offenders indicate a drop of 35 percent from its peak year in 1993 to 1998.[3]

• Between 1980 and 1998, the percentage of all serious violent crime involving juveniles has ranged from 19 percent in 1982 to 26 percent in 1993, the peak year for youth violence. In 1998, 22 percent of all such victimizations involved a juvenile offender.[4]

Based on the FBI's arrest statistics:[5]

• The arrest data show that in 1998, for the fourth consecutive year, total juvenile arrests for Violent Crime Index offenses—murder, forcible rape, robbery, and aggravated assault—declined.

• The 62-percent increase in the juvenile Violent Crime Index arrest rate from 1988 to 1994, the peak year, was largely erased by 1998, with that rate just 13 percent above the 1988 level. The rate in 1998 was at its lowest level in 10 years and 30 percent below the peak year.

• The decrease in the number of Juvenile Violent Crime Index arrests between 1994 and 1998 was 19 percent for juveniles, compared with 6 percent for adults. The percentage of violent crimes cleared by juvenile arrests also continued to decline from a high of 14 percent down to 12 percent in 1998.

• In contrast to the substantial fluctuations in juvenile violent crime arrest rates between 1980 and 1998, the juvenile arrest rate for Property Crime Index offenses—burglary, larceny/theft, motor vehicle theft, and arson—changed very little, with a slow decline beginning in the mid 1990's resulting in the lowest level since 1980.

Although national crime statistics present the big picture for the country as a whole, it is not the complete picture, as illustrated by maps depicting county-level arrest rates.[6] OJJDP's *Juvenile Offenders and Victims: 1999 National Report* clearly illustrates the vast variation in levels of violent crime resulting in a juvenile arrest. County-level juvenile arrest rates for Violent Index Crimes range from 0 juvenile arrests per 100,000 juveniles ages 10–17 to more than 500 per 100,000. Local rates were higher than the national average (412 per 100,000) in 1997 in 14 percent (more than 400 counties) of the 3,141 counties, and 62 percent of the counties had rates less than half the national average. High juvenile violent crime arrest rates were found in counties with large and small populations.[7] In addition, examining the county-level trends from 1994 to 1997, there is also a divergence from the national trends.[8] It is the variation in the local levels of and trends in juvenile crime and violence that is of interest in this study.

The Council on Crime in America reported that America is now home to about 57 million children under age 15, some 20 million of them ages 4 to 8. The teenage population will top 30 million by the year 2006, the highest number since 1975. ''Thus, no one should feel certain that recent declines in crime will continue into the next century, and we must resist any temptation to ignore or trivialize our nation's present and future youth crime dilemmas.'' [9]

This significant turnabout in national juvenile trends offers a welcome relief, especially in light of dire predictions regarding a coming wave of violence by young superpredators in the coming millennium.[10] However, the sudden and precipitous change in juvenile violence raises many questions that have not yet been answered with a strong degree of certitude: Why did this happen? Did it happen everywhere? Where didn't it happen and why not? What actions, policies, programs, and so forth should be continued to sustain this decline or to reverse an increase?

Numerous reporters, news commentators, politicians, and scholars have put forth their explanations of the reasons for the rise and fall in crime.[11] Many theories have been offered and supported with varying degrees of empirical evidence and with varying degrees of attention paid specifically to juvenile crime trends as well as to local divergence from national trends. A noteworthy effort by scholars exploring the causes of the crime drop is a forthcoming volume entitled *The Crime Drop in America*, cosponsored by the Harry Frank Guggenheim Foundation and the National Consortium on Violence Research.[12] This work focuses primarily on the larger picture of overall crime, with juvenile violence issues contributing to that backdrop.

There is currently an abundance of plausible yet unintegrated, and possibly contradictory, theories about the reasons for the directions of recent crime trends. Theories range in their focuses from distal to proximal causes of crime and violence and in principal agent(s) or phenomena deemed responsible for change. The following is a nonexhaustive list of explanations that have been put forth or that could be considered as potential areas of inquiry:

Population-based theories: demographic shifts in the composition of the youth population as a result of the echo-baby boom; [13] legalization and greater use of abortion beginning in the 1970's; [14] teenage parenting trends; [15] and growing numbers of immigrants, both legal and illegal.

Epidemiological and etiological theories: trends in and the impacts of child maltreatment and domestic violence; [16] the evolution of crack cocaine drug markets and associated violence; [17] the emergence of youth gangs; [18] proliferation of media violence; increased handgun ownership and use; [19] trends in child poverty; [20] the lack of responsible adults (parents, relatives, and mentors) in children's lives; and the decline of social capital.[21]

Economic theories/policies: local economic prosperity compared with the national economy; presence of major Federal economic development initiatives (Empowerment Zones/Empowerment Communities); the relationship between wages and involvement in drug sales; and the deterrent effects of violence on involvement in the drug trade.[22]

Crime-focused public policies: changes in policing strategies and practices such as community policing, problem-oriented policing, and targeting hot spots; [23] legislative erosion of the jurisdiction of the juvenile court through mechanisms that facilitate the transfer of juveniles to criminal court; [24] drug suppression policy; public and/or private collaboratives investing in youth violence prevention programs (Federal, State, local, and philanthropic foundation initiatives); [25] more punitive sentencing policies, [26] including mandatory minimums for guns, drugs, ''Three Strikes and You're Out'' policies, and elimination of parole; mandatory arrests in cases of domestic violence; [27] and other public and private investments in crime prevention initiatives and justice system programs.

Social policies: welfare reform, public housing policies, zero tolerance policies in schools and public housing for drugs, weapons, and violence; public health approaches to violence prevention; provision of mental health and substance abuse treatment; and various public/private partnerships promoting youth development such as America's

Promise and the Boys & Girls Clubs of America.[28]

Grassroots movements: local and national movements launched by leaders of various faith communities [29] and grassroots organizations that voice a call to community and moral responsibility, such as the Million Man March, Promise Keepers, the Million Mom March, the domestic violence advocacy community, youth-initiated public service, and others.

The challenge to the successful applicant is the task of sifting through these competing explanations and determining not only which merit further scrutiny in the exploration of juvenile crime and violence trends but also where and how to pursue the research hypotheses that emerge from this exercise. This latter concern points to the importance of selecting appropriate sites to study and collecting data relevant to test research hypotheses. It is anticipated that the research team will need to select a limited number of local sites that reflect different levels and patterns of juvenile crime trends to participate in a data collection and analysis effort, based on the model proposed by the successful applicant.

In the past decade, with advances in technology and the use of more sophisticated management information systems, numerous localities have initiated data-driven crime/delinquency prevention initiatives or comprehensive planning initiatives designed specifically to affect juvenile crime. These include efforts such as local law enforcement crime analysis work,[30] initiatives developed with support from private organizations and foundations,[31] and major Federal Government initiatives.[32] These efforts offer the successful applicant a rich pool of both data and sites to pursue in the course of this investigation. Applicants are asked to comment on how these new developments may contribute to the execution of this study, particularly in the implementation of the study at the local level in later years.

In the program narrative section of the application, ''Understanding of Problems To Be Addressed,'' applicants must discuss the potential importance/significance of this project for the field and cogently describe the challenges, both theoretical and practical, that will need to be overcome in the execution of the research. Applicants must also describe how new developments in technology, such as GIS mapping, applied to community-based planning, may benefit the research.

Goal

The goal of this research program is to develop theoretically sound, empirically grounded tools that can be used at the local level to adequately explain and monitor trends in juvenile delinquency and violence. These assessment tools should be useful for program and policy development and evaluation.

Objectives

The objectives for Phase 1 (the first year) are to:

- Conduct a review of the literature, including an analysis of relevant national data, on the reasons for changes in crime trends, and develop a conceptual framework to study changes in the level of juvenile crime and violence and the factors affecting those changes.
- Develop hypotheses about those changes that can be tested at the local level in selected jurisdictions.
- Select and develop appropriate quantitative and qualitative methods and measures to study the variations in rates of youth crime and violence and their correlates over time and across jurisdictions.
- Develop a sampling strategy and select those jurisdictions for study, taking into account local trends.
- Report on the feasibility and limitations of the research design.
- Complete the research design, including plans for retrospective and prospective data collection, as appropriate, in those study sites.

Applicants must discuss their understanding of the overall goal of this research program and their vision of the potential utility it may have for localities in developing public policy and programs. Applicants must describe how the proposed goals and specific objectives for this phase of planning the research will either ensure the successful completion of the entire project or provide evidence that the project is not feasible given a variety of constraints. In addition, applicants must also articulate their goals and objectives for the remaining years of the study. In the ''Project Design and Implementation'' section of their application, applicants must describe in general terms how they would accomplish those objectives in subsequent years of funding.

Program Strategy

OJJDP will provide support to a grantee willing to engage in a rigorous effort to develop and test explanations for the changes in juvenile violence at the local level, as measured by juvenile arrest rates for violent crime and other suitable measures of youth violence. The focus should be on those communities that have experienced increases, decreases, or no change since the mid-1990's and to monitor those trends and explanatory variables into the 2000's.

A cooperative agreement for Phase 1 will be competitively awarded for a 1-year project and budget period, with the potential of being extended to 5 years to complete Phases 2 and 3, to a qualified research organization or organizations with extensive experience in quantitative and qualitative studies of communities. It is anticipated that this research will require multidisciplinary perspectives, engaging a research team of theorists, methodologists, and others with substantive knowledge in the following critical areas: demographics, juvenile justice system policy, community and correctional sanctions and treatment programs, comprehensive community-based initiatives, delinquency prevention research and programming, community policing, cultural and ethnic minority perspectives, street gangs, gun markets, drug trafficking, and substance abuse treatment programs, education and social services networks, the FBI's National Incident-Based Reporting System (NIBRS) data systems and technologically sophisticated crime analysis functions, social indicators, survey methods and statistical analysis and statistical modeling, and qualitative research methods.

The tasks of the research are to conduct the literature review, develop hypotheses to explain the recent juvenile crime trends, and decide the basic approach for the research. The successful applicant will be responsible for all aspects of the literature review, research design, methodology, sampling plans, a feasibility assessment, instrumentation, data analysis, and the development of interim reports and other products, final reports, and recommendations, as appropriate.

The design must reflect a priority for local-level inquiry that focuses initially on the trends in county-level juvenile crime data for the period 1994–97. Applicants are required to provide a preliminary estimate of the number of jurisdictions that would be selected for exploratory study and their rationale for that estimate. Consideration should be given to local patterns that either reflect or diverge from recent national trends in serious and violent juvenile arrest rates; the anticipated scope and depth of data collection related to the explanatory variables and the manner in which these data will be collected; the minimum

sampling requirements for constructing and testing various models; and the anticipated grant funds available for the project. To help explain different levels and trends in the sample, it is expected that a qualified field research team will be required to conduct surveys, interviews, and field observations; analyze local data; and examine the deployment of governmental and private resources in those communities. It is anticipated that the grantee may also need to explore key State-level contextual factors such as legal, budgetary, and policy changes that may explain trends in youth crime and violence at the local level.

The research team would use the knowledge gained from the initial research to develop methods for monitoring and attempting to explain future trends. In order to validate the explanatory models that would be derived from the 1994–97 data, the grantee would also need to collect and analyze data from subsequent years in the same jurisdictions.

Task I: Advisory Board

The grantee must establish an advisory board for the purpose of providing substantive and technical advice to the research team over the course of the study. For purposes of the application submission, applicants must identify and obtain letters of cooperation and resumes from up to four individuals to serve on the advisory board, describing how their background and skills complement those of the research team. Such commitments by prospective advisory board members are not required to be exclusive agreements. If additional members are needed to complete the advisory board, the applicant must identify only the types of disciplines and the skills and experience that are needed, not the names of the individuals. The final composition of the advisory board will be approved by OJJDP. While not members of the advisory board, designated staff from OJJDP, the Bureau of Justice Statistics, the National Institute of Justice, and other Federal agencies will be invited to serve as Federal agency representatives to the project along with others, as OJJDP deems appropriate. The applicant must also indicate key points in the process at which the advice of the board would be sought and by what means their input will be sought.

Task II: Literature Review

The applicant must review the relevant literature from the field of juvenile justice and any related fields such as criminology, sociology, demography, substance abuse, media violence, and so forth. The purpose of this review is to identify and evaluate the theoretical basis and empirical evidence to develop the study's hypotheses regarding the reasons for juvenile crime trends. The applicant may also want to consult the literature on cultural change and trends in religious or civic involvement that may relate to trends in juvenile crime and violence.

The grantee is expected to provide a report, suitable for publication as an OJJDP Bulletin or Research Summary, that synthesizes the relevant literature and national statistics and summarizes the implications of that review and analysis for the design of the study.

Task III: Preliminary Analysis of Local Trends and Selection of Study Sites

For the purposes of the application, applicants must describe and discuss the following: (1) What data they will need in order to identify and select jurisdictions for undertaking the exploratory study, (2) what methods will be used to collect and analyze the data, (3) how those choices would be guided by the literature review, and (4) how these choices will inform the testing of study hypotheses.

Task IV: Model Development

Based on the results of the previous tasks, the grantee will be expected to develop a model that is theoretically and empirically grounded and potentially useful for policy and program planning at the local level. The model will then be tested in a limited number of jurisdictions using an appropriate research design and methodology. The purpose of the test is to determine whether and how the levels, and changes in the levels, of serious juvenile crime and youth violence can be adequately monitored and explained by various factors that can be routinely measured locally.

Applicants must describe their understanding of what the model will do, what tools are needed to implement and test the model, what standards will be used to assess the feasibility and utility of the model, and how the planning phase will lay the foundation for developing and testing the models. Applicants must describe the methods they will use to define a preliminary set of data and local information that will be needed to derive the model.

Task V: Feasibility Assessment and Design Revision

Prior to finalizing the model and study design, the grantee shall present to the advisory board and OJJDP their assessment of the feasibility, limitations, and potential of the proposed model and the study design to produce useful results. Based on the review by the advisory board and OJJDP, a decision will be made by OJJDP whether to proceed with the study and, if so, the applicant will be requested to revise the model as necessary. If the decision is made not to proceed, the project will be terminated and the grantee will submit a final report.

Task VI: Recruitment of Study Sites

Upon approval of the model and research design by OJJDP, the grantee will produce a summary of the design for the purpose of recruitment of study sites to participate in the monitoring of critical factors affecting juvenile violence in the locality. The grantee will prepare the necessary materials for the Office of Management and Budget (OMB) Clearance of Information Collections and all appropriate privacy certificates and conformance to regulations regarding the protection of human subjects, as required by the design of the local studies.

Deliverables

The grantee will produce the following deliverables, as described in the tasks outlined above for Phase 1. (All reports listed below must be suitable for publication.)

- Empaneling the advisory board, establishing a meeting schedule, and convening the advisory board (Task I).
- A report that summarizes the literature and relevant national statistical trends (Task II).
- A summary of the preliminary analysis of local trends and rationale for selecting study sites (Task III).
- A proposed study design and model (Task IV).
- A feasibility assessment (Task V).
- A report that summarizes the research design (Task VI) for purposes of general dissemination and recruitment.
- All necessary documents for OMB review.
- A privacy certificate for OJJDP review, documentation of Institutional Review Board approvals, and assurances regarding protection of human research subjects (Task VI).

The application must contain a description of all products that will be produced from the project, including, but not necessarily limited to, the reports described above. The grantee must also produce a final report that provides an overview of the entire project, results, lessons learned, and recommendations for additional research, development, and

dissemination. Although the reports must be of a quality that would merit publication in a refereed journal, the authors must also address the needs of policymakers and practitioners in the field.

Eligibility Requirements and Organizational Capability

OJJDP invites applications from public or private agencies or organizations with a demonstrated capability to carry out the requirements of this initiative. Private, for-profit organizations serving as the grantee or coapplicant must agree to waive any profit or fee.

The organization must have demonstrated experience in the following: conducting literature reviews in the domains of interest to this project; designing and conducting studies involving policymakers and practitioners in the justice system, preferably in the juvenile justice system; managing and analyzing complex data sets; and writing reports and presenting research findings to both research and nonresearch audiences. Applicants must outline their experience and capability in the program narrative section of the application regarding organizational capability.

In the case of joint applications, one applicant must be clearly indicated as the primary applicant (for correspondence and award purposes) and the other(s) listed as coapplicants. If contractors have been identified to be used for specific project tasks, evidence of their qualifications and willingness to undertake the specified task(s) should be provided.

To be eligible for consideration, applicants must adhere strictly to the guidelines for preparing and submitting applications regarding page length, layout, and submission deadlines.

Selection Criteria

Applications will be evaluated and rated by a peer review panel according to the criteria outlined below. In addition, the extent to which the project narrative makes clear and logical connections among the components listed below will be considered in assessing a project's merits. It is further recommended that applications be organized and presented in a way that enables application reviewers to evaluate the proposal in terms of the selection criteria outlined below.

Understanding of Problems To Be Addressed (20 Points)

Applicants must include in the program narrative a clear statement of their understanding of the problems to be addressed, specifically discussing (1) the importance/significance of the issue, the potential of this project to contribute to our knowledge about juvenile crime trends, and its potential utility to the field; and (2) the theoretical, methodological, and practical problems posed by this initiative that will need to be overcome in achieving the study goals and objectives. The applicant must outline the major research questions that will be addressed at critical points over the course of the research study, with particular attention to issues that will need to be addressed in the feasibility assessment. In addition, the applicant must also briefly describe how it sees local communities using the results of this research.

Goals and Objectives (10 Points)

The application must include a clear statement of the goals and objectives of this research program addressing the overall goals of the research, the planning phase, and the subsequent years of implementation. The goals and objectives should reflect the statement of the understanding of problems to be addressed and the major research questions that have been identified to guide the project. Any significant modification of the goals and objectives stated above should be clearly justified and the implications of any variation carried through in the rest of the proposal. Objectives should consist of clearly defined, measurable tasks that will ensure that the questions to determine the study's feasibility and utility will be answered during the planning stage.

Project Design and Implementation (35 Points)

The application should provide a detailed description of the first 12-month phase of the project. Also, it should outline how the balance of the work for the remaining phases would proceed should their basic assumptions in Phase 1 be substantiated. Design elements should follow directly from the project's goals and objectives. Applicants should address the requirements of the solicitation, particularly Tasks I through VI as described under ''Program Strategy.'' Applicants should also describe how the work undertaken and the deliverables related to the various tasks fit together and contribute to the overall goals of the project. Anticipated plans for data collection strategies and analysis should be clearly described. The application should demonstrate a clear understanding of the products that will be produced and their potential utility for the field.

The application must include a detailed time/task outline that indicates when specific tasks will be initiated and completed. This timeline must include, at a minimum, significant milestones in the project and product due dates. The timeline should be described in the program narrative and should be placed in appendix A of the application.

Project Management and Organizational Capability (25 Points)

Applicants must demonstrate that the organization and project staff have the necessary substantive knowledge and expertise, technical experience, organizational skills, and management structure to accomplish project tasks on time and with a high quality of workmanship. Qualifications of proposed personnel must be clearly delineated. Applicants must demonstrate the existence of a management structure that will support the achievement of the project's goals and objectives in an efficient and cost-effective manner. In particular, applicants must ensure that the tasks delineated in the project timeline (see ''Project Design and Implementation,'' above) are adequately staffed and that the qualifications of proposed personnel relate to proposed roles and responsibilities. Applicants must evidence the ability and commitment to perform an impartial examination of a variety of theoretical and methodological perspectives. Resumes for key staff members, including any contractors or consultants and advisory board members, should be included in appendix B. Applicants must also include in appendix B an organizational chart for the project.

Applicants should also demonstrate the organizational capacity to complete the work described in the ''Project Design'' section. The applicant should include a description of any similar projects it has undertaken previously. Applicants should also demonstrate knowledge and experience in juvenile justice and community assessment issues. Any letters of cooperation or support should also be included in appendix B.

Budget (10 Points)

Applicants must provide a proposed budget that is complete, detailed, reasonable, allowable, and cost effective in relation to the activities to be undertaken during the 12-month project and budget period. The detailed budget narrative should be included in appendix C and must conform to the guidelines in the *OJJDP Application Kit*. For projected Phases 2 through 3, the applicant shall present a preliminary

budget without a detailed budget narrative. Applications must also conform to Federal requirements with respect to travel, equipment, and procurement policies.

Award Period

This project will be funded initially for a 12-month project and budget period to complete Phase I of a projected 5-year program. Funding for subsequent budget periods will be contingent on the results of the feasibility assessment, availability of funds, grantee performance, and other criteria established at the time of the award.

Award Amount

Up to $250,000 is available for the award of one cooperative agreement for Phase I for an initial 12-month project and budget period. It is anticipated that up to $2 million would be made available for the total 5-year program.

Format

Applicants must submit a program narrative of no more than 50 pages. The narrative portion of the application must be submitted on 8½- by 11-inch paper using a standard 12-point font. The application should be double spaced and printed on one side of the paper only. *Single-spaced (or 1½-spaced) applications will not be accepted.* Margins should be at least 1 inch on the top, bottom, and sides of each page.

This page limit does not include the abstract, the table of contents, the budget narrative, appendixes, application forms, privacy certificate, or required assurances. The narrative should be preceded by a one-page project abstract, which must also be submitted on 8½- by 11-inch paper, abstract should not exceed a maximum length of 400 words. A table of contents is also required. Appendix A should contain the project's timeline with dates for initiation and completion of critical project tasks. Appendix B should contain resumes for proposed project staff, contractors, and advisory board members; an organizational chart; and letters of cooperation. Appendix C should contain the detailed budget narrative. Appendix D should contain a Privacy Certificate.

Include in appendix E the listing of authors (by section) of this proposal and indicate whether this proposal, or portions of it, have been submitted to other Federal agencies for funding.

These requirements are necessary to maintain a fair and uniform set of standards among all applicants. If the application fails to conform to these standards, it will be rejected without further review.

Privacy and Human Subjects Protection Requirements

Office of Justice Programs regulations and policy require that all grantees receiving funds to conduct research or statistical activities that involve collecting data identifiable to a private person submit a Privacy Certificate in accordance with the requirements of 28 CFR Part 22 (specifically 28 CFR section 22.23). If required, please submit the Privacy Certificate in appendix D of the application. For details on submission requirements, see appendix B: Privacy Certificate Guidelines and Statement in the *OJJDP Application Kit,* www.ojjdp.ncjrs.org/grants/2000_app_kit/appenbl.html.

Applicants are advised that should their plan involve the use of human research subjects, their research proposal must be reviewed and approved by an Institutional Review Board (IRB), in accordance with DOJ regulations at 28 CFR Part 46, or determined to be exempt from such requirements. *IRB review is not required prior to the submission of the application.* However, if an award is made and the project involves human research subjects, OJJDP will place a special condition on the award requiring that the project be approved by the appropriate IRB before Federal funds can be disbursed for activities involving human research subjects. Applicants should include plans for IRB review where applicable in the project timeline submitted with the proposal.

Catalog of Federal Domestic Assistance (CFDA) Number

The CFDA number, required on Standard Form 424, ''Application for Federal Assistance,'' is 16.542. Standard Form 424 is included in the OJJDP Application Kit, which can be obtained by contacting the Juvenile Justice Clearinghouse at 800–638–8736 or sending an e-mail request to puborder@ncjrs.org. The Application Kit is also available online at www.ojjdp.ncjrs.org/grants/about.html#kit.

Coordination of Federal Efforts

To encourage better coordination among Federal agencies in addressing State and local needs, the U.S. Department of Justice is requesting applicants to provide information on the following: (1) active Federal grant awards supporting this project or related efforts, including other awards from the Department of Justice; (2) any pending applications for Federal funds for this or related efforts; and (3) plans for coordinating any funds described in items (1) and (2) with the funding requested in this application. For each Federal award, applicants must include the program or project title, the Federal granting agency, the amount of the award, and a brief description of its purpose.

The term ''related efforts'' is defined for these purposes as one of the following:

- Efforts for the same purpose (i.e., the proposed project would supplement, expand, complement, or continue activities funded with other Federal grants).
- Another phase or component of the same program or project (e.g., to implement a planning effort funded by other Federal monies or to provide a substance abuse treatment or educational component within an existing juvenile justice project).
- Services of some kind (e.g., technical assistance, research, or evaluation) to the program or project described in the application.

Delivery Instructions

All application packages should be mailed or delivered to the Office of Juvenile Justice and Delinquency Prevention, c/o Juvenile Justice Resource Center, 2277 Research Boulevard, Mail Stop 2K, Rockville, MD 20850; 301–519–5535. Faxed or e-mailed applications will not be accepted. *Note: In the lower left-hand corner of the envelope, the applicant must clearly write ''Understanding and Monitoring the ''Whys'' Behind Juvenile Crime Trends.''*

Due Date

Applicants are responsible for ensuring that the original and five copies of the application package are received by 5 p.m. ET on October 23, 2000.

Contact

For further information, contact Barbara Allen-Hagen, Program Manager, Research and Program Development Division, Office of Juvenile Justice and Delinquency Prevention, 202–307–1308, or send an e-mail inquiry to barbara@opj.usdoj.gov.

Endnotes

1. Chaiken, J., January 2000, ''Crunching the numbers: Crime and incarceration at the end of the millennium,'' *National Institute of Justice Journal* (Washington, DC: U.S. Department of Justice, Office of Justice Programs, National Institute of Justice), p. 15.

2. Rand, M., Special analysis of machine-readable data files of the National Crime Victimization Survey (NCVS) data 1980–1998

and FBI machine-readable data files of the Supplementary Homicide Reports for 1980–1998 (Washington, DC: U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics).

3. Bureau of Justice Statistics, 2000, *Homicide trends in the United States: 1998 Update,* Bureau of Justice Statistics Crime Data Brief (Washington, DC: U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention) (www.ojp.usdoj.gov/bjs/homicide).

4. Rand, Special NCVS analysis.

5. Snyder, H.N., 1999, *Juvenile Arrests 1998* (Washington, DC: U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention), pp. 1, 4, and 6.

6. Snyder, H.N., and Sickmund, M. 1999, *Juvenile Offenders and Victims: 1999 National Report* (Washington, DC: U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention), p.119. See also p. 125 for variation in juvenile arrest rates for Part I Property Index Crimes.

7. Snyder and Sickmund, pp. 119, 125.

8. See ojjdp.ncjrs.org/grants/html#county for spreadsheets containing county-level juvenile arrest rates for violent crimes (Part I Violent Index Offenses) and serious property crimes (Part I Property, excluding larceny-theft) for 1994–1997. There is also a data file of the juvenile population estimates for each county for the same years. This data file was created by the National Center for Juvenile Justice based on the University of Michigan's processing of FBI Uniform Crime Reporting data. For further details on the content, definitions, methods, and limitations of the data, consult the ''Content'' section of the Easy Access to UCR Arrests: 1994–1997 software package at ojjdp.ncjrs.org/facts/ezaccess.html#UCR.

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Dated: August 16, 2000.

John J. Wilson,

Acting Administrator, Office of Juvenile Justice and Delinquency Prevention.

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Federal Register

Tuesday,
August 22, 2000

Part VII

Department of Justice

Office of Justice Programs

Field-Initiated Research and Evaluation Program; Notice

DEPARTMENT OF JUSTICE

Office of Justice Programs

[OJP (OJJDP)–1291]

Field-Initiated Research and Evaluation Program

AGENCY: Office of Juvenile Justice and Delinquency Prevention, Office of Justice Programs, Justice.

ACTION: Notice of solicitation.

SUMMARY: The Office of Juvenile Justice and Delinquency Prevention (OJJDP) is issuing a solicitation for applications from public and private agencies, organizations, institutions, tribal and Alaskan Native communities, and individuals to conduct research and evaluation projects in a wide range of topical areas that will enhance, inform, and advance knowledge in the field of juvenile justice.

DATES: Applications under this program must be received no later than 5 p.m. ET on October 6, 2000.

ADDRESSES: All application packages should be mailed or delivered to the Office of Juvenile Justice and Delinquency Prevention, c/o Juvenile Justice Resource Center, 2277 Research Boulevard, Mail Stop 2K, Rockville, MD 20850; 301–519–5535. Faxed or e-mailed applications will not be accepted. Interested applicants can obtain the *OJJDP Application Kit* from the Juvenile Justice Clearinghouse at 800–638–8736. The *application kit* is also available at OJJDP's Web site at www.ojjdp.ncjrs.org/grants/about.htmlıkit. (See ''Format'' in this program announcement for instructions on application standards.)

FOR FURTHER INFORMATION CONTACT: Jeff Slowikowski, Acting Deputy Director, Research and Program Development Division, Office of Juvenile Justice and Delinquency Prevention, 810 Seventh Street NW., Washington, DC 20531; phone: 202–307–5929. [This is not a toll-free number.]

Purpose

The purpose of this program is to generate high-quality research and evaluation that will inform and enhance the field of juvenile justice and delinquency prevention. Applications are encouraged from researchers and evaluators in all academic disciplines using either traditional and tested or innovative methodological strategies. The ideal project will not only increase the knowledge base regarding juvenile delinquency and problem behaviors but also will have practical implications for juvenile justice policy and practice.

Background

Since its inception in 1974, the Office of Juvenile Justice and Delinquency Prevention (OJJDP) has been charged with sponsoring research on juvenile crime and victimization (Juvenile Justice and Delinquency Prevention Act of 1974, as amended, 42 U.S.C. 5653). OJJDP-sponsored research has advanced understanding of juvenile crime and its impact on society. It has informed and influenced the juvenile justice field in the areas of prevention, early intervention, and graduated sanctions.

In general, OJJDP funds research activities that derive from congressional mandates or address statutory priority areas that are narrowly defined. However, many creative and important research ideas deserving support arise outside the Federal Government and Congress. The Field-Initiated Research and Evaluation Program allows OJJDP to provide flexible funding for innovative and rigorous research and evaluation that supports the mission of the Office. In past years, OJJDP has supported field-initiated research and evaluation on such topics as gangs in correctional institutions, mental health services in the juvenile justice system, Native American issues, juvenile sex offending, and programs for female offenders.

An important factor in application development will be demonstrating a sufficient knowledge and understanding of OJJDP's current research and evaluation portfolio. Applicants are expected to identify current OJJDP research and evaluation programs that focus on the topic being proposed, describing how the proposed research will enhance or complement the existing work of OJJDP and the field. Information on the programs being funded by OJJDP can be obtained in several ways. One resource is the OJJDP Web site (www.http://ojjdp.ncjrs.org), which includes information on current and past funding opportunities (click on Grants & Funding). Past years' Program Plans, which also are available on OJJDP's Web site under Grants & Funding, can provide a general idea of the research and evaluation that OJJDP is currently conducting. Finally, the report OJJDP Research: Making a Difference for Juveniles (NCJ 177602), available from OJJDP's Juvenile Justice Clearinghouse (800–638–8736) or on OJJDP's Web site under Publications, provides a detailed description of the research and evaluation programs currently being funded by OJJDP.

In fiscal year (FY) 2000, OJJDP seeks applications on a broad range of research and evaluation ideas. When applying for funds under this program, applicants should submit proposals on topics relevant to Federal, State, or local juvenile justice policy or practice. OJJDP is interested in expanding the scope of existing research and evaluations and the range of research and evaluation topics. Three areas of particular interest to OJJDP in FY 2000 are programs looking at the waiver or transfer of juveniles to the criminal justice system, evaluation and research projects related to programs under the Juvenile Accountability Incentive Block Grants program, and research or evaluation focused on hate-related behavior. These areas are described below, as is the area of general research, evaluation, and data collection and analysis.

Waiver or Transfer

In the past 10 years, most States have modified their juvenile codes to enable more juveniles (individuals who may be subject to the delinquency jurisdiction of State courts based on age and offense limitations established by law) to be subject to the jurisdiction of adult criminal courts. The effect of these laws has been not only the waiving or transferring of a larger number of juveniles to the criminal justice system but also the waiving or transferring of younger juveniles to the criminal justice system. At the end of their 1997 legislative sessions, all but five States provided for discretionary waiver of certain juveniles to criminal court. Between 1987 and 1994, the number of delinquency cases judicially waived to criminal court grew 73 percent (Stahl, 1999). Since 1994, the numbers have declined. One reason for the decline is the large number of States that passed legislation that transferred the original jurisdiction of juveniles to the criminal justice system, thus removing large numbers of juveniles from ever being processed by the juvenile justice system. The Bureau of Justice Statistics estimated that the number of persons less than 18 years of age being held in State prisons more than doubled between 1985 and 1997 (Strom, 2000).

Waivers and transfers of the most serious, violent, and chronic juvenile offenders—who have proven to be unamenable to treatment in the juvenile justice system—may be required in order to protect society and other juveniles in custody.

To increase knowledge and understanding about waivers, applicants are encouraged to address critical aspects of waiver or transfer. These areas include, but are not limited to, the following: assessing the current number and types of juvenile cases being filed in criminal court and the manner in which those cases are processed,

disposed, and sentenced; assessing the current number and types of juveniles under supervision in adult detention, corrections, or probation; studying the delivery of services to juveniles in adult facilities; and evaluating the effects on the juvenile justice system of placing juvenile offenders in adult facilities. Research proposals need not be confined to these topics; they are only suggestions meant to encourage creative thinking.

Juvenile Accountability Incentive Block Grants Program

OJJDP's Juvenile Accountability Incentive Block Grants (JAIBG) program provides funding to States and units of local government to implement a variety of program purpose areas. OJJDP is interested in evaluations of programs supported with JAIBG funds awarded by States or units of local government.

Below are brief descriptions of the 12 purpose areas:

- Building, expanding, renovating, or operating temporary or permanent juvenile correction or detention facilities, including training of correctional personnel.
- Developing and administering accountability-based sanctions for juvenile offenders.
- Hiring additional juvenile judges, probation officers, and court-appointed defenders, and funding pretrial services for juveniles to ensure the smooth and expeditious administration of the juvenile justice system.
- Hiring additional prosecutors, so that more cases involving violent juvenile offenders can be prosecuted and backlogs reduced.
- Funding prosecutors to enable them to address drug, gang, and youth violence problems more effectively.
- Funding prosecutors to receive training and technological support in identifying and expediting the prosecution of violent juvenile offenders.
- Funding juvenile courts and juvenile probation offices so that they are more effective and efficient in holding juvenile offenders accountable, and therefore reducing recidivism.
- Establishing and funding juvenile gun courts and court-based programs for the adjudication and prosecution of juvenile firearm offenders so as to provide continuing judicial supervision over juvenile offenders who were charged with a firearm offense.
- Establishing drug courts and court-based programs for juveniles so as to provide continuing judicial supervision over juvenile offenders with substance abuse problems and to provide the integrated administration of other sanctions and services.
- Establishing and maintaining interagency information-sharing programs that enable the juvenile and criminal justice systems, schools, and social services agencies to make more informed decisions regarding the early identification, control, supervision, and treatment of juveniles who repeatedly commit serious delinquent or criminal acts.
- Establishing and maintaining accountability-based programs that work with juvenile offenders who are referred by law enforcement agencies or that are designed, in cooperation with law enforcement officials, to protect students and school personnel from drug, gang, and youth violence.
- Implementing a policy of controlled substance testing for appropriate categories of juveniles within the juvenile justice system.

Evaluation or research projects should be developed around these purpose areas. In accordance with the 12 purpose areas, JAIBG funds support programs in the following areas:

- Additional probation staff.
- Alternatives to incarceration programs.
- Detention building and renovations.
- School resource officers.
- Drug courts and drug testing.
- Electronic monitoring.
- Fingerprinting systems.
- Gang tracking.
- Information systems development.
- Mental health services.
- Prosecutors and public defenders staffing.
- Purchase of residential services.
- Restitution programs.
- Sanction programs.
- School violence programs.
- Teen courts/youth courts.
- Training for teachers and staff in detention centers.
- Day treatment programs.

Research proposals need not be confined to these topics. Research and evaluation under any of the JAIBG purpose areas is acceptable.

Hate- or Bias-Related Behaviors

Juvenile involvement in hate-related crime has not been well researched, and few data are available on hate-related offenses by juveniles or their victimization. In response to the passage of the Hate Crime Statistics Act of 1990, the Attorney General tasked the Federal Bureau of Investigation's (FBI's) Uniform Crime Reporting (UCR) Program to develop and implement a data collection system for its voluntary law enforcement agency participants, numbering nearly 17,000. With the cooperation and assistance of several State and local law enforcement agencies already experienced in the investigation of hate crimes and the collection of related information, comprehensive guidelines for the compilation of hate crime data were established.

The Hate Crime Statistics Act was amended by the Violent Crime Control and Law Enforcement Act of 1994 to include those crimes motivated by a bias against persons with disabilities. In order to comply with this amendment, the FBI began collecting data on disability bias-motivated crimes on January 1, 1997. Also, the Church Arson Prevention Act, signed into law in July 1996, amended the Hate Crime Statistics Act by permanently extending the data collection mandate.

Beginning in 1994, and each year since, the FBI has issued an annual Hate Crime Report that documents the known hate crimes identified through the Uniform Crime Reports for that year. Unfortunately, the FBI's Uniform Crime Reporting Program is not currently able to report on juvenile involvement either as the victim or offender in hate crimes. Although the FBI's National Incident-Based Reporting System (NIBRS) has the capacity to report on age, the data have not been analyzed by age to identify hate or bias crimes committed by or against juveniles.

In July 1996, OJJDP sent a report to Congress detailing the lack of data available on juvenile hate crime. The report was based on a 1995 survey of the 50 State crime statistical analysis centers and the law enforcement agencies in the 79 largest cities in the United States. Only 30 States and 36 law enforcement agencies responded to the survey stating that they collected data on hate crimes. Of the responding States and cities, only six States and seven cities reported annual numbers that included the age of the offender.

OJJDP is interested in research and analysis of juvenile involvement as victims or perpetrators of hate- or bias-related crimes.

General Research, Evaluation, and Data Collection and Analysis

Applications are welcomed and encouraged in other topical areas relevant to the juvenile justice field. Applicants need not apply for one of the ''interest areas'' to be eligible for funding. The ''general research'' portion of the Field-Initiated Research and Evaluation Program provides flexible funding for research which, while it may not fit neatly under any of OJJDP's current initiatives, supports the agency's mission in significant and creative

ways. The issues and problems currently confronting the juvenile justice system require strategies and solutions that cut across traditional juvenile justice boundaries. Ideally, field-initiated research should have practical implications for juvenile justice policies and practices. The OJJDP FY 1999 field-initiated research program provided funding in these subject areas: evaluation of interventions in youth correctional facilities, evaluation of media literacy on delinquency prevention, research on victimization of youth in and around schools, and research on girls in gangs.

Goal

The goal of the FY 2000 Field-Initiated Research and Evaluation Program is to foster rigorous, original scientific research that uses traditional or innovative methods to further the agency's mission of enhancing the juvenile justice system and preventing juvenile delinquency. Research that demonstrates collaboration among multiple disciplines is strongly encouraged. Project results should be of practical use to practitioners and policymakers and increase the juvenile justice knowledge base.

Objectives

- Promote and support innovative research and evaluation in the field of juvenile justice and delinquency prevention.
- Conceptualize and investigate new research questions in the juvenile justice field.
- Develop new methodological approaches to addressing priority issues.
- Develop knowledge that can be used to craft effective programs, policies, and strategies for reducing and preventing juvenile delinquency and victimization.
- Conduct research that will enhance the ability of the juvenile justice system to respond to the needs of both juvenile offenders and society at large.

Products

Proposals should contain a description of all products that will originate from the project. At a minimum, each grantee will be required to produce a Fact Sheet summarizing the findings of the research and a final report that provides an overview of the research project. This overview should contain the following: (1) The theory and hypotheses guiding the work, (2) a description of the research or evaluation methods, (3) research and evaluation results (both significant and nonsignificant), (4) any practical or policy implications of the results, and (5) recommendations for future study. Grantees should indicate in their final report how their work might contribute to defining and/or implementing best practices in the field of juvenile justice. This final report may be published as an OJJDP Report. Applicants are also strongly encouraged to consider submitting their results for publication in a refereed journal. This report should be completed within 60 days of the grant's closing date.

Eligibility Requirements

OJJDP invites applications from public and private agencies, organizations, institutions, tribal and Alaskan Native communities, and individuals, or any combination of these entities. Private, for-profit organizations must agree to waive any profit or fee. In the case of joint applications, one applicant must be clearly indicated as primary (for correspondence and award purposes) and the other(s) listed as coapplicant(s). OJJDP encourages collaborative relationships among researchers, practitioners, and tribal entities. If the research is of a collaborative nature, written assurances of the collaboration should be provided. Similarly, when specific programs or agencies are the subject of an applicant's research or evaluation, the application should include letters of commitment or cooperation from the relevant program or agency. Applicants are encouraged to identify existing or potential funding partners for the proposed work and indicate whether the proposed idea has been submitted to any other funding sources. Finally, applicants must demonstrate that they have experience or ability related to the type of research or evaluation that they are proposing to conduct.

Selection Criteria

Applications will be evaluated and rated by a peer review panel according to the criteria outlined below. In addition, the extent to which the project narrative makes clear and logical connections among the components listed below will be considered in assessing a project's merits.

Problem(s) To Be Addressed (20 points)

Applicants must include a clear description of the research questions to be addressed in the project narrative. Applicants should discuss how previous research supports and shapes these questions and should identify the relevance of these questions for the field of juvenile justice. The proposed research will be judged on its ability to contribute to knowledge and practice in the field of juvenile justice and delinquency prevention.

Goals and Objectives (10 points)

The application must include goals and objectives that are clear, concrete, and relevant to the field of juvenile justice. Goals should address the problems directly. Objectives should consist of clearly defined, measurable tasks that will enable the applicant to achieve the goals of the project.

Project Design (40 points)

The application should present the design of the project in detail. Design elements should follow directly from the project's goals and objectives. The data to be collected and/or analyzed should clearly support the project's goals and objectives. The applicant should describe the research or evaluation methodology in detail and demonstrate the validity and usefulness of the data that will be collected and/or analyzed. The application must include a timeline that indicates when specific tasks will be initiated and completed. The timeline should be referenced as appropriate in the narrative but should also be placed in appendix A of the application.

Management and Organizational Capability (20 points)

Applicants must demonstrate the existence of a management structure that will support the achievement of the project's goals and objectives in an efficient and cost-effective manner. In particular, applicants must ensure that the tasks delineated in the project timeline (see ''Project Design'' above) are adequately staffed. Resumes for key staff members should be included in appendix B. Applicants should also demonstrate the organizational capacity to complete the work described in the ''Project Design'' section. The applicant should include a description of any similar projects it has undertaken previously and should also demonstrate knowledge and experience related to juvenile justice issues. In addition, applicants should provide evidence of their ability to work collaboratively with juvenile justice system practitioners or service providers, particularly in the project's area of study. For research that involves specific agencies, organizations, or programs, including those under governmental or tribal auspices, applicants should submit appropriate letters of cooperation in appendix C.

Budget (10 points)

Applicants must provide a proposed budget that is complete, detailed,

reasonable, allowable, and cost effective in relation to the activities to be undertaken. All budgeted costs should be directly related to the achievement of project goals and objectives. A brief budget narrative should be included in this section. Applicants are encouraged to identify existing or potential funding partners.

Format

The narrative portion of the application must be submitted on 8½- by 11-inch paper using a standard 12-point font and should not exceed 30 pages in total length. This page limit does not include the budget narrative, appendixes, application forms, assurances, or Privacy Certificate. The application should be double spaced and printed on one side of the paper only with at least 1-inch margins. The narrative should be preceded by an abstract with a maximum length of 300 words. At the end of the program narrative, applicants must indicate the author(s) responsible for each of the narrative sections. Appendix A should contain the project's timeline with dates for initiation and completion of critical project tasks. Appendix B should contain the resumes for the principal investigator and key staff members. Appendix C should include all necessary letters of cooperation or support.

These requirements are necessary to maintain a fair and uniform set of standards among all applicants. If the application fails to conform to these standards, it will not be eligible for consideration.

Award Period

The project period and budget period for all field-initiated awards will be for up to 2 years. Applicants that envision longer project periods will need to show that additional funding will not be necessary or will be obtained from other sources.

Award Amount

Up to $1,250,000 available for OJJDP's FY 2000 Field-Initiated Research and Evaluation Program. Individual grant amounts, which will be subject to negotiation, will not exceed $200,000 per project. Projects that require additional funds must demonstrate that those funds have been secured and identify the funding source(s).

Human Subjects

Applicants are advised that any project that will involve the use of human research subjects must be reviewed by an Institutional Review Board (IRB), in accordance with U.S. Department of Justice regulations at 28 CFR Part 46. IRB review is not required prior to submission of the application. However, if an award is made and the project involves research using human subjects, OJJDP will place a special condition on the award requiring that the project be approved by an appropriate IRB before Federal funds can be expended on human subjects activities. Applicants should include plans for IRB review, where applicable, in the project timeline submitted with the proposal.

Catalog of Federal Domestic Assistance (CFDA) Number

For all these programs, the CFDA number, required on Standard Form 424, ''Application for Federal Assistance,'' is 16.542. Standard Form 424 is included in the *OJJDP Application Kit*, which can be obtained by contacting the Juvenile Justice Clearinghouse at 800–638–8736 or sending an e-mail request to puborder@ncjrs.org. The *Application Kit* is also available online at www.ojjdp.ncjrs.org/grants/about.html#kit.

Coordination of Federal Efforts

To encourage better coordination among Federal agencies in addressing State and local needs, the U.S. Department of Justice is requiring applicants to provide information on the following: (1) Active Federal grant awards supporting this project or related efforts, including other awards from the Department of Justice; (2) any pending applications for Federal funds for this or related efforts; and (3) plans for coordinating any funds described in items (1) and (2) with the funding sought by this application. For each Federal award, applicants must include the program or project title, the Federal grantor agency, the amount of the award, and a brief description of its purpose.

The term ''related efforts'' is defined for these purposes as one of the following:

- Efforts for the same purpose (*i.e.*, the proposed project would supplement, expand, complement, or continue activities funded with other Federal grants).
- Another phase or component of the same program or project (*e.g.*, to implement a planning effort funded by other Federal monies or to provide a substance abuse treatment or educational component within an existing juvenile justice project).
- Services of some kind (*e.g.*, technical assistance, research, or evaluation) to the program or project described in the application.

Delivery Instructions

All application packages should be mailed or delivered to the Office of Juvenile Justice and Delinquency Prevention, c/o Juvenile Justice Resource Center, 2277 Research Boulevard, Mail Stop 2K, Rockville, MD 20850; 301–519–5535. Faxed or e-mailed applications will not be accepted. *Note: In the lower left-hand corner of the envelope, the applicant must clearly write ''Field-Initiated Research and Evaluation Program.''*

Due Date

Applicants are responsible for ensuring that the original and five copies of the application package are received by 5 p.m. ET on October 6, 2000.

Contact

For further information, contact Jeff Slowikowski, Research and Program Development Division, at 202–307–5929 or send an e-mail inquiry to Jeff@ojp.usdoj.gov.

References

Stahl, A. 1999. *Delinquency Cases Waived to Criminal Court, 1987–1996.* Washington, DC: U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention.

Strom, K. 2000. *Profile of State Prisoners Under Age 18, 1985–97.* Washington, DC: U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics.

Dated: August 16, 2000.

John J. Wilson,

Acting Administrator, Office of Juvenile Justice and Delinquency Prevention.

[FR Doc. 00–21326 Filed 8–21–00; 8:45 am]

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Tribal Self-Governance Amendments of 2000 (Aug. 18, 2000; 114 Stat. 711)

H.R. 1749/P.L. 106–261
To designate Wilson Creek in Avery and Caldwell Counties, North Carolina, as a component of the National Wild and Scenic Rivers System. (Aug. 18, 2000; 114 Stat. 735)

H.R. 1982/P.L. 106–262
To name the Department of Veterans Affairs outpatient clinic in Rome, New York, as the ''Donald J. Mitchell Department of Veterans Affairs Outpatient Clinic''. (Aug. 18, 2000; 114 Stat. 736)

H.R. 3291/P.L. 106–263
Shivwits Band of the Paiute Indian Tribe of Utah Water Rights Settlement Act (Aug. 18, 2000; 114 Stat. 737)

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