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Presidential Documents

Title 3—

The President

Proclamation 7440 of May 17, 2001

National Safe Boating Week, 2001

By the President of the United States of America

A Proclamation

Over 70 million recreational boaters enjoy our Nation's waters, and the national economic impact of recreational boating is more than $25 billion each year. This year marks the 30th anniversary of the enactment of the Federal Boat Safety Act. This legislation, designed to improve boating safety and to foster greater use and enjoyment of our rivers, lakes, bays, and waters, has accomplished these goals. By encouraging the participation of States, local communities, industry, and the boating public, new generations of Americans have benefited from the development of comprehensive boating safety programs.

Two years after passage of the Federal Boat Safety Act of 1971, 1,754 recreational boating fatalities were reported, on a base of approximately 6 million recreational vessels registered. Since then, the number of registered boats has grown by over 100 percent, yet reported boating fatalities have declined to approximately 750-800 each year.

The coordinated efforts over the past 29 years of the Federal Government, including the Coast Guard and the Coast Guard Auxiliary, States and local communities, and numerous recreational boating organizations, have made the Recreational Boating Safety Program a success. Cumulatively, an estimated 27,000 lives are estimated to have been saved as a result of the recreational boating safety programs established by the Federal Boat Safety Act.

However, despite these programs' successes, too many boaters still die on our Nation's waters. Recreational boating remains second only to highways in transportation-related fatalities. Some boaters lack basic boating safety knowledge and fail to adequately prepare or exercise caution when boating. Though recent accident statistics show improvement in many categories, nearly 70 percent of all recreational boating victims die by drowning. Nearly 90 percent of these drowning victims were not wearing a life jacket. Most of those lives could have been saved if the victims had simply worn their life jackets.

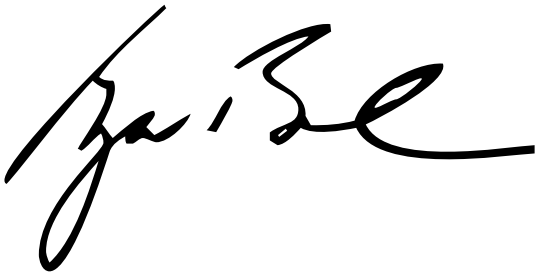
This year's North American Safe Boating Campaign, highlighted during National Safe Boating Week, will emphasize the theme of ''Boat Smart from the Start! Wear Your Life Jacket!'' Many recreational boating organizations promote safety through educational programs, and I encourage those who will be on our waterways to take advantage of these lessons. I also urge all Americans who enjoy boating to wear their life jackets and otherwise to conduct themselves responsibly and safely.

In recognition of the importance of safe boating practices, the Congress, by joint resolution approved June 4, 1958 (36 U.S.C. 131), as amended, has authorized and requested the President to proclaim annually the 7-day period prior to Memorial Day weekend as ''National Safe Boating Week.''

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim May 19 through May 25, 2001, as National Safe Boating Week. I encourage the Governors of

the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and the officials of other areas subject to the jurisdiction of the United States, to join in observing this occasion and to urge Americans to practice safe boating habits throughout the year.

IN WITNESS WHEREOF, I have hereunto set my hand this seventeenth day of May, in the year of our Lord two thousand one, and of the Independence of the United States of America the two hundred and twenty-fifth.



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Rules and Regulations

Federal Register

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

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 HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 888

[Docket No. 95N–0176]

Orthopedic Devices: Classification and Reclassification of Pedicle Screw Spinal Systems; Technical Amendment

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; technical amendment.

SUMMARY: The Food and Drug Administration (FDA) is correcting a final rule that classified certain previously unclassified preamendments pedicle screw spinal systems and reclassified certain postamendments pedicle screw spinal systems. The agency is correcting the rule to include an intended use that was inadvertently omitted from the codified language in the rule. In addition, the agency is correcting the rule to clarify that, when intended for certain uses, the device is a preamendments, not a postamendments, device. These actions are 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 (SMDA), and the Food and Drug Administration Modernization Act of 1997 (FDAMA).

DATES: This rule is effective June 21, 2001.

FOR FURTHER INFORMATION CONTACT: Aric D. Kaiser, Center for Devices and Radiological Health (HFZ–410), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–594–2036.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of July 27, 1998 (63 FR 40025), FDA published a final rule classifying certain previously unclassified preamendments pedicle screw spinal systems and reclassifying certain postamendments pedicle screw spinal systems. Following publication of the rule, the agency discovered that the rule contained several errors.

II. Corrections to the Rule

A. Severe Spondylolisthesis (Grades 3 and 4) at L5-S1 in Skeletally Mature Patients

FDA inadvertently omitted one intended use from the codified language in the rule. This use, for which the device was being classified into class II, is treatment of severe spondylolisthesis (grades 3 and 4) of the L5–S1 vertebra in skeletally mature patients receiving fusion by autogenous bone graft having the implants attached to the lumbar and sacral spine with removal of the implants after attainment of a solid fusion. This omission from the codification was a typographical error. As described in the preamble to the rule, the Orthopedics and Rehabilitation Devices Advisory Panel (the Panel) recommended classifying the device into class II when intended for this use, and the agency had determined that class II was the appropriate class. In fact, the summary of the final rule included this intended use in the list of intended uses for which the device was being classified into class II. The agency is correcting the rule, therefore, to include treatment of severe spondylolisthesis (grades 3 and 4) of the L5–S1 vertebra in skeletally mature patients receiving fusion by autogenous bone graft having the implants attached to the lumbar and sacral spine with removal of the implants after attainment of solid fusion in the list of class II intended uses for the device.

B. In Skeletally Mature Patients: Degenerative Spondylolisthesis With Objective Evidence of Neurologic Impairment; Fracture; Dislocation; Failed Previous Fusion (Pseudarthrosis); Degenerative Disc Disease; and Spondylolisthesis Other Than Either Severe Spondylolisthesis (Grades 3 and 4) at L5–S1 or Degenerative Spondylolisthesis with Objective Evidence of Neurologic Impairment

In the final rule, FDA described the intended uses listed above as postamendments intended uses. However, on March 20, 1998, prior to publication of the final rule, FDA cleared a premarket notification submission (510(k)) that included preamendments documentation showing that spondylolisthesis (all types and grades), spondylolysis, trauma, failed previous fusions (pseudarthrosis), degenerative disc disease, and degeneration of the facets accompanied by instability in the cervical, thoracic, lumbar and sacral spine (C2–S1) are preamendments intended uses (Ref. 1). The 510(k) submission included affidavits establishing preamendments use from the original device marketer, the device inventor, credible users, and the sponsor of the 510(k). CDRH's Office of Compliance found these documents adequate to establish the preamendments status of this device as a pedicle screw spinal system for specific indications. Consequently, the rule should have stated that for these intended uses, the device was being classified, not reclassified.

FDA acknowledges that the additional preamendments intended uses should have been incorporated into the final rule prior to its publication. If this had been done, the codified language would be as it is below. The agency regrets any inconveniences that this delay in incorporating the additional preamendments intended uses may have caused.

1. In Skeletally Mature Patients: Degenerative Spondylolisthesis With Objective Evidence of Neurologic Impairment; Fracture; Dislocation; and Failed Previous Fusion (Pseudarthrosis)

FDA's error in referring to the device when intended to treat degenerative spondylolisthesis with objective evidence of neurologic impairment, fracture, dislocation, or failed previous

fusion (pseudarthrosis), as a postamendments, rather than a preamendments, device did not affect the classification into class II under the final rule. The agency intended to classify the device when intended for these uses into class II. In addition, the requirement that the agency obtain a recommendation from an advisory panel regarding the classification of a preamendments device was met because the Panel considered these intended uses when making its recommendation (Ref. 2). The fact that these are preamendments devices, rather than postamendments devices, intended uses has no impact on either the classification of the device or the premarket submissions required for pedicle screw spinal systems intended for these uses. In addition, no change in the codified language of the rule is necessary to reflect this fact.

2. Degenerative Disc Disease and Spondylolisthesis Other Than Either Severe Spondylolisthesis (Grades 3 and 4) at L5–S1 or Degenerative Spondylolisthesis With Objective Evidence of Neurologic Impairment

FDA also described the device when intended to treat degenerative disc disease and spondylolisthesis other than severe spondylolisthesis (grades 3 and 4) at L5–S1 as a postamendments, rather than as a preamendments, device. This error did not affect the classification of the device, when intended for these uses, into class III under the final rule. The agency intended to classify the device when intended for these uses into class III. In addition, the requirement that the agency obtain from an advisory panel a recommendation regarding the classification of a preamendments device was satisfied because the Panel considered these intended uses when making its recommendation (Ref. 2).

However, the agency's error does affect the type of premarket submission required for the device when intended for these uses. Because these are preamendments intended uses, premarket approval applications are not required until the agency issues a final rule under section 515(b) of the act (21 U.S.C. 360e(b)) requiring submission of premarket approval applications. FDA intends to initiate the call for premarket approval applications for the device when intended for these uses in a future document in the **Federal Register**. Until that time, the devices may enter the market after clearance of a premarket notification (510(k)) submission. The agency is correcting the rule accordingly.

C. Spondylolysis and Degeneration of the Facets Accompanied by Instability in the Thoracic, Lumbar and Sacral Spine; Severe Spondylolisthesis (Grades 3 and 4) at L5–S1 in the Nonskeletally Mature Population; Treatment of Cervical Spondylolisthesis (All Grades and Types); Cervical Spondylolysis; Cervical Degenerative Disc Disease; Degeneration of the Cervical Facets Accompanied by Instability; Cervical Trauma (Fracture and Dislocation); and Revision of Failed Previous Fusion Surgery (Pseudarthrosis) of the Cervical Spine

On January 20, 1995, the agency cleared a 510(k) that included documentation that use of pedicle screw spinal systems to treat severe spondylolisthesis (grades 3 and 4) at L5–S1 in patients receiving fusion by autogenous bone graft having the implants attached to the lumbar and sacral spine with removal of the implants after attainment of a solid fusion is a preamendments intended use. While the preamendments indication originally described by the agency in the final rule was limited to skeletally mature patients, the preamendments documentation also supports the use of this pedicle screw spinal system for the same intended use in patients who are not skeletally mature (Ref. 3).

In addition, the March 20, 1998, 510(k) clearance described above in section II.B of this document identified a number of intended uses that were not included as part of the final rule, specifically:

(1) Spondylolysis in the thoracic, lumbar and sacral spine;

(2) Degeneration of the facets accompanied by instability in the thoracic, lumbar and sacral spine;

(3) Cervical spondylolisthesis (all grades and types);

(4) Cervical spondylolysis;

(5) Cervical degenerative disc disease;

(6) Degeneration of the cervical facets accompanied by instability;

(7) Cervical trauma (fracture and dislocation); and

(8) Revision of failed previous fusion surgery (pseudarthrosis) of the cervical spine.

Neither the use in nonskeletally mature patients nor the eight intended uses listed above were discussed by the Panel at either its August 20, 1993, or July 23, 1994, meetings or as part of the information they subsequently reviewed. Because they are preamendments intended uses, a panel recommendation is required before they may be classified (21 U.S.C. 360c(c)). FDA intends to seek the recommendation of an advisory panel with respect to classification of the device when intended for these uses at a future Panel meeting. For these intended uses, the device currently is considered an unclassified preamendments device and may enter the market after clearance of a 510(k) submission.

D. Summary of the Revisions to § 888.3070

In light of the above, FDA has made the following changes to § 888.3070:

(1) FDA has reorganized the section to simplify the presentation.

(2) FDA has added ''severe spondylolisthesis (grades 3 and 4) of the L5–S1 vertebra'' to the intended uses for the class II pedicle screw spinal systems (§ 888.3070(b)(1)). FDA has also added this intended use to the labeling for the special controls.

(3) FDA has changed the intended uses for which pedicle screw spinal systems are in class III from ''all other uses'' to ''when intended to provide immobilization and stabilization of spinal segments in the thoracic, lumbar, and sacral spine as an adjunct to fusion in the treatment of degenerative disc disease and spondylolisthesis other than either severe spondylolisthesis (grades 3 and 4) at L5–S1 or degenerative spondylolisthesis with objective evidence of neurologic impairment'' (§ 888.3070(b)(2)).

(4) FDA has amended § 888.3070(c) to state that, for the devices described in paragraph § 888.3070(b)(2), no effective date has been established for submission of a premarket approval application (PMA) or a notice of completion of a product development protocol (PDP). FDA will issue a rule to require PMA's or PDP's for these devices in the future. Until that time, pedicle screws for these intended uses may be marketed through the premarket notification process.

(5) At a future time, and after obtaining a Panel recommendation, FDA will propose a rule to classify the device for the unclassified uses described in section II.C of this document

III. References

The following references have been placed on display in the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. These references may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. K970599, Sofamor Danek Townley Pedicle Screw Plating System.

2. Food and Drug Administration Orthopedic and Rehabilitation Devices

Advisory Panel Meeting transcripts, Gaithersburg, MD, July 22, 1994.

3. K932029, Sofamor Danek TSRH Spinal System.

IV. Environmental Impact

The agency had determined under 21 CFR 25.30(i) that this final rule 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.

V. Analysis of Impacts

FDA has examined the impact of the final 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 rule is consistent with the regulatory philosophy and principles identified in the Executive order. In addition, this 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. The only effect of this correction is to delay the requirement for manufacturers of pedicle screw spinal systems intended for certain uses to submit PMA's for these devices until FDA issues a regulation requiring such submissions. Therefore, the agency certifies that this final rule will not have a significant economic impact on a substantial number of small entities. This rule also does not trigger the requirement for a written statement under section 202(a) of the Unfunded Mandates Reform Act because it does not impose a mandate that results in an expenditure of $100 million or more by State, local, or tribal governments in the aggregate, or by the private sector, in any one year.

List of Subjects in 21 CFR Part 888

Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 888 is amended as follows:

PART 888—ORTHOPEDIC DEVICES

1. The authority citation for 21 CFR part 888 continues to read as follows:

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

2. Section 888.3070 is revised to read as follows:

§ 888.3070 Pedicle screw spinal system.

(a) *Identification*. Pedicle screw spinal systems are multiple component devices, made from a variety of materials, including alloys such as 316L stainless steel, 316LVM stainless steel, 22Cr-13Ni-5Mn stainless steel, Ti-6Al-4V, and unalloyed titanium, that allow the surgeon to build an implant system to fit the patient's anatomical and physiological requirements. Such a spinal implant assembly consists of a combination of anchors (e.g., bolts, hooks, and/or screws); interconnection mechanisms incorporating nuts, screws, sleeves, or bolts; longitudinal members (e.g., plates, rods, and/or plate/rod combinations); and/or transverse connectors.

(b) *Classification*. (1) Class II (special controls), when intended to provide immobilization and stabilization of spinal segments in skeletally mature patients as an adjunct to fusion in the treatment of the following acute and chronic instabilities or deformities of the thoracic, lumbar, and sacral spine: severe spondylolisthesis (grades 3 and 4) of the L5–S1 vertebra; degenerative spondylolisthesis with objective evidence of neurologic impairment; fracture; dislocation; scoliosis; kyphosis; spinal tumor; and failed previous fusion (pseudarthrosis). These pedicle screw spinal systems must comply with the following special controls:

(i) Compliance with material standards;

(ii) Compliance with mechanical testing standards;

(iii) Compliance with biocompatibility standards; and

(iv) Labeling that contains these two statements in addition to other appropriate labeling information:

''Warning: The safety and effectiveness of pedicle screw spinal systems have been established only for spinal conditions with significant mechanical instability or deformity requiring fusion with instrumentation. These conditions are significant mechanical instability or deformity of the thoracic, lumbar, and sacral spine secondary to severe spondylolisthesis (grades 3 and 4) of the L5–S1 vertebra, degenerative spondylolisthesis with objective evidence of neurologic impairment, fracture, dislocation, scoliosis, kyphosis, spinal tumor, and failed previous fusion (pseudarthrosis). The safety and effectiveness of these devices for any other conditions are unknown.''

''Precaution: The implantation of pedicle screw spinal systems should be performed only by experienced spinal surgeons with specific training in the use of this pedicle screw spinal system because this is a technically demanding procedure presenting a risk of serious injury to the patient.''

(2) Class III (premarket approval), when intended to provide immobilization and stabilization of spinal segments in the thoracic, lumbar, and sacral spine as an adjunct to fusion in the treatment of degenerative disc disease and spondylolisthesis other than either severe spondylolisthesis (grades 3 and 4) at L5–S1 or degenerative spondylolisthesis with objective evidence of neurologic impairment.

(c)*Date PMA or notice of completion of a PDP is required*. No effective date has been established of the requirement for premarket approval for the devices described in paragraph (b)(2) of this section. See § 888.3.

Dated: May 11, 2001.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 01–12769 Filed 5–21–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

37 CFR Part 1

[Docket No.: 010202029–1112–02]

RIN 0651–AB35

Revision of Patent Cooperation Treaty Application Procedure; Correction

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Final rule; correction.

SUMMARY: The United States Patent and Trademark Office (Office) published a final rule in the **Federal Register** of March 22, 2001, revising the rules of practice relating to applications filed under the Patent Cooperation Treaty (PCT) to conform the United States rules of practice to the PCT Regulations that became effective on March 1, 2001. This document corrects three errors in that final rule.

EFFECTIVE DATE: March 22, 2001.

FOR FURTHER INFORMATION CONTACT: Charles Pearson, Director, Office of PCT Legal Administration, by telephone at (703) 306–4145; or by mail addressed to: Box PCT, Commissioner for Patents,

Washington, DC 20231; or by facsimile to (703) 308–6459, marked to the attention of Charles Pearson.

SUPPLEMENTARY INFORMATION: The Office published a final rule in the **Federal Register** of March 22, 2001 (66 FR 16004), entitled ''Revision of Patent Cooperation Treaty Application Procedure.'' This document corrects errors in §§ 1.494(c)(2), 1.495(c)(2), and 1.497(a)(1).

Specifically, §§ 1.494(c)(2) and 1.495(c)(2) as revised in the above final rule inadvertently omitted the provisions that:

The payment of the processing fee set forth in § 1.492(f) is required for acceptance of an English translation later than the expiration of 20 [or 30] months after the priority date. The payment of the surcharge set forth in § 1.492(e) is required for acceptance of the oath or declaration of the inventor later than the expiration of 20 [or 30] months after the priority date. A ''Sequence Listing'' need not be translated if the ''Sequence Listing'' complies with PCT Rule 12.1(d) and the description complies with PCT Rule 5.2(b).

Section 1.497(a)(1) as revised in the above final rule inadvertently omitted the section symbols before the reference to §§ 1.66 or 1.68.

In rule FR Doc. 01–7132, published on March 22, 2001 (66 FR 16004), make the following corrections:

1. On page 16006, in the second column, in § 1.494, in paragraph (c)(2), add the following sentences to the end thereof:

§ 1.494 Entering the national stage in the United States of America as a designated office.

* * * * *

(c) * * *

(2) * * * The payment of the processing fee set forth in § 1.492(f) is required for acceptance of an English translation later than the expiration of 20 months after the priority date. The payment of the surcharge set forth in § 1.492(e) is required for acceptance of the oath or declaration of the inventor later than the expiration of 20 months after the priority date. A ''Sequence Listing'' need not be translated if the ''Sequence Listing'' complies with PCT Rule 12.1(d) and the description complies with PCT Rule 5.2(b).

* * * * *

2. On page 16006, in the third column, in § 1.495, in paragraph (c)(2), add the following sentences to the end thereof:

§ 1.495 Entering the national stage in the United States of America as an elected office.

* * * * *

(c) * * *

(2) * * * The payment of the processing fee set forth in § 1.492(f) is required for acceptance of an English translation later than the expiration of 30 months after the priority date. The payment of the surcharge set forth in § 1.492(e) is required for acceptance of the oath or declaration of the inventor later than the expiration of 30 months after the priority date. A ''Sequence Listing'' need not be translated if the ''Sequence Listing'' complies with PCT Rule 12.1(d) and the description complies with PCT Rule 5.2(b).

* * * * *

1.497 [Corrected]

3. On page 16006, in the third column, in § 1.497, in paragraph (a)(1), line 2, correct ''either 1.66 or 1.68'' to read ''either §§ 1.66 or 1.68''.

Dated: May 15, 2001.

Nicholas P. Godici,

Acting Under Secretary of Commerce for Intellectual Property and Acting Director of the United States Patent and Trademark Office.

[FR Doc. 01–12764 Filed 5–21–01; 8:45 am]

BILLING CODE 3510–16–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MD116–3067a; FRL–6979–6]

Approval and Promulgation of Air Quality Implementation Plans; State of Maryland; Repeal of Petroleum Refinery Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action on a revision to the State of Maryland State Implementation Plan (SIP) submitted on January 4, 2001 by the Maryland Department of the Environment (MDE). This revision repeals the requirements for petroleum refineries in the State of Maryland. There are no petroleum refineries located in the State of Maryland. EPA is approving this SIP in accordance with the requirements of the Clean Air Act.

DATES: This rule is effective on July 23, 2001 without further notice, unless EPA receives adverse written comment by June 21, 2001. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Written comments should be mailed to David L. Arnold, Chief, Air Quality Planning & Information Services Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. You may inspect copies of the documents relevant to this action during normal business hours at the following locations: Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460; and the Maryland Department of the Environment, 2500 Broening Highway, Baltimore, Maryland, 21224.

FOR FURTHER INFORMATION CONTACT: Ellen Wentworth, (215) 814–2034 at the EPA Region III address above, or by e-mail at wentworth.ellen@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Description of the SIP Revision and EPA's Action

The information in this section is organized as follows:

A. What Action Is EPA Taking Today?
B. Why is EPA Taking This Action?
C. Why Is the Request Approvable?
D. What Is the Process for EPA Approval of This Action?

A. What Action Is EPA Taking Today?

EPA is approving a revision to the State of Maryland SIP which was submitted on January 4, 2001 by MDE. This revision repeals Regulation .04, Petroleum Refineries, under Maryland's Code of Maryland Administrative Regulations (COMAR) 26.11.11, Control of Petroleum Products Installations, including Asphalt Paving and Asphalt Concrete Plants. At one time there was the possibility of a petroleum refinery being constructed in the State of Maryland which would have required regulation under COMAR 26.11.11.04, and under Maryland's SIP. However, a facility was never constructed, and at the present time there are no petroleum refineries located in Maryland.

B. Why Is EPA Taking This Action?

EPA is approving this SIP revision at the request of MDE. Since there are no petroleum refineries located in the State of Maryland, Maryland repealed its petroleum refinery regulation, COMAR 26.11.11.04, Petroleum Refineries, under COMAR 26.11.11, Control of Petroleum Products Installations, including Asphalt Paving and Asphalt Concrete Plants. Because there are no oil refineries in the State of Maryland, EPA is approving the SIP revision to amend

COMAR 26.11.11 to repeal Regulation 26.11.11.04, Petroleum Refineries.

C. Why is the Request Approvable?

As stated previously, there are no petroleum refineries located in Maryland. Therefore, a regulation to control such sources is not necessary. If a new petroleum refinery were to move in to Maryland, it would be subject to New Source Performance Standards (NSPS), New Source Review (NSR), Prevention of Significant Deterioration requirements (PSD), Maximum Achievable Control Technology (MACT) standards, as well as Maryland's Toxic Air Pollutants (TAPs) regulations. Therefore, EPA finds the Maryland request approvable.

D. What Is the Process for EPA Approval of This Action?

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comment. However, in a separate document in this **Federal Register** publication, EPA is proposing to approve the SIP revision should adverse written comments be filed. This rule will be effective on July 23, 2001 without further notice unless EPA receives adverse comment by June 21, 2001. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

II. Final Action

EPA is approving the revision to the State of Maryland SIP which was submitted on January 4, 2001 by MDE. This revision amends COMAR 26.11.11, Control of Petroleum Products Installations, including Asphalt Paving and Asphalt Concrete Plants to repeal Regulation 26.11.11.04, Petroleum Refineries.

III. What Are the Administrative Requirements?

A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. This action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). This rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

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

B. Submission to Congress and the Comptroller General

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

C. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 23, 2001. Filing a petition for reconsideration by the Administrator of this final rule approving the repeal of Regulation 26.11.11.04, Petroleum Refineries under COMAR 26.11.11, Control of Petroleum Products Installations, including Asphalt Paving and Asphalt Concrete Plants does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements.

Dated: May 1, 2000

William C. Early,

Acting Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

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

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

Subpart V—Maryland

2. Section 52.1070 is amended by adding paragraphs (c)(161) to read as follows:

§ 52.1070 Identification of plan.

* * * * *

(c) * * *

(161) Revisions to the State of Maryland Regulations pertaining to the repeal of COMAR 26.11.11.04, Petroleum Refineries, submitted on January 4, 2001, by the Maryland Department of the Environment:

(i) Incorporation by reference.

(A) Letter of January 4, 2001, from the Maryland Department of the Environment transmitting amendments to COMAR 26.11.11 to repeal Regulation 26.11.11.04, Petroleum Refineries.

(B) Amendments to COMAR 26.11.11, Control of Petroleum Products Installations, including Asphalt Paving and Asphalt Concrete Plants, repealing Regulation 26.11.11.04, Petroleum Refineries, effective October 5, 1998.

(ii) Additional Material. Remainder of the January 4, 2001 submittal pertaining to the repeal of COMAR 26.11.11.04, Petroleum Refineries.

[FR Doc. 01–12712 Filed 5–21–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 169–0238; FRL–6980–4]

Revisions to the California State Implementation Plan, Ventura County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is finalizing a limited approval and limited disapproval of revisions to the Ventura County Air Pollution Control District (VCAPCD) portion of the California State Implementation Plan (SIP). This action was proposed in the **Federal Register** on January 10, 2001 and concerns volatile organic compound (VOC) emissions from soil decontamination operations. Under authority of the Clean Air Act as amended in 1990 (CAA or the Act), this action simultaneously approve a local rule that regulates these emission sources and directs California to correct rule deficiencies.

EFFECTIVE DATE: This rule is effective on June 21, 2001.

ADDRESSES: You can inspect copies of the administrative record for this action at EPA's Region IX office during normal business hours. You can inspect copies of the submitted SIP revisions at the following locations:

Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Environmental Protection Agency, Air Docket (6102), Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington DC 20460.

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1001 ''I'' Street, Sacramento, CA 95814.

Ventura County APCD, 669 County Square Dr., 2nd Fl., Ventura, CA 93003–5417

FOR FURTHER INFORMATION CONTACT: Ed Addison, Rulemaking Office (AIR–4), U.S. Environmental Protection Agency, Region IX, (415) 744–1160.

SUPPLEMENTARY INFORMATION: Throughout this document, ''we,'' ''us'' and ''our'' refer to EPA.

I. Proposed Action

On January 10, 2001, 66 FR 1927, EPA proposed a limited approval and limited disapproval of the following rule that was submitted for incorporation into the California SIP.

Local agency	Rule No.	Rule title	Adopted	Submitted
VCAPCD	74.29	Soil Decontamination Operations	10/10/95	03/26/96

We proposed a limited approval because we determined that this rule improves the SIP and is largely consistent with the relevant CAA requirements. We simultaneously proposed a limited disapproval because some rule provisions conflict with section 110 and part D of the Act. These provisions include the following:

(Section C.4) This section provides for case-by-case exemptions by the Director from the 0.08 lb/hr allowable emission rate for vapor extraction or bioremediation, if the operator can demonstrate compliance with VCAPCD Rule 51, Nuisance. This exemption is deficient because it does not specify replicable criteria for an exemption nor require equivalent emissions reduction for an exempted source.

Our proposed action contains more information on the basis for this rulemaking and on our evaluation of the submittal.

II. Public Comments and EPA Responses

EPA provided for a 30-day public comment period on January 10, 2001 in 66 FR 1927. EPA received the following verbal comments on the proposed rulemaking during the comment period from Bernard Bigham of the Chesapeake Environmental Group.

Comment 1: VCAPCD 74.29 does little to reduce VOC emissions. Under the exemption in paragraph (C)(3)(f), it is estimated that 200,000 tons/year of contaminated soil is excavated and trucked to landfills, and VOCs volatilize during transport and when soil is used as landfill daily cover. There is currently no rule other than VCAPCD 74.17 that controls VOC loss in contaminated soil transport to landfills. VCAPCD should remove paragraph (C)(3)(f), or Rule 74.17 should be revised to establish soil handling procedures and specify test methods that adequately evaluate and control VOC loading of landfills. The commenter points, for example, to Bay Area Air Quality Management District Rule 8–40.

Response: We discussed this comment with VCAPCD staff, who explained that Alternate Daily Cover (ADC) soil is only exempt under (C)(3)(f) if it meets the test in Definition (G)(2), which states limits by weight ppm VOC as referenced in (F)(2) test methods. We agree that this does establish some control on emissions from ADC, but recommend that the rule be clarified by stating these requirements in paragraph (B) or (C)(3)(f), and by clearly referencing the appropriate test methods in this requirement.

We also recommend that the rule be revised to reference the other District protocols for safe handling and transport of contaminated soil to safe disposal.

Comment 2: Paragraph (F)(2) appropriately references Methods 8015B and 5035, but 74.29(F)(5) undermines (F)(2) by referencing (B)(1)(a), which specifies Method 21. Method 25D should be referenced in (B)(1)(a) instead in light of crust formation on piled soil.

Response: The District believes Definition (G)(2), Alternate Daily Cover, calls for the measurement of weight ppm VOC content of crusted soils, which requires the use of Method 25D for determining VOCs beneath the surface of excavated soil.

EPA concurs that an appropriate method is being required, but recommends for clarity that testing for weight ppm VOC, by methods in paragraph (F)(2), be a requirement for the ''Alternate Daily Cover'' exemption allowed in paragraph (C)(3)(f).

III. EPA Action

EPA has made several additional rule recommendations based on the submitted comments. No comments were submitted, however, that change our overall assessment of the rule or modify our action on the rule as described in our proposed action. Therefore, as authorized in sections 110(k)(3) and 301(a) of the Act, EPA is finalizing a limited approval of the submitted rule. This action incorporates the submitted rule into the California SIP, including those provisions identified as deficient. As authorized under section 110(k)(3), EPA is simultaneously finalizing a limited disapproval of the rule. As a result, sanctions will be imposed unless EPA approves subsequent SIP revisions that correct the rule deficiencies within 18 months of the effective date of this action. These sanctions will be imposed under section 179 of the Act according to 40 CFR 52.31. In addition, EPA must promulgate a federal implementation plan (FIP) under section 110(c) unless we approve subsequent SIP revisions that correct the rule deficiencies within 24 months. Note that the submitted rule has been adopted by the VCAPCD, and EPA's final limited disapproval does not prevent the local agency from enforcing them.

IV. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. This action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). For the same reason, this rule also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13084 (63 FR 27655, May 10, 1998). This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

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

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 23, 2001. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements, Volatile organic compound.

Dated: April 27, 2001.

Mike Schulz,

Acting Regional Administrator, Region IX.

Part 52, Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

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

Subpart F—California

2. Section 52.220 is amended by adding paragraphs (c)(230)(i)(A)(*3*) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(230) * * *

(i) * * *

(A) * * *

(*3*) Rule 74.29, adopted on October 10, 1995.

* * * * *

[FR Doc. 01–12716 Filed 5–21–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MD112–3066a; FRL–6979–3]

Approval and Promulgation of Air Quality Implementation Plans; Maryland; Control of VOC Emissions from Distilled Spirits Facilities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action on revisions to the Maryland State Implementation Plan (SIP). These revisions establish reasonable available control technology (RACT) to limit volatile organic compound (VOC) emissions from distilled spirits facilties. EPA is fully approving these revisions in accordance with the requirements of the Clean Air Act (CAA).

DATES: This rule is effective on July 23, 2001 without further notice, unless EPA receives adverse written comment by June 21, 2001. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Written comments should be mailed to David L. Arnold, Chief, Air Quality Planning and Information Services Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460; and Maryland Department of the Environment, 2500 Broening Highway, Baltimore, Maryland, 21224.

FOR FURTHER INFORMATION CONTACT: Rose Quinto, (215) 814–2182, or by e-mail at quinto.rose@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On November 13, 2000, the State of Maryland submitted formal revisions to its State Implementation Plan (SIP). These SIP revisions, submitted by the Maryland Department of the Environment (MDE), consist of the control of volatile organic compound (VOC) emissions from distilled spirits facilties.

II. Summary of SIP Revision

COMAR 26.11.19.29 applies to a person who owns or operates a distilled spirits facility that has a total potential to emit VOCs of 25 tons or more per year.

General Provisions

This section establishes definitions for the terms ''aging warehouse,'' ''bottling operation,'' ''distilled spirits,'' ''distilled spirits facility,'' and ''vacuum filling system.''

General Requirements

This section requires the use of one of the following control methods at distilled spirits facilities subject to this regulation:

- Empty and fill barrels using a pump-operated, bayonet-type suction and filling device, or comparably effective device that minimizes VOC evaporative losses when emptying or filling barrels,
- Drain distilled spirits from filter plates that are located between the barrel unloading and storage tanks to either a recycling tank or to an enclosed collection system, and
- Use a gravity and vacuum or pressure filling system or comparably effective system to minimize fugitive emissions from the bottling operations.

This section also requires during the warmer weather, used barrels that are stored in the outdoors awaiting disposal shall be periodically (at least weekly) wetted down to reduce potential leakage and fugitive emissions.

Control of Other Fugitive Emission Sources

This section requires a submittal to MDE for approval, a good operating practices manual to minimize fugitive VOC emissions from the aging warehouse, and shall be implemented not later than 60 days after approval by MDE. This section also requires a report to be submitted to MDE following implementation of the approved good operating practices.

Evaluation: This SIP revision, controlling VOC emissions from distilled spirits facilities, will result in significant enforceable VOC emission reductions. EPA has determined that COMAR 26.11.19.29 is approvable as a SIP revision.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipate no adverse comment. However, in the ''Proposed Rules'' section of today's **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are filed. This rule will be effective on July 23, 2001 without further notice unless EPA receives adverse comment by June 21, 2001. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

II. Final Action

EPA is approving the SIP revisions submitted by MDE on November 13, 2000 to control VOC emissions from distilled spirits facilities.

III. Administrative Requirements

A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. This action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). This rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between

the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

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

B. Submission to Congress and the Comptroller General

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

C. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action, pertaining to revisions to the Maryland SIP establishing requirements for distilled spirits facilities, must be filed in the United States Court of Appeals for the appropriate circuit by July 23, 2001. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements.

Dated: May 2, 2001.

William C. Early,

Acting Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

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

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

Subpart V—Maryland

2. Section 52.1070 is amended by adding paragraph (c)(160) to read as follows:

§ 52.1070 Identification of plan.

* * * * *

(c) * * *

(160) Revisions to the Maryland State Implementation Plan submitted on November 13, 2000 by the Maryland Department of the Environment:

(i) Incorporation by reference.

(A) A letter dated November 13, 2000 from the Maryland Department of the Environment transmitting additions to Maryland's State Implementation Plan, pertaining to volatile organic compound (VOC) regulations in Maryland's air quality regulations, COMAR 26.11.19.29.

(B) Addition of new COMAR 26.11.19.29—Control of Volatile Organic Compounds from Distilled Spirits Faciltities, adopted by the Secretary of the Environment on September 11, 2000 and effective on October 2, 2000.

(ii) Additional Materials—Remainder of the November 13, 2000 submittal pertaining to COMAR 26.11.19.29—Control of VOC Emissions from Distilled Spirits Facilities.

[FR Doc. 01–12714 Filed 5–21–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Region II Docket No. NY48–221; FRL–6979–2]

Approval and Promulgation of Implementation Plans; New York; Nitrogen Oxides Budget and Allowance Trading Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a State Implementation Plan (SIP) revision submitted by the State of New York. This SIP revision meets the requirements of the EPA's regulation entitled, ''Finding of Significant Contribution and Rulemaking for Certain States in the Ozone Transport Assessment Group Region for Purposes of Reducing Regional Transport of Ozone,'' known as the '' NO_X SIP Call.'' The SIP revision includes a narrative and a regulation that establish a statewide nitrogen oxides (NO_X) budget and a NO_X allowance trading program that begins in 2003 for large electricity generating and industrial sources. The intended effect of this SIP revision is to reduce emissions of NO_X in order to help attain the national ambient air quality standard for ozone. EPA is approving this action pursuant to section 110 of the Clean Air Act. In addition, as a result of today's action, the Clean Air Act section 126 rule requirements will no longer apply to sources in the State of New York.

EFFECTIVE DATE: This rule will be effective June 21, 2001.

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

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

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

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

FOR FURTHER INFORMATION CONTACT: Ted Gardella at (212) 637–3892 for general information, Rick Ruvo at (212) 637–4014 for information on the Trading Program, or Raymond Forde at (212) 637–3716 for information on the Budget Demonstration, all of the Air Programs Branch, EPA Region II Office.

SUPPLEMENTARY INFORMATION:

Overview

The Environmental Protection Agency (EPA) is approving the New York State Department of Environmental Conservation's (New York's) Nitrogen Oxides (NO_X) SIP Call State Implementation Plan (SIP) revision. The following table of contents describes the format for this **SUPPLEMENTARY INFORMATION** section:

I. EPA's Action
- A. What action is EPA approving today?
- B. What administrative changes result from today's action?
- C. Why is EPA approving this action?
- D. What is Phase 2 of the NO_X SIP Call and how does it relate to today's action?
- E. What is the impact of today's action on EPA's finding under the Clean Air Act section 126 rule?
- F. When did EPA propose to approve New York's SIP revision?
- G. What are the public comments on EPA's proposal?
- H. Where is additional information available on EPA's action?

II. Conclusion

III. Administrative Requirements

I. EPA's Action

A. What Action is EPA Approving Today?

EPA is approving revisions to New York's ground level ozone SIP which New York submitted on April 3, 2000 and April 18, 2000. These SIP revisions include a new regulation, 6 NYCRR Part 204, ''NO_X Budget Trading Program,'' adopted January 18, 2000, and a narrative entitled, ''New York State Implementation Plan For Ozone; Meeting The Statewide Oxides of Nitrogen (NO_X) Budget Requirements Contained In The NO_X SIP Call (63 FR 57356, October 27, 1998),'' dated April 18, 2000 and supplemented on May 16, 2000. New York submitted the regulation and narrative, including NO_X reducing measures, in order to strengthen its one-hour ozone SIP and to comply with the NO_X SIP Call during each ozone season, *i.e.*, May 1 through September 30, beginning in 2003. EPA has determined that New York's submittal is fully approvable as a SIP-strengthening measure for New York's one-hour ground level ozone SIP and as meeting the NO_X SIP Call requirements.

Separately, EPA is also approving administrative revisions to the New York SIP.

B. What Administrative Changes Result From Today's Action?

Independent of New York's NO_X SIP Call SIP revision, New York submitted various regulations as revisions to New York's SIP on August 10, 1979. The August 1979 submittal included, among other things, the repeal of part 204 ''Hydrocarbon Emissions From Storage and Loading Facilities—New York City Metropolitan Area,'' because part 204 was superceded by part 229. By **Federal Register** notice published on February 5, 1980 (45 FR 7803), one of the conditions EPA imposed was either to regulate the storage of petroleum liquids other than gasoline or provide acceptable justification for not regulating such storage. New York submitted adopted revisions to part 229 to address the inclusion of petroleum liquids. On July 1, 1980 (see 45 FR 44273), EPA took final rulemaking to remove this condition after New York revised part 229 to include petroleum liquids. Since part 229 regulated all the sources previously regulated in part 204 and in some cases was more stringent, EPA should have, but inadvertently failed to, remove part 204 from the SIP at that time.

As part of today's action, EPA is now revising Title 40, § 52.1679 ''EPA-approved New York State regulations,'' by removing the entry for old part 204, Hydrocarbon Emissions From Storage and Loading Facilities—New York City Metropolitan Area, and adding an entry for the new part 204, ''NO_X Budget Trading Program.''

In addition to part 204, New York made administrative amendments to regulations part 200 ''General Provisions,'' part 220 ''Portland Cement Plants,'' Subpart 227–1, ''Stationary Combustion Installations,'' subpart 227–2, ''Reasonably Available Control Technology (RACT) for Oxides of Nitrogen (NO_X),'' and subpart 227–3, ''Pre-2003 Nitrogen Oxides Emissions Budget and Allowance Program.''

EPA is approving amendments to part 200, subpart 227–1, subpart 227–2, and subpart 227–3 for the purposes of enforcing the SIP, as well as for enforcing New York's NO_X Budget Trading Program. Since New York's amendments to part 200, subpart 227–1, subpart 227–2, and subpart 227–3 were administrative, EPA is revising the SIP to include the amended regulations. With respect to the administrative amendments to part 220, ''Portland Cement Plants,'' EPA is currently reviewing other amendments to part 220 adopted on January 18, 2000. Therefore, EPA will address all part 220 amendments at the same time in a future rulemaking.

C. Why is EPA Approving This Action?

EPA is approving this action in order to:

- Approve New York's NO_X Budget Trading Program (part 204) under the NO_X SIP Call as a control program that reduces NO_X emissions, a precursor of ozone, and which therefore helps to achieve the national ambient air quality standard for ozone in the New York City metropolitan nonattainment area,
- Fulfill New York's and EPA's requirements under the NO_X SIP Call,
- Approve administrative changes to New York's regulations part 200, part 204, subpart 227–1, subpart 227–2 and subpart 227–3.
- Make New York's NO_X allowance trading regulation federally enforceable and available for credit in the SIP, and
- Make New York's SIP narrative, including the ozone season NO_X budget and State reporting requirements, federally enforceable as part of the New York SIP.

These actions have the effect of assuring that the section 126 requirements will no longer apply to New York sources.

D. What is Phase 2 of the NO_X SIP Call and how Does it Relate to Today's Action?

On March 3, 2000, the Circuit Court of the District of Columbia handed down its decision in *Michigan* v. *EPA*, which largely upheld the NO_X SIP Call but remanded a few minor issues to EPA. After this decision, EPA decided to separate the requirements of the regional strategy into two phases. The deadline for states to submit their plans to comply with Phase 1 of the strategy was October 30, 2000. Details of Phase 1 were outlined in April 11, 2000 letters to Governors in the affected states, including New York. New York met the Phase 1 SIP submittal requirements by its April 2000 SIP revision.

On January 5, 2001, the outgoing Administrator signed a notice of proposed rulemaking for Phase 2 of the NO_X SIP Call. This notice was placed on EPA's website at *http://www.epa.gov/ttn/rto/sip/related.html#prop* but has not been published pending further EPA evaluation. Phase 2 is designed to respond to issues remanded by the court by addressing, among other things, whether, and if so, how, a small subclass of facilities that generate

electricity—cogenerators—should be included in the rule, and what control levels should be assumed in reducing NO_X from large, stationary internal combustion (IC) engines. The proposal would affect 22 jurisdictions,[1] including New York, and would identify a range of due dates for the affected states subject to Phase 2 to submit a SIP revision.

EPA fully expects that the Phase 2 rule would have no more than a slight effect on New York Statewide NO_X emission budgets. In the January 5, 2001 version of EPA's notice of proposed rulemaking, New York's Phase 2 Statewide 2007 NO_X emissions budget would be 240,285 tons or 240,322 tons based on IC engines with control efficiencies of 91% and 82%, respectively. The corresponding Phase 2 NO_X emission reductions from the 2007 baseline emissions would be 15,368 tons and 15,331 tons, respectively. New York's April 2000 SIP revision, which EPA is approving today, includes a demonstration, including a detailed emission inventory, that the Statewide emissions would not exceed 239,549 tons in 2007, corresponding to NO_X reductions of 16,103 tons (see 65 FR 76197). Therefore, EPA fully expects that New York's April 2000 SIP revision will meet the Phase 2 Statewide budgets when finalized by EPA.

Therefore, in today's action EPA is also approving New York's April 2000 SIP revision as fully meeting the NO_X SIP Call requirements including the Phase 2 Statewide NO_X emissions budget that will apply when the Phase 2 rulemaking is completed. EPA recognizes that its Phase 2 rulemaking has not been completed, but as noted above, fully expects that the final Statewide budget promulgated in that rulemaking will be no more stringent than New York's current budget. Once EPA finalizes the Phase 2 rule, should New York's adopted 2007 NO_X emissions budget (as submitted in April 2000) exceed the final Phase 2 budget (so that additional NO_X reductions are needed), EPA will take appropriate action.

E. What is the Impact of Today's Action on EPA's Finding Under the Clean Air Act Section 126 Rule?

As stated in the December 6, 2000 Proposed Rulemaking (see 65 FR 76197 at 76202), a SIP meeting the March 2, 2000 budgets and providing for reductions by May 1, 2003, should fully address the significant NO_X transport from that state. Therefore, upon approval of such a SIP, § 52.34(i) of the section 126 rule would apply to automatically withdraw the section 126 requirements for sources in that state. As noted immediately above, EPA has no reason to expect that the Phase 2 budget for New York, when finalized, will mandate any additional NO_X reductions. Thus, meeting the March 2, 2000 budget is adequate for New York's SIP to meet the NO_X SIP Call requirements. Since the New York SIP revision meets the March 2, 2000 budgets, provides for reductions by May 1, 2003, and is fully approved today as proposed, the section 126 requirements are automatically withdrawn, as of the effective date of this final rule, for sources in the State of New York pursuant to 40 CFR 52.34(i).

F. When Did EPA Propose To Approve New York's SIP Revision?

On December 6, 2000, EPA published in the **Federal Register** (65 FR 76197) a Proposed Rulemaking to approve New York's regulation and SIP narrative as a SIP revision and providing for a 30-day public comment period, which ended on January 5, 2001.

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

EPA received no public comments regarding the Proposed Rulemaking.

H. Where is Additional Information Available on EPA's Action?

A detailed discussion of this program is available in the December 6, 2000 Proposed Rulemaking (65 FR 76197). A Technical Support Document, prepared in support of the proposed rulemaking, contains the full description of New York's submittal and EPA's evaluation. A copy of the Technical Support Document is available upon request from the EPA Regional Office listed in the **ADDRESSES** section.

II. Conclusion

EPA is approving New York's April 3, 2000 and April 18, 2000 SIP submittals, as supplemented on May 16, 2000, that address EPA's NO_X SIP Call. EPA has reviewed New York's control measures and projected reductions and finds them approvable. Therefore, EPA is approving Part 204 and the SIP narrative into the New York SIP at this time. In addition, as a result of today's action, the Clean Air Act section 126 rule requirements will no longer apply to sources in the State of New York.

III. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. This action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). This rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000) nor will this rule have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by

[1] Alabama, Connecticut, Delaware, District of Columbia, Georgia, Illinois, Indiana, Kentucky, Massachusetts, Maryland, Michigan, Missouri, North Carolina, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Virginia, and West Virginia.

section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*)

Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a ''major'' rule as defined by 5 U.S.C. 804(2). This rule will be effective June 21, 2001.

Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 23, 2001. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: May 7, 2001.

William J. Muszynski,

Acting Regional Administrator, Region 2.

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

PART 52—[AMENDED]

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

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

Subpart HH—New York

2. Section 52.1670 is amended by adding new paragraph (c)(100) to read as follows:

§ 52.1670 Identification of plan.

* * * * *

(c) * * *

(100) Revisions to the State Implementation Plan submitted on April 3, 2000, April 18, 2000 and as supplemented on May 16, 2000 by the New York State Department of Environmental Conservation that establishes the NO_X Budget Trading Program, a 2007 Statewide NO_X emissions budget, and a commitment by New York to comply with the § 51.122 reporting requirements.

(i) *Incorporation by reference:*

(A) Regulation Part 204 of Title 6 of the New York Code of Rules and Regulations, entitled ''NO_X Budget Trading Program,'' adopted on January 18, 2000 and effective on February 25, 2000.

(B) Amendments to Title 6 of the New York Code of Rules and Regulations, Part 200, ''General Provisions,'' Subpart 227–1, ''Stationary Combustion Installations,'' and Subpart 227–2, ''Reasonably Available Control Technology (RACT) for Oxides of Nitrogen (NO_X)'' adopted on January 18, 2000 and effective on February 25, 2000.

(ii) *Additional material:*

(A) Letter from New York State Department of Environmental Conservation dated April 3, 2000, requesting EPA approval of the NO_X Budget Trading Program as a revision to the New York State Implementation Plan for ozone.

(B) Letter from New York State Department of Environmental Conservation dated April 18, 2000, requesting EPA approval of the Oxides of Nitrogen (NO_X) SIP, entitled ''New York State Implementation Plan For Ozone; Meeting The Statewide Oxides of Nitrogen (NO_X) Budget Requirements Contained In The NO_X SIP Call (63 FR 57356, October 27, 1998),'' as a revision to the New York State Implementation Plan for ozone.

(C) Letter from New York State Department of Environmental Conservation dated May 16, 2000, transmitting supplemental information to the Oxides of Nitrogen (NO_X) SIP submitted on April 18, 2000.

3. Section 52.1679 is amended by revising the entry Under Title 6 for Part 200, Part 204, Subpart 227–1, Subpart 227–2, and Subpart 227–3 in the table to read as follows:

§ 52.1679 EPA—approved New York State regulations.

New York State regulation	State effective date	Latest EPA approval date	Comments
Title 6			
Part 200, General Provisions Sections 200.1, 200.6, 200.7 and 200.9.	2/25/00	5/22/01 66 FR 28062	Redesignation of non-attainment areas to attainment areas (200.1(av)) does not relieve a source form compliance with previously applciable requirements as per letter of Nov. 13, 1981 from H. Hovey, NYSDEC.
			Changes in definitions are acceptable to EPA unless a previously approved definition is necessary for implementation of an existing SIP regulation.

New York State regulation	State effective date	Latest EPA approval date	Comments
			EPA is including the definition of ''federally enforceable'' with the understanding that (1) the definition applies to provisions of a Title V permit that are correctly identified as federally enforceable, and (2) a source accepts operating limits and conditions to lower its potential to emit to become a minor source, not to ''avoid'' applicable requirements. EPA is approving incorporation by reference of those documents that are not already federally enforceable.
* * *		* *	* *
Part 204, NO_X Budget Trading Program	2/25/00	5/22/01 66 FR 28063	Incorporates NO_X SIP Call and NO_X Budget Trading Program for 2003 and thereafter.
* * *		* *	* *
Subpart 227–1, Stationary Combustion Installations.	2/25/00	5/22/01 66 FR 28063	Renumbered sections 227–1.2(a)(2), 227–1.4(a), and 227–1.4(d) continue to be disapproved according to 40 CFR 52.1678(d) and 52.1680(a). (New York repealed existing Part 227.5.)
Subpart 227–2, Reasonably Available Control Technology (RACT) for Oxides of Nitrogen (NO_X).	2/25/00	5/22/01 66 FR 28063	
Subpart 227–3, Pre-2003 Nitrogen Oxides Emissions Budget and Allowance Program.	3/5/99	5/22/01 66 FR 28063	Approval of NO_X Budget Trading Program for 1999, 2000, 2001 and 2002. NO_X caps in the State during 2003 and thereafter established in Part 204.
* * *		* *	* *

[FR Doc. 01–12700 Filed 5–21–01; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Region II Docket No. NJ44–220; FRL–6979–1]

Approval and Promulgation of Implementation Plans; New Jersey; Nitrogen Oxides Budget and Allowance Trading Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a State Implementation Plan (SIP) revision submitted by the State of New Jersey. This SIP revision meets the requirements of the EPA's regulation entitled, ''Finding of Significant Contribution and Rulemaking for Certain States in the Ozone Transport Assessment Group Region for Purposes of Reducing Regional Transport of Ozone,'' known as the ''NO_X SIP Call.'' The SIP revision includes a narrative and a regulation that establish a statewide nitrogen oxides (NO_X) budget and a NO_X allowance trading program that begins in 2003 for large electricity generating and industrial sources. The intended effect of this SIP revision is to reduce emissions of NO_X in order to help attain the national ambient air quality standard for ozone. EPA is approving this action pursuant to section 110 of the Clean Air Act. In addition, as a result of today's action, the Clean Air Act section 126 rule requirements will no longer apply to sources in the State of New Jersey.

EFFECTIVE DATE: This rule will be effective June 21, 2001.

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

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

New Jersey Department of Environmental Protection, Office of Air Quality Management, Bureau of Air Pollution Control, 401 East State Street, CN027, Trenton, New Jersey 08625.

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

FOR FURTHER INFORMATION CONTACT: Ted Gardella at (212) 637–3892 for general information, Rick Ruvo at (212) 637–4014 for information on the Trading Program, or Demian Ellis at (212) 637–3713 for information on the Budget Demonstration, all of the Air Programs Branch, Region II Office.

SUPPLEMENTARY INFORMATION:

Overview

The Environmental Protection Agency (EPA) is approving the New Jersey Department of Environmental Protection's (New Jersey's) Nitrogen Oxides (NO_X) SIP Call State Implementation Plan (SIP) revision. The following table of contents describes the format for this **SUPPLEMENTARY INFORMATION** section:

I. EPA's Action
A. What action is EPA approving today?
B. Why is EPA approving this action?
C. What is Phase 2 of the NO_X SIP Call and how does it relate to today's action?
D. What is the impact of today's action on EPA's finding under the Clean Air Act section 126 rule?
E. When did EPA propose to approve New Jersey's SIP revision?
F. What are the public comments on EPA's proposal?
G. Where is additional information available on EPA's action?
II. Conclusion
III. Administrative Requirements

I. EPA's Action

A. What action is EPA approving today?

EPA is approving revisions to New Jersey's ground level ozone SIP which New Jersey submitted on December 10,

1999 and July 31, 2000. These SIP revisions include an amended regulation, N.J.A.C. 7:27–31 (Subchapter 31), '' NO_X Budget Program,'' adopted July 28, 2000, and a narrative entitled, ''State Implementation Plan (SIP) Revision for the Attainment and Maintenance of the Ozone and Carbon Monoxide National Ambient Air Quality Standards-Meeting the Requirements of the Regional NO_X Cap Program and Transportation Conformity Budgets Related to the Attainment of the Ozone and Carbon Monoxide National Ambient Air Quality Standards,'' dated December 10, 1999 and supplemented on July 31, 2000. New Jersey submitted the regulation and narrative, including NO_X reducing measures, in order to strengthen its one-hour ozone SIP and to comply with the NO_X SIP Call during each ozone season, i.e., May 1 through September 30, beginning in 2003. EPA has determined that New Jersey's submittal is fully approvable as a SIP-strengthening measure for New Jersey's one-hour ground level ozone SIP and as meeting the NO_X SIP Call requirements. On May 31, 2000, EPA found the mobile source emissions budgets to be adequate for transportation conformity purposes. (See 65 FR 36689, June 9, 2000).

B. Why is EPA approving this action?

EPA is approving this action in order to:

- Approve New Jersey's NO_X Budget Trading Program (Subchapter 31) under the NO_X SIP Call as a control program that reduces NO_X emissions, a precursor of ozone, and which therefore helps to achieve the national ambient air quality standard for ozone in nonattainment areas in New Jersey,
- Fulfill New Jersey's and EPA's requirements under the NO_X SIP Call,
- Make New Jersey's NO_X allowance trading regulation federally enforceable and available for credit in the SIP, and
- Make New Jersey's SIP narrative, including the ozone season NO_X budget and State reporting requirements, federally enforceable as part of the New Jersey SIP.

These actions have the effect of assuring that the section 126 requirements will no longer apply to New Jersey sources.

C. What is Phase 2 of the NO_X SIP Call and how does it relate to today's action?

On March 3, 2001, the Circuit Court of the District of Columbia handed down its decision in *Michigan* v. *EPA,* which largely upheld the NO_X SIP Call but remanded a few minor issues to EPA.

After this decision, EPA decided to separate the requirements of the regional strategy into two phases. The deadline for states to submit their plans to comply with Phase 1 of the strategy was October 30, 2000. Details of Phase 1 were outlined in April 11, 2000 letters to Governors in the affected states, including New Jersey. New Jersey met the Phase 1 SIP submittal requirements by its December 1999 and July 2000 SIP revisions.

On January 5, 2001, the outgoing Administrator signed a notice of proposed rulemaking for Phase 2 of the NO_X SIP Call. This notice was placed on EPA's website at *http://www.epa.gov/ttn/rto/sip/related.html#prop* but has not been published pending further EPA evaluation. Phase 2 is designed to respond to issues remanded by the court by addressing, among other things, whether, and if so, how, a small subclass of facilities that generate electricity—cogenerators—should be included in the rule, and what control levels should be assumed in reducing NO_X from large, stationary internal combustion (IC) engines. The proposal would affect 22 jurisdictions [1], including New Jersey, and would identify a range of due dates for the affected states subject to Phase 2 to submit a SIP revision.

EPA fully expects that the Phase 2 proposed rule would have no more than a slight effect on New Jersey Statewide NO_X emission budgets. In the January 5, 2001 version of EPA's notice of proposed rulemaking, New Jersey's Phase 2 Statewide 2007 NO_X emissions budget would be 96,876 tons. The corresponding Phase 2 NO_X emission reductions from the 2007 baseline emissions would be 8,613 tons. New Jersey's December 1999 and July 2000 SIP revisions, which EPA is approving today, includes a demonstration, including a detailed emission inventory, that the Statewide emissions would not exceed 96,275 tons in 2007 corresponding to NO_X reductions of 9,214 tons (see 65 FR 71278 and 77695). Therefore, EPA fully expects that New Jersey's December 1999 and July 2000 SIP revisions will meet the Phase 2 Statewide budgets when finalized by EPA.

Therefore, in today's action EPA is also approving New Jersey's December 1999 and July 2000 SIP revisions as fully meeting the NO_X SIP Call requirements including the Phase 2 Statewide NO_X emissions budget that will apply when the Phase 2 rulemaking is completed. EPA recognizes that its Phase 2 rulemaking has not been completed, but as noted above, fully expects that the final Statewide budget promulgated in that rulemaking will be no more stringent than New Jersey's current budget. Once EPA finalizes the Phase 2 rule, should New Jersey's adopted 2007 NO_X emissions budget (as submitted in December 1999 and July 2000) exceed the final Phase 2 budget (so that additional NO_X reductions are needed), EPA will take appropriate action.

D. What is the impact of today's action on EPA's finding under the Clean Air Act section 126 rule?

As stated in the November 30, 2000 Proposed Rulemaking (see 65 FR 71278 at 71282), a SIP meeting the March 2, 2000 budgets and providing for reductions by May 1, 2003, should fully address the significant NO_X transport from that state. Therefore, upon approval of such a SIP, § 52.34(i) of the section 126 rule would apply to automatically withdraw the section 126 requirements for sources in that state. As noted immediately above, EPA has no reason to expect that the Phase 2 budget for New Jersey, when finalized, will mandate any additional NO_X reductions. Thus, meeting the March 2, 2000 budget is adequate for New Jersey's SIP to meet the NO_X SIP Call requirements. Since the New Jersey SIP revision meets the March 2, 2000 budgets, provides for reductions by May 1, 2003, and is fully approved today as proposed, the section 126 requirements are automatically withdrawn, as of the effective date of this final rule, for sources in the State of New Jersey pursuant to 40 CFR 52.34(i).

E. When did EPA propose to approve New Jersey's SIP revision?

On November 30, 2000, as corrected on December 12, 2000, EPA published in the **Federal Register** (65 FR 71278 and corrected at 77695) a Proposed Rulemaking to approve New Jersey's regulation and SIP narrative as a SIP revision and providing for a 30-day public comment period, which ended on January 2, 2001.

F. What are the public comments on EPA's proposal?

EPA received no public comments regarding the Proposed Rulemaking.

G. Where is additional information available on EPA's action?

A detailed discussion of this program is available in the November 30, 2000 Proposed Rulemaking (65 FR 71278), as corrected in the December 12, 2000

[1] Alabama, Connecticut, Delaware, District of Columbia, Georgia, Illinois, Indiana, Kentucky, Massachusetts, Maryland, Michigan, Missouri, North Carolina, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Virgnia, and West Virginia.

Federal Register (65 FR 77695). A Technical Support Document, prepared in support of the proposed rulemaking, contains the full description of New Jersey's submittal and EPA's evaluation. A copy of the Technical Support Document is available upon request from the EPA Regional Office listed in the **ADDRESSES** section.

II. Conclusion

EPA is approving New Jersey's December 10, 1999 and July 31, 2000 SIP submittals, including New Jersey's July 31, 2000 supplement, that address EPA's NO_X SIP Call. EPA has reviewed New Jersey's control measures and projected reductions and finds them approvable. Therefore, EPA is approving Subchapter 31 and the SIP narrative into the New Jersey SIP at this time. In addition, as a result of today's action, the Clean Air Act section 126 rule requirements will no longer apply to sources in the State of New Jersey.

III. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. This action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). This rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will this rule have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

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

Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a ''major'' rule as defined by 5 U.S.C. 804(2). This rule will be effective June 21, 2001.

Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 23, 2001. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: May 7, 2001.

William J. Muszynski,

Acting Regional Administrator, Region 2.

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

PART 52—[AMENDED]

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

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

Subpart FF—New Jersey

2. Section 52.1570 is amended by adding new paragraph (c)(70) to read as follows:

§ 52.1570 Identification of plan.

* * * * *

(c) * * *

(70) Revisions to the State Implementation Plan submitted on December 10, 1999 and July 31, 2000 by the State of New Jersey Department of Environmental Protection that establishes the NO_X Budget Trading Program, a 2007 Statewide NO_X emissions budget, and a commitment by New Jersey to comply with the section 51.122 reporting requirements.

(i) *Incorporation by reference:*

(A) Regulation Subchapter 31 of Title 7, Chapter 27 of the New Jersey Administrative Code, entitled ''NO_X Budget Program,'' adopted on July 31, 2000 and effective on August 21, 2000.

(ii) *Additional material:*

(A) Letter from State of New Jersey Department of Environmental Protection dated December 10, 1999, requesting EPA approval of the Ozone SIP, entitled ''State Implementation Plan (SIP)

Revision for the Attainment and Maintenance of the Ozone and Carbon Monoxide National Ambient Air Quality Standards; Meeting the Requirements of the Regional NO_X Cap Program and Transportation Conformity Budgets Related to the Attainment of the Ozone and Carbon Monoxide National Ambient Air Quality Standards; December 1, 1999,'' as a revision to the State of New Jersey Implementation Plan for ozone.

(B) Letter from State of New Jersey Department of Environmental Protection dated July 31, 2000, requesting EPA approval of the NO_X Budget Program as a revision to the New Jersey State Implementation Plan for ozone. This submittal also contains 2007 State-wide NO_X emissions budget information that is supplemental to the December 10, 1999 SIP submittal.

* * * * *

3. Section 52.1605 is amended by revising the entry under Title 7, Chapter 27 for Subchapter 31 in the table to read as follows:

§ 52.1605 EPA-approved New Jersey regulations

State regulation	State effective date	EPA approved date	Comments
Title 7, Chapter 27			
*	*	*	*
Subchapter 31, NO_X Budget Program	Aug. 21, 2000 ...	5/22/01 66 FR 28066	Incorporates NO_X SIP Call and NO_X Budget Trading Program for 1999 through 2003 and thereafter.
*	*	*	*

[FR Doc. 01–12699 Filed 5–21–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 261 and 266

[FRL–6976–6]

RIN 2090–AA15

Project XL Site-Specific Rulemaking for US Filter Recovery Services Roseville, Minnesota and Generators and Transporters of USFRS XL Waste

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule and final project agreement.

SUMMARY: The Environmental Protection Agency (EPA) will implement a project under its Project XL (which stands for eXcellence and Leadership) program that will provide regulatory flexibility under the Resource Conservation and Recovery Act (RCRA), as amended, for the US Filter Recovery Services (USFRS) facility located at 2430 Rose Place, Roseville, Minnesota, 55113 and approved Minnesota generators and transporters of electroplating waste waters. The purpose of the USFRS XL Project is to encourage the use of USFRS' waste water treatment ion exchange resin process and thereby increase the recycling of metals derived from the treatment of electroplating waste waters subjected to this process. It may also result in the reduction in the use of potable water and energy savings. To achieve these objectives, this rule once adopted by the State of Minnesota would replace existing RCRA hazardous waste requirements for the handling of the spent materials in the ion exchange resin process (i.e., the resins and filters) at approved generators and transporters with a comprehensive program designed and implemented by USFRS to properly treat, recycle, store and transport these wastes. The overall terms of this XL Project are contained in the Final Project Agreement (FPA) and the new rules adopted today. The FPA is available at the RCRA Docket in Washington D.C. in the EPA Region V library, at USFRS, and on the world wide web at http://www.epa.gov/projectxl/.

DATES: This final rule is effective November 23, 2001. For judicial review purposes, this rule is promulgated as of 1:00 p.m. (Eastern Daylight Time) on May 22, 2001.

ADDRESSES: A docket containing the rule, FPA and supporting materials is available for public inspection and copying at the RCRA Information Center Docket Clerk (5305G), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460—Docket Number F–2000–FRSP–FFFFF and the U.S. Environmental Protection Agency, Region V, Waste, Pesticides and Toxics Division, (DRP–8J), 77 West Jackson, Chicago, Illinois, 60604. Contact Mr. Robert Egan at (312) 886–6212.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Egan at EPA, Region V, Waste, Pesticides and Toxics Division (DRP–8J), 77 West Jackson, Chicago, Illinois 60604, (312) 886–6212. Further information on today's action may also be obtained on the world wide web at: http://www.epa.gov/projectxl/.

SUPPLEMENTARY INFORMATION: On August 17, 2000, the Environmental Protection Agency (EPA) proposed a site-specific rule (65 FR 50283) that set forth the mechanisms through which USFRS and participating generators and transporters can test the effectiveness of an integrated, flexible, performance-based approach for managing ion exchange filter resins (''resins'') and associated wastes to determine whether this approach promotes an increase in the recovery and recycling of metals from electroplating operations, a reduction in the amount of hazardous chemicals which are discharged to the local publicly owned treatment works (POTWs) and the amount of water used in the manufacturing process. The development and implementation of the USFRS XL Project will be piloted at USFRS and at approved generators and transporters of USFRS resin wastes. The approved generators and transporters will handle, store and transport the resin wastes in accordance with specific standards contained in new part 266, subpart O of Title 40 of the Code of Federal Regulations (''subpart O''). These requirements would operate in lieu of the requirements imposed under parts 261–265, 268, 270, 273 and 279 of Title 40 of the Code of Federal Regulations. As a result, it is anticipated that there will be an increase in the recovery and recycling of metals from the electroplating waste waters and that the generators will reduce their discharge of process waste waters to local POTWs. USFRS will handle the resin wastes as hazardous waste and in accordance with subpart O and its RCRA hazardous waste permit. The rule imposes on USFRS additional reporting and handling requirements in exchange for the regulatory flexibility provided to the generators and transporters.

Today's final rule promulgates regulations that are identical to the proposed rule, except where otherwise noted below. Today's rule will facilitate implementation of the FPA that has been developed and signed by USFRS, EPA, the Minnesota Pollution Control Agency (MPCA), the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott and Washington in Minnesota, Pioneer Tank Lines.[1] As generators and transporters are approved for participation they too will sign the FPA. The FPA is available in the docket for today's action and on the world wide web at http://www.epa.gov/projectxl/. The FPA addresses the nine project XL criteria, and the expectation of EPA that this XL project will meet those criteria. Those criteria are: (1) Environmental results superior to what would be achieved through compliance with current and reasonably anticipated future regulations; (2) economic opportunity; (3) stakeholder involvement, support and capacity for community participation; (4) test of innovative, multi-media, pollution prevention strategies for achieving environmental results; (5) approaches that could be evaluated for future broader application (transferability); (6) technical and administrative feasibility; (7) mechanisms for monitoring, reporting and evaluation; (8) consistency with Executive Order 12898 on Environmental Justice (avoidance of shifting of risk burden); and (9) community planning. The FPA specifically addresses the manner in which the project is expected to produce superior environmental benefits.

Today's rule is one of the required legal mechanisms necessary to implement the provisions of the USFRS XL Project. However, Minnesota has an authorized hazardous waste program. Therefore, the requirements outlined in today's rule will not take effect until Minnesota either receives from EPA authorization for an equivalent legal mechanism to implement this rule or the State uses an existing authorized mechanism to implement this rule. EPA will not be the primary regulatory agency responsible for implementing the requirements of today's rule. The State of Minnesota and, in certain areas, the County Agencies will be the primary regulatory agency. For the sake of simplicity, however, the remainder of this preamble refers to the effects of this rule, although it will be the corresponding State and local law and permits by which it will be implemented.

The information presented in this preamble is organized as follows:

I. Authority
II. Overview of Project XL
III. Overview of USFRS XL Project
A. Scope of the USFRS XL Project
B. What Problem has USFRS Identified?
C. What Solutions will be implemented by the USFRS XL Project?
D. How have the various stakeholders been involved in this Project?
E. How will this project result in cost savings and paperwork reduction?
F. How will EPA ensure the integrity of this XL Project?
G. How will the terms of the USFRS XL Project and rules be enforced?
IV. Rule Description
A. XL Waste Defined
B. Waste Identification and Characterization
C. Notification and recording of participation in the USFRS XL Project
D. Transportation and tracking of USFRS XL waste shipments
E. Pre-transport and Transportation Requirements
F. Accumulation and Storage Prior to Shipment
G. Reporting and Recordkeeping Requirements
H. Additional Requirements Imposed on USFRS
V. Response to significant public comments and changes from the proposed rules
VI. Additional information
A. What regulatory changes will be necessary to implement this project?
B. Why is EPA supporting new approaches to USFRS XL waste management?
C. How Does this Rule Comply With Executive Order 12866?
D. Is a Regulatory Flexibility Analysis Required?
E. Is an Information Collection Request Required for this Project Under the Paperwork Reduction Act?
F. Does This Project Trigger the Requirements of the Unfunded Mandates Reform Act?
G. How Does this Rule Comply with Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks?
H. How Does this Rule Comply with Executive Order 13132 Federalism?
I. How Does this Rule Comply with Executive Order 13084: Consultation and Coordination with Indian Tribal Governments?
J. Does this Rule Comply with the National Technology Transfer and Advancement Act?
K. How Does this Rule Comply with the Congressional Review Act?

I. Authority

EPA is publishing this final regulation under the authority of sections 2002, 3001, 3002, 3003, 3006, 3010, and 7004 of the Solid Waste Disposal Act of 1970, as amended by the Resource Conservation and Recovery Act, as amended (42 U.S.C. 6912, 6921, 6922, 6923, 6926, 6930, and 6974).

II. Overview of Project XL

The FPA sets forth the intentions of EPA, MPCA, Pioneer Tank Lines the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott and Washington,[2] Minnesota and USFRS with regard to the USFRS XL Project. Project XL is an EPA initiative to allow regulated entities an opportunity to achieve better environmental results at less cost.

EPA announced Project XL— ''eXcellence and Leadership''— on March 16, 1995. It is a central part of the National Performance Review and the EPA's effort to reinvent environmental protection. See 60 FR 27282 (May 23, 1995). Under Project XL EPA provides a limited number of private and public regulated entities an opportunity to develop their own pilot projects to provide regulatory flexibility that will result in environmental protection that is superior to what would be achieved through compliance with current and reasonably anticipated future regulations. These efforts are crucial to EPA's ability to test new strategies that reduce regulatory burden and promote economic growth while achieving better environmental and public health protection. EPA intends to evaluate the results of this and other Project XL projects to determine which specific elements of the project(s), if any, should be more broadly applied to other regulated entities for the benefit of both the environment and the economy.

Under Project XL, participants in four categories—facilities, industry sectors, governmental agencies and communities—are offered the flexibility to develop common sense, cost-effective strategies that will replace or modify specific regulatory requirements, on the condition that they produce and demonstrate superior environmental performance.

The XL program is intended to allow EPA to experiment with potentially promising regulatory approaches, both to assess whether they provide benefits at the specific facility affected, and whether they should be considered for wider application. Such pilot projects allow EPA to proceed more quickly than would be possible when undertaking changes on a nationwide basis.

Adoption of such alternative approaches or interpretations in the

[1] EPA mistakenly identified this company as Pioneer Transport in the proposed rules. EPA will revise its name in the final rules (section 266.301 and 266.303(c)) to reflect the correct name - Pioneer Tank Lines.

[2] These counties are identified signatories to the FPA since the State has given them certain responsibilities over hazardous waste generators, transporters and facilities within their jurisdiction.

context of a given XL project does not, however, signal EPA's willingness to adopt that interpretation as a general matter, or even in the context of other XL projects. It would be inconsistent with the forward-looking nature of these pilot projects to adopt such innovative approaches prematurely on a widespread basis without first determining whether or not they are viable in practice and successful in the particular projects that embody them. Furthermore, as EPA indicated in announcing the XL program, EPA expects to adopt only a limited number of carefully selected projects. These pilot projects are not intended to be a means for piecemeal revision of entire programs. Depending on the results in these projects, EPA may or may not be willing to consider adopting the alternative interpretation again, either generally or for other specific facilities.

EPA believes that adopting alternative policy approaches and interpretations, on a limited, site-specific basis and in connection with a carefully selected pilot project, is consistent with the expectations of Congress about EPA's role in implementing the environmental statutes (provided that the Agency acts within the discretion allowed by the statute). Congress' recognition that there is a need for experimentation and research, as well as ongoing re-evaluation of environmental programs, is reflected in a variety of statutory provisions, such as section 8001 of RCRA.

XL Criteria

To participate in Project XL, applicants must develop alternative pollution reduction strategies pursuant to eight criteria: superior environmental performance; cost savings and paperwork reduction; local stakeholder involvement and support; test of an innovative strategy; transferability; feasibility; identification of monitoring, reporting and evaluation methods; and avoidance of shifting risk burden. They must have full support of affected federal, state and tribal agencies to be selected.

For more information about the XL criteria, readers should refer to the two descriptive documents published in the **Federal Register** (60 FR 27282, May 23, 1995 and 62 FR 19872, April 23, 1997), and the December 1, 1995 ''Principles for Development of Project XL Final Project Agreements'' document. For further discussion as to how the USFRS XL Project addresses the XL criteria, readers should refer to the USFRS FPA available from the EPA RCRA docket or Region 5 library for this action (see **ADDRESSES** section of today's preamble).

XL Program Phases

Development of a Project has four basic phases: the initial pre-proposal phase where the project sponsor comes up with an innovative concept that it would like EPA to consider as an XL pilot; the second phase where the project sponsor works with EPA and interested stakeholders in developing its XL proposal; the third phase where EPA, local regulatory agencies, and other interested stakeholders review the XL proposal; and the fourth phase where the project sponsor works with EPA, local regulatory agencies, and interested stakeholders in developing the FPA and legal mechanisms. The XL pilot proceeds into the implementation phase and evaluation phase after promulgation of the required federal, state and local legal mechanisms and after the designated participants sign the FPA.

Final Project Agreement

The FPA is a written agreement between the project sponsor, participants and regulatory agencies. The FPA contains a detailed description of the proposed pilot project. It addresses the eight Project XL criteria, and the expectation of EPA that this XL Project will meet those criteria. The FPA identifies performance goals and indicators (monitoring schedules) which will enable USFRS to clearly illustrate the baseline quantities and compare them to quantities derived after implementation of the pilot. The FPA specifically addresses the manner in which the project is expected to produce superior environmental benefits. The FPA also discusses the administration of the agreement, including dispute resolution and termination. The FPA for the USFRS XL Project is available for review in the docket for today's action, and also is available on the world wide web at *http://www.epa.gov/projectxl/.*

III. Overview of the USFRS XL Project

Today's new rules will facilitate implementation of the FPA and the USFRS XL Project. The regulatory relief provided in the final rules promulgated today, however, will not be federally effective in Minnesota until the state has made similar changes to its hazardous waste management program and, as necessary, EPA has approved of those changes as part of the State's authorized hazardous waste program. See the preamble to the August 17, 2000, **Federal Register** for a more detailed discussion of the manner in which the state may make such changes and the consequences of such actions.

A. Scope of the USFRS XL Project

The USFRS XL Project is limited in scope to the USFRS facility located in Roseville, Minnesota and to approved generators and transporters located within the State of Minnesota. It is further limited to waste specifically defined as USFRS XL wastes from the approved generators.

This XL Project is limited to USFRS ion exchange resin canisters, the USFRS resin process filters used prior to and after waste water treatment in the resin canisters (''pre- and postfilters'') and the contents of the resin canisters and filter containers after use by an approved generator. The wastes include the resins, the wastes contained on or within the resins, the pre- and post-resin filters and any other wastes contained within the canisters or the filter containers. The wastes include only those wastes which are generated from processes subject to the RCRA F006 hazardous waste listing from approved generators.

EPA and MPCA must approve of each generator or transporter prior to it being added to this XL Project as a participant. If the generator's principal place of business is located within the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott or Washington, Minnesota then the environmental agencies located within these counties (''county environmental agencies'' or ''county agencies'') must also approve of the generator. EPA's review of a proposed participant will focus primarily on its compliance and enforcement history. Before USFRS proposes to EPA to add a company to this project USFRS will conduct a preliminary evaluation of the company to ensure that it qualifies.

USFRS' preliminary evaluation of a proposed generator will ensure that the proposed generator is within the electroplating, metal working and circuit board manufacturing industrial sectors, has a complete USFRS application form, and has a storage area which meets the standards specified in subpart O. Only generators who generate or may generate waste water treatment sludges from electroplating operations may participate in the USFRS XL Project since it is limited in scope to RCRA F006 hazardous waste.

USFRS' preliminary evaluation of a proposed transporter will consist of determining whether the transporter has a current satisfactory safety rating from the United States Department of Transportation (USDOT), an EPA hazardous waste identification number, and a Minnesota Uniform Hazardous Materials Registration (Minnesota

registration). This USFRS XL Project is limited to transporters who have a current satisfactory rating from the USDOT. They do not need an EPA identification number or Minnesota registration to participate.

The federal procedures for approving a company as a participant in the USFRS XL Project as a generator or transporter are detailed in the final rule. In summary, if a company passes USFRS' preliminary evaluation, USFRS will notify EPA in writing of its desire to add the company to the USFRS XL Project. EPA will have twenty one days to veto such company's participation in the USFRS XL Project. If USFRS does not receive a written disapproval from EPA within the twenty one days, the company is deemed to have EPA approval. USFRS must also obtain the approval of the MPCA and appropriate county agency. After USFRS has received the approval of EPA, MPCA and the appropriate county agency it will notify the potential generator or transporter that it has received the required agency approvals. At that time, USFRS will obtain the company's signature to the FPA and a certification that it has received the appropriate training. Upon request, USFRS will forward a copy of the signed documents to EPA, MPCA and the appropriate county agency.

On the date USFRS receives the signed FPA and certification, the potential generator or transporter is considered part of this USFRS XL Project. This date may be referred to as the generator or transporter ''effective date.'' Only generators or transporters who signed the FPA and certification after receiving EPA's approval may participate in the USFRS XL Project. The generator or transporter must handle its USFRS XL waste generated on or after the effective date in accordance with the requirements of part 266, subpart O. The generator or transporter must handle USFRS XL waste generated prior to the effective date according to the RCRA regulations applicable at that time. New subpart O does not apply retroactively to these wastes.

The USFRS Roseville facility will handle the USFRS XL wastes as a hazardous waste and consistent with its hazardous waste permit.[3] USFRS' treatment of the wastes will consist of treatment to regenerate the resins and make them amenable for reuse in another canister. USFRS will handle any residual wastes from the resin regeneration process and the filters from the pre- and post-filtration process according to the RCRA hazardous waste code designation they would have had if they were not subject to the XL001 designation (i.e., F006 and any other appropriate waste codes). USFRS will ensure that this hazardous waste is legitimately recycled through metal recovery.

B. What Problems Has USFRS Identified?

USFRS has stated that the present RCRA regulatory structure may act as a disincentive for certain manufacturers to use the ion exchange resin process. This in turn may act as a disincentive for them to reduce the amount of metals being discharged to a water body; to increase the recycling of metals from electroplating processes and reduce the consumption of potable water.

Electroplaters, metal finishers and other similar industries use large volumes of water to wash and rinse materials during the manufacturing process. In most manufacturing processes today, wash and rinse water is used once, then discarded. This ''single-use'' waste water is usually directed to an on-site waste water treatment plant where it is treated to levels required by the Clean Water Act prior to discharge to a POTW or surface waters. This single-use of water is very wasteful. A great amount of effort and cost is expended to produce potable water for this single use. Additional costs are incurred in treating these waste waters prior to discharge.

To minimize single water use and to encourage recycling of rinse waters, USFRS has developed an ion exchange resin treatment process (''resin process''). The resin process consists of three separate but integrally linked components—pre-filter, resin filter and post-filter components. The manufacturing waste waters are directed to the pre-filter components first. The pre-filter components consist of a polypropylene wound particle cartridge(s) contained in a plastic container. The pre-filters collect a certain size particulate from the waste water. They are essential to the proper operation of the resin filter since they collect particles which may plug or foul the resin filter. The pre-filters collect particles which contain metals such as copper, zinc, chrome and nickel from the manufacturing waste waters. The waste waters are directed from the pre-filters by hose to the resin filters. The resin filter consists of a cylindrical canister which contains the ion exchange resin. The waste waters are directed to the resins which further collect metals onto themselves. After treatment in the resin canisters the waste waters are directed to the post-filters via hose. The post-filters also consist of a polypropylene wound particle cartridge(s) contained within a plastic canister. The post-filters function as a final polishing step and fail-safe mechanism should the ion exchange resin leak from the resin canister. The waste waters entering the post-filter container(s) generally meet final discharge limits under the Clean Water Act. The water that exits the post-filters (''regenerated water'') can then be discharged to the local publicly owned treatment works (POTW) or directed back to the manufacturing process and reused. If the regenerated water is directed back to the manufacturing process this would reduce the amount of potable water that is needed in the manufacturing process.

The use of water reuse systems such as USFRS's ion exchange system by electroplaters, metal finishers and similar industries often results in the resins, filters, canisters and associated containers being considered a listed hazardous waste (F006) once the resins and filters have been spent at the manufacturing plant. However, these resins and the canisters can be regenerated at USFRS' Roseville, Minnesota facility. This regeneration process produces a regenerated resin and residual wastes containing metals, such as copper, nickel and zinc (''sludges''). The regenerated resin may be reused again in other water treatment systems. The residual wastes from USFRS's regeneration process along with the pre- and post-filters may be recycled to recover the metals contained within them. However, since the resins, filters, canisters and associated containers may be a RCRA hazardous waste, the manufacturer incurs additional obligations under RCRA that it would not necessarily incur if it had not implemented the water reuse system. The additional regulatory obligations may act as a disincentive to a company's use of a water reuse system and thus increases the use of potable water.

USFRS suggested that the use of its water reuse system would lower the amount of metals ultimately discharged to a local water body. Collecting and recycling of sludges and filters will result in less wastes being land filled. Furthermore, USFRS suggests that the metals that are recovered may reduce the energy and environmental impacts

[3] The conditions in new subpart O must be incorporated into USFRS' hazardous waste permit by the State of Minnesota. This must be accomplished in time to allow USFRS to have the revised permit before it installs the ion exchange resin process at its first generator approved by the agencies.

from mining and manufacturing of virgin ores.

C. What Solutions Will Be Implemented by the USFRS XL Project?

To encourage water and waste reduction and increased recycling new subpart O will temporarily defer from the RCRA regulatory requirements contained in 40 CFR parts 261–265, 268, 270, 273 and 279 the resins, filters, resin canisters and filter containers used in the USFRS ion exchange resin treatment process. This temporary deferral will be implemented through a new waste code designation which will be used while the waste is at the approved generator and during its transport to USFRS. This deferral is premised on the fulfillment of five general requirements. First, the generator would handle the waste in accordance with specific standards required by the new rule. Second, the waste is transported only to USFRS' Roseville, Minnesota facility and only by approved transporters. Third, the generators and transporters are limited to companies located in Minnesota who pass a preliminary evaluation by USFRS and are approved by EPA, MPCA and the appropriate county agencies. Fourth, USFRS handles the waste according to the waste code designation it would have had but for the temporary deferral contained in the new rule (i.e., F006 and any other appropriate waste code). Finally, USFRS will recycle, through metals recovery, any metals contained in these wastes. Presented in Section IV below is a more detailed discussion of these elements of the new rule and final FPA.

D. How Have Various Stakeholders Been Involved in This Project?

Nine public meetings were held to inform the general public and environmental groups about the project and to invite their comments and participation. EPA solicited comments on the draft FPA and proposed rule on August 17, 2000 and made them both available on its web page and in dockets established in Washington, D.C. and Chicago, Illinois.

USFRS may hold additional public meetings during implementation of the FPA based on public interest or as decided by direct participants. Stakeholder input and community goals have been and will continue to be considered throughout project implementation. USFRS shall report on a quarterly basis efforts to maintain stakeholder involvement and public access to information in accordance with the requirements of the new subpart O.

E. How Will This Project Result in Cost Savings and Paperwork Reduction?

EPA believes that this project has the potential for cost savings by making recycling of water and waste more cost competitive with traditional treatment/disposal options. Costs savings may include those associated with: purchase of additional potable water for single use; capital and operating costs to treat mildly contaminated waste waters so that they meet pretreatment standards prior to discharge; discharge fees associates with wastewater discharge (including permits, monitoring and sewer access charges); transport and disposal of hazardous waste sludges; and taxes paid to local authorities.[4] A cost comparison will be conducted during project implementation to evaluate the cost savings. EPA believes that the paperwork burden for the generator will be reduced as compared to current RCRA requirements. USFRS will be required to retain and submit certain reports which RCRA would normally require of its customers, and report ongoing environmental performance and success in meeting its targets. For further information about the impacts of this rule on paperwork reduction, please see section VI.E.

F. How Will EPA Ensure the Integrity of This XL Project?

EPA will ensure the integrity of this project through the regulations that it is finalizing today, its prior approval of the generators and transporters, its normal enforcement and oversight authority and coordination and cooperation with the State of Minnesota and appropriate county agencies.

The final rules will be the primary vehicle EPA will use to ensure that USFRS and all generators or transporters of USFRS XL waste handle the USFRS XL wastes in a manner which is acceptable to EPA.

G. How Will the Terms of the USFRS XL Project and Final Rule Be Enforced?

All XL projects must include a legally enforceable mechanism to ensure accountability and superior environmental performance. EPA retains its full range of enforcement options under the final rules. Thus, once there is a federally enforceable mechanism in place, if EPA determines that a company is not in compliance with it then EPA and, under certain conditions, private citizens may take enforcement action against that company and may terminate that person's continued participation in the project (section 3005(d), 3006(d) and 3008(a) of RCRA).

In addition to its enforcement options EPA retains its option to terminate a company's continued participation in this XL Project. In the event EPA terminates a person's continued participation in this XL Project, EPA will use the criteria and procedures identified in the final rules, not those contained in Minnesota's rules, statutes, permits or other implementing mechanisms.[5] (See proposed § 266.414–418).

The enforcement response on the part of EPA will depend upon the actual performance of each generator, transporter and USFRS, the mechanism the State uses to implement this XL Project and the severity of any violation.

EPA will enforce the existing Minnesota hazardous waste management regulations which are part of the Minnesota authorized hazardous waste program. The flexibility proposed in the final rule will not be available to USFRS, its generators and transporters until the State of Minnesota adopts equivalent flexibility which is federally applicable and enforceable. The instrument selected for the State's implementation of this XL Project must be one that is clearly federally enforceable.

Once all of the required federal and state legal authorities are in place, EPA will retain a role in evaluating this XL Project, USFRS and each generator and transporter. EPA will evaluate each generator and transporter prior to it being accepted into the program. Additionally, once this XL Project is effective EPA may routinely inspect any of the participants to determine their compliance. If EPA determines that a participant has violated a particular provision of the rules, then that participant may be subject to civil or criminal penalties pursuant to section 3008 of RCRA. Furthermore, EPA may terminate that company's continued participation in this XL Project.

In the event of a termination, the participant must remove the USFRS XL waste, take appropriate steps to decontaminate and return to compliance with RCRA.[6] The new rules specify a

[4] The counties each will decide whether to exempt the XL 001 waste from normal hazardous waste taxation.

[5] EPA expects that whatever mechanism the State elects to use to implement this XL Project it will clearly state that a company's continued participation may be terminated by EPA pursuant to its procedures contained in 40 CFR 266.414 through 266.418. Furthermore, such termination shall require the company to close its USFRS XL waste operations and comply with RCRA in accordance with 40 CFR 266.414 through 266.418.

[6] If a generator or transporter elects to terminate its participation prior to ever generating or transporting USFRS XL waste the rules provide a

time period for accomplishing this. USFRS XL waste transporters will have 30 days after receipt of EPA's notice of termination to complete the termination procedures required by the new rules and return to compliance with RCRA. USFRS XL waste generators will have 60 days and USFRS will have 120 days. During the 30, 60 and 120 transition periods, the provisions of new subpart O would continue to apply in full. At the conclusion of the transition periods, the applicable RCRA regulations would again apply to the participant.

The rationale for the transition period is to allow sufficient time for the participant to reinstate the operational and administrative infrastructure necessary for proper RCRA compliance. EPA selected different time frames for the transporters, generators and USFRS based on the complexity of the activities they may have to engage in to return to compliance with RCRA. The preamble to the August 17, 2000 **Federal Register** explained the rationale for the various time frames.

G. How Long Will This Project Last and When Will It Be Completed?

As with all XL projects testing alternative environmental protection strategies, the term of this XL Project is one of limited duration. Today's rules would set the term of the XL Project at five years after the date that Minnesota modifies USFRS' RCRA permit to incorporate the requirements imposed on USFRS under new subpart O.

Because Project XL is a voluntary and experimental program, today's rule contains provisions that allow the project to conclude prior to the end of the five years in the event that it is desirable or necessary to do so. For example, an early conclusion would be warranted if the project's environmental benefits do not meet the Project XL requirement for the achievement of superior environmental results. In addition, new laws or regulations may become applicable to the wastes during the project term which might render the project impractical, or might contain regulatory requirements that supersede the superior environmental benefits that are being achieved under this XL Project. Similarly, the participants may also ask to discontinue participation in this XL Project prior to the five years if the experimental project does not provide sufficient benefits for them to justify continued participation.

IV. Description of the New Rules

A. XL Waste and Other Terms Defined

A definition of ''USFRS XL waste'' is contained in new 40 CFR 266.401. Based on its review of the public comments EPA has modified the definition contained in the proposed rule in two ways. First, EPA has included within the definition of USFRS XL waste, and thus in this XL Project, the USFRS pre- and post-filters and their containers used as part of the ion exchange resin process. Second, EPA has eliminated the requirement that the treated waste waters must be reused in the manufacturing process. EPA discusses the rationale for these changes and their anticipated impact on the project's environmental performance in section V below.

''USFRS XL waste'' will consist of the USFRS used water treatment resin canisters, the USFRS required pre- and post-resin filters and their containers and the contents of the canisters and filter containers. It is limited to approved USFRS generators located within the State of Minnesota. The USFRS XL wastes are limited to wastes which result from processes which would be subject to the RCRA F006 hazardous waste designation at the point of generation (i.e. waste water treatment sludges from specified electroplating operations). These wastes may also exhibit a characteristic of hazardous waste as a result of the operations of a particular company. Spills of USFRS XL wastes by the generator or transporter are considered USFRS XL waste provided the generator or transporter handles the spill in accordance with the spill requirements of proposed 40 CFR 266.408(e) and 266.411. This definition does not include wastes that were generated prior to the date a generator is added to this USFRS XL Project. The definition states that USFRS XL waste while at an approved generator and during transport will be identified by the waste code XL001. It further states that the XL001 waste designation applies only to USFRS XL wastes generated by approved USFRS XL waste generators.

Section 266.400 contains a definition for an ''approved USFRS XL waste generator.'' It is a company located in Minnesota who: has properly identified its wastes and processes; has passed a preliminary evaluation by USFRS; has not been excluded by EPA, MPCA and appropriate county agencies; has received notice of approval from USFRS; and has signed the FPA, and a certification that it has taken and understood the specific training required by subpart O.

Section 266.400 contains definitions for other terms used in subpart O, such as County Environmental Agencies, USFRS, USFRS XL waste application form, USFRS XL waste approved customer, USFRS waste approved transporter, USFRS XL waste facility, USFRS XL waste final project agreement, USFRS XL waste generator, USFRS XL waste project, USFRS XL waste training module, USFRS XL waste transportation tracking document and USFRS XL waste transporter. Except as noted in section V below, EPA has not changed these definitions from those it proposed on August 17, 2000.

B. Waste Identification and Characterization

Pursuant to § 266.406, prior to being accepted into this XL Project, the customer/potential generator company will properly identify its processes and chemicals contributing to the water proposed for treatment in the USFRS ion exchange resin treatment process. It may only identify those waste streams which meet the F006 listing. The company will complete and submit the USFRS XL waste application form to USFRS. After being accepted into this XL Project, the company shall provide USFRS with prior notification of any changes in its processes.

USFRS will perform a chemical profile analysis, of the company's waste stream(s) and processes contributing to the water treated within the ion exchange resin treatment process. USFRS will conduct this analysis in accordance with the test methods identified in its waste analysis plan contained in its RCRA hazardous waste permit. This waste stream analysis will substitute for an analysis of the resins and filters after use in their canisters and containers. The analysis will also ensure that the waste waters are compatible with the ion exchange resin process and that the wastes are compatible with maintaining the integrity of the canisters and containers. USFRS will conduct the waste stream analysis once for each company prior to accepting it into this XL Project. Once a company is accepted into the USFRS XL Project, USFRS will repeat the analysis whenever a company provides it with notice that it has changed its processes contributing to the USFRS XL waste.

The USFRS XL waste designation will only apply to those water treatment resin canisters, the pre- and post-resin filter containers and their contents for processes identified by the customer,

truncated termination procedure. This procedure does not require removal or decontamination of USFRS XL waste since none have been generated or transported at that point in time. The rules also provide for a shorter time for notice to EPA, MPCA and the appropriate county agencies. (See proposed §§ 266.414 and 266.416).

evaluated by USFRS and approved by EPA, MPCA and appropriate county agencies.

C. Notification and Recording of Participation in the USFRS XL Project

The new rules relieve the approved generators and transporters from the RCRA requirements of submitting an EPA hazardous waste notification form and obtaining an EPA identification number. In lieu of these RCRA requirements USFRS and its generators and transporters will follow the notification requirements and processes contained new §§ 266.402, 403 and 406. The procedures for adding generators and transporters to this XL Project are contained in new §§ 266.402 and 266.403. Section 266.406 requires the generators to use and complete the USFRS XL waste application form. Additionally, it requires USFRS to assign a unique customer and process waste stream number to each approved generator and waste stream. The USFRS XL waste application form will contain information similar to that required on the EPA Hazardous Waste Notification Form, except that it will identify the wastes by the ''XL001'' designation in addition to the EPA waste codes.

Section 266.406 requires USFRS to assign to each approved generator a unique client number. The generator will use this number whenever it generates and transports off-site USFRS XL waste. USFRS will also assign to each approved waste stream from the generator a unique number known as a waste profile number.

Pursuant to new proposed § 266.419(c), USFRS will maintain a list of the approved customers and generators.[7] USFRS will include on that list the customer name, the USFRS client and waste profile numbers, a summary of the results of the USFRS profile analysis and the process waste streams approved for participation in the XL Project. USFRS will have that list available at its Roseville, Minnesota facility and will provide that list to EPA and MPCA on a quarterly basis.[8] If any of the customer information is claimed as confidential business information or trade secrets USFRS will indicate that fact and notify EPA and MPCA. EPA will treat such material in accordance with 40 CFR part 2.

D. Transportation and Tracking of USFRS XL Waste Shipments

The new rules ensure that USFRS XL waste reaches its destination by applying strict transportation routing and tracking requirements on the transportation of USFRS XL waste from the time it leaves the generator to the time it is received by USFRS. Subpart O accomplishes this by directly imposing these requirements on USFRS and its generators and transporters (proposed § 266.410). The requirements are summarized below.

USFRS will control the transportation and routing of the USFRS XL wastes from a generator and its transporters. All USFRS XL waste generators must use a USFRS XL waste approved transporter to transport the USFRS XL waste. The USFRS XL waste must be sent to USFRS' Roseville, Minnesota facility. The generator must contact USFRS when it wants to transport its USFRS XL waste. USFRS' Roseville facility has a dedicated shipping department. That department will arrange with a USFRS XL waste approved transporter to pick-up the generator's USFRS XL waste within the 90 days the generator is allowed to store the waste on site.[9] USFRS' shipping department will complete the USFRS Transportation Tracking Document and provide it to the generator with a copy to USFRS' lab analysis. USFRS will include on the Transportation Tracking Document information required by these new rules. USFRS will provide the generator with the Transportation Tracking Document by the time the transporter arrives at the generator's site to pick up the waste.[10]

USFRS's transporters must pick-up the USFRS XL waste at the generator within the 90 days the generator is allowed to store the waste on-site. The transporters are required to transport the USFRS XL waste to USFRS' Roseville, Minnesota facility within 30 days of picking up the waste at the generator. A USFRS transporter may store or arrange to store a shipment of USFRS XL waste during that 30 day period, provided however, it may only do so for a 10 day or less period without triggering the facility requirements in sections 264, 265, 268 and 270 of RCRA. This 10 day limitation on the storage of USFRS XL waste by the transporter mirrors the limitations on storage by transfer facilities contained in section 263.12.

If the shipment is not received by USFRS within 30 days of the USFRS transporter picking it up at the USFRS generator, USFRS will contact the transporter to determine the disposition of the load. If USFRS does not receive the shipment within 5 days of its scheduled arrival date, it will notify EPA, MPCA and appropriate county agencies. USFRS will send a copy of the Transportation Tracking Document to the USFRS generator within 10 days of USFRS' receipt of the XL001 waste from the transporter.[11]

USFRS will use its own trucks or those of approved transporters to transport USFRS XL waste to USFRS's Roseville facility. USFRS may use any transporter provided it conducts a preliminary evaluation of the transporter; the transporter has a current satisfactory safety rating from USDOT; the transporter has been approved by EPA, MPCA, and, as appropriate the County Agencies; it has completed the USFRS XL waste training; and it has signed the FPA. New § 266.403 requires USFRS to include in its preliminary evaluation information on the current USDOT safety rating for the transporter, its EPA identification number and the status of its Minnesota registration to transport hazardous waste. USFRS will assign to each approved transporter a unique USFRS client identification number. This number will be used on the Transportation Tracking Document.

In lieu of the manifest, the new rules require USFRS, its transporters and generators to use the USFRS Transportation Tracking Document when transporting the USFRS XL waste from the generator to USFRS's Roseville facility. New rule § 266.410 and the definition of the USFRS XL Waste Transportation Tracking Document contained in proposed § 266.401 requires that USFRS obtain EPA approval of the Transportation Tracking Document prior to using the Transportation Tracking Document and whenever it proposes to revise it. With this rule EPA approves of the Transportation Tracking Document provided by USFRS and included in the docket for this rule. Pursuant to

[7] A distinction is made in the rules between an approved customer and an approved generator. They are essentially the same with the only difference being that a customer is not automatically a generator. A customer becomes a generator when if first generates or causes to be regulated USFRS XL waste.

[8] USFRS will also have a list of the approved transporters, see proposed § 266.419(c).

[9] EPA has changed the time period based on its review of the public comments it received. See section V below for a summary of the changes and EPA's rationale for such changes.

[10] Section 266.410(a) requires USFRS to provide the Transportation Tracking Document to the generator at the time the transporter arrives at the generator. This is a slight revision of proposed 266.410(a) which required USFRS to provide the provide the Transportation Tracking Document prior to the transporter arriving at the generator. See Section V below for a discussion of the reason for this change.

[11] Based on a review of the public comments EPA increased the time period from 5 days to 10 days. See section V below for a summary of EPA's support for such a change.

proposed §§ 266.419(d), 420 and 421 USFRS, the transporter and the generator(s) will retain a copy of the Transportation Tracking Document for three years for each shipment of XL wastes that is shipped off-site to the Roseville, Minnesota facility.

Section 266.410(a), requires USFRS, not the generator, to complete and submit any exception reports. USFRS will use a shorter time period—five days—to gauge whether it is necessary to take further steps to locate a shipment. If USFRS is unable to locate the shipment within five days it will then notify EPA, MPCA and appropriate county agencies of that fact.

E. Pre-Transport and Transportation Requirements

The new rules specify that only USFRS or an approved USFRS transporter will transport the USFRS XL wastes from the generator to the USFRS Roseville, Minnesota facility.[12] USFRS has an EPA identification number and a hazardous waste permit. USFRS approved transporters will have a current satisfactory safety rating from USDOT and a unique USFRS customer identification. All transporters will use the USFRS Transportation Tracking Document when transporting USFRS XL waste. Pursuant to §§ 266.408(c) and 409 the transporters and generators will ensure the USFRS XL wastes have affixed to the ion exchange resin canisters and the filter containers the following warning statement which will be provided by USFRS:

XL001 wastes—USFRS ion exchange resin process wastes—Federal Law Prohibits Improper Disposal. This is USFRS XL waste from (insert XL waste generator's name). Handle as a hazardous waste and ship only to USFRS located at 2430 Rose Place, Roseville, MN. This waste was placed in this container on (date) and placed in storage at (insert USFRS XL waste generator's name) on (insert date). *If found, contact USFRS and the nearest police, public safety authority, EPA or MPCA. The USFRS telephone number is (insert phone number). USFRS Transportation Tracking Document Number_____'' If spilled immediately contain the spill and prevent it from going into any water body; collect the spilled material and place in an appropriately sized polycontainer; contact USFRS and the nearest police, public safety authority, EPA or MPCA.*[13]

USFRS will supply these labels to the generator at the same time that it provides the generator with the USFRS Transportation Tracking Document. The transporters will ensure that these labels are affixed to the containers during transport and that the XL wastes are within an approved container.

F. Accumulation and Storage Prior to Shipment

The accumulation and storage requirements are contained in § 266.408. The new rule requires the generator to store its USFRS XL waste on an impervious surface. Pursuant to § 266.402(c), prior to accepting a customer into this XL Project, USFRS will obtain from its customers the waste application form. This form will provide information on the location and condition of the proposed storage area. This information will be supplied on a site engineering form which USFRS developed and submitted as part of the waste application form. The generator will indicate on the site engineering form the location and construction of the storage area for the USFRS XL waste. Prior to accepting a generator into this XL Project, USFRS will review the site engineering form and inspect the company's storage area to determine if it is impervious. USFRS will only propose to EPA for this XL Project persons who, among other things, have an impervious storage area. Upon request, USFRS will provide a copy of the customer's site engineering form and the results of USFRS' evaluation of the customer to EPA, MPCA and appropriate county agencies.

The rule limits the generator to 90 days for the on-site storage of its USFRS XL waste. The generator must store the USFRS XL wastes in the water treatment resin canisters and filter containers and must store them separately from its other wastes or materials, including explosive or ignitable wastes or materials. The generator will ensure that the canisters and containers are closed and disconnected from the manufacturing process(es). It will place on the resin canisters and filter containers a label which indicates the company's name, location, contents of the resin canister and filter container and the date they were placed in storage. The generator will ensure that there is adequate aisle space to determine the condition of the canisters and containers and to respond to any leaks from them during their storage. The generator will inspect the condition of the canisters or containers weekly while they are stored on-site. The generator will maintain a log of these inspections. The log will indicate the date the canister and containers were placed in storage, the condition of the canisters and containers, the date of the inspection, the person conducting the inspection and the condition of the canisters and containers and the storage area at the time of the inspection.

Pursuant to § 266.413, the generator will retain the ability to legally treat or dispose of its wastes contributing to its USFRS XL waste stream in the event that it is no longer a participant in this XL Project. In most cases this will mean that the generator would have to make arrangements with its local POTW whereby the POTW would agree to take the generators' wastewater on 60 days notice. The POTW serving the Counties of Anoka, Hennepin, Ramsey, Washington, Dakota, Carver and Scott, known as the Metropolitan Council of Environmental Services (MCES) has advised EPA that it will be able to accept the wastewater of those generators who participate in this XL Project in its district on 60 days notice.

Generators will comply with tailored closure requirements contained in § 266.412. If and when a generator's participation is terminated in this XL Project, USFRS will pick up all of the generator's canisters and containers. Generally, § 266.415 provides USFRS and the generator sixty days to complete the closure activities required by proposed § 266.412. USFRS will collect the generator's USFRS XL waste within thirty days of notice of the company's termination in the program. The generator will remove from the storage area any USFRS XL wastes and clean any related contamination. The generator will retain records of all activities it has undertaken to decontaminate its storage area and equipment.

Within the same sixty days, the generator will provide USFRS with access to visit the generator. The purpose of this access is to allow USFRS to determine if all of the USFRS XL waste has been removed. USFRS has developed a systems discontinuation form that it will use to document its visual observations during this visit. Pursuant to § 266.412(b) USFRS will provide a summary of its observations at the generator of the condition of the storage area and the removal of all USFRS XL Waste. USFRS may use its systems discontinuation form. USFRS will provide the summary to the customer to EPA, MPCA and appropriate county agencies. Pursuant to §§ 266.419(d) and 266.420 USFRS and the USFRS XL waste generator will

[12] The rule names USFRS and Pioneer Tank Lines as transporters. Both entities will be approved for participation when they sign the FPA.

[13] Based on the public comments EPA made two modifications to the warning statement. First, EPA changed the statement to indicate that it will be placed on the filter containers, not just the resin canisters. Second, EPA indicated that spills are to be placed in appropriately sized polypropylene containers, not 55 gallon steel drums. See section V below for a summary of the public comments and the reasons for these changes.

maintain records of their compliance with the requirements of § 266.412, including a copy of the systems discontinuation form or its EPA approved equivalent summary.

Abbreviated closure requirements are specified in § 266.414 for those companies who have not generated USFRS XL wastes at the time their participation is terminated. All that is required of these companies is that notice of their termination is provided and that they implement the alternative treatment or disposal required by § 266.413. This truncated closure is appropriate for these companies (i.e., USFRS XL waste approved customers) because at the time of their termination they will not have generated any USFRS XL waste. Consequently, the requirements related to decontamination and off-site shipment contained in § 266.412 are not appropriate.

Section 266.408(e) specifies the generator's responsibilities for spilled or leaked USFRS XL waste on-site. If there is a leak or spill of USFRS XL waste in the generator's storage area, then the generator will immediately contain and collect the wastes. It is anticipated that the spilled or leaked materials may consist of water and/or resins. The generator will place spilled or leaked resins in a polycontainer of sufficient size to contain the spilled or leaked resins.[14] When allowed by the local POTW, the generator will direct water spilled from the canisters or filters to its drainage system for permitted discharge to the local POTW, and notify the POTW. Otherwise, the generator will place the spilled or leaked water and resin from the canister(s) in a polycontainer of sufficient size to contain the spilled or leaked water and resin. The generator will store and label the spilled or leaked USFRS XL wastes in accordance with the requirements for USFRS XL wastes. The generator will notify USFRS and MPCA of the spill or leak and arrange with USFRS for the transport of any such spilled or leaked USFRS XL wastes with the next scheduled shipment of USFRS XL wastes.

This XL Project and the new rule do not impose on the generator a requirement for an internal communication device. It eliminates the need for fire extinguishers, water or foam. It also eliminates the need for a written contingency plan and an emergency coordinator at the generator. Instead, § 266.408(i) requires the generator to have an external communication device, such as a telephone. It also requires in §§ 266.408(a) and (b) that the generator store the wastes in a manner which should all but eliminate the potential for a release to the environment or an emergency. In particular, it requires the generator to segregate the USFRS XL wastes from other wastes and to store it on an impervious surface. Section 266.408(d) and (e) require the generator to inspect the storage area on a weekly basis and to immediately respond to spills or leaks of the USFRS XL waste.

Prior to generating any USFRS XL waste, pursuant to § 266.408(h), the generator must designate a contact person responsible for handling the USFRS XL wastes and responding to any releases of the wastes. It also requires USFRS to provide that person with adequate training on how to handle the USFRS XL waste and any releases. USFRS is required to provide each company (generators and transporters) with adequate training through the use of a training module (''USFRS training module''). USFRS may use any recorded communication media that it believes is appropriate for the training module (e.g., printed brochures, videos, etc.) Pursuant to proposed § 266.404 USFRS will submit this training module to EPA, MPCA and the appropriate county agency early enough such that it may obtain the necessary approvals prior to accepting the first shipment of USFRS XL waste. Further, pursuant to the new rule, the USFRS training module will, at a minimum, identify the hazards presented by the USFRS XL waste, the steps needed to install and replace the ion exchange resin canisters and filter containers, the requirements imposed by these rules, the procedures to follow in the event of a release of the USFRS XL wastes and the proper procedures to decontaminate equipment, structures and material in the event that the generator no longer participates in the XL Project. Prior to approving a person as a participant into the USFRS XL Project, USFRS will obtain a signed certification from that person. The certification will state that the person has reviewed, viewed or read the training materials and agrees to follow it. As part of this certification the potential generator will identify the individual responsible for its compliance with the conditions of these rules, the individual's job title and a description of his or her duties.

Pursuant to new § 266.405, USFRS will provide every potential generator with a material safety data sheet (''USFRS XL waste MSDS'') for the USFRS XL waste. USFRS will provide this at the time the company applies to USFRS for participation in this XL Project. The USFRS XL waste MSDS will provide sufficient information for a person to respond safely to a spill or release of USFRS XL waste.[15] Pursuant to § 266.408(h) the generator will maintain and exhibit in a prominent location a copy of the USFRS XL waste MSDS on its property and will provide a copy of it to local police and fire departments and to the local hospital. USFRS will ensure that the USFRS XL waste MSDS prominently instructs individuals in the proper emergency response procedures for handling spills or leaks of the USFRS XL wastes at the generator or while in transit to USFRS. The USFRS XL waste MSDS will also accompany each shipment of USFRS XL wastes.

If an imminent or actual emergency occurs which threatens the release of USFRS XL waste at the generator site, then the generator will notify the EPA, MPCA, USFRS and the appropriate local emergency responders and county agencies. The generator will take actions to ensure the releases do not occur, recur or spread; contact USFRS to arrange for the transport and disposal of the USFRS XL wastes; and make a written recording of the event and its actions in response to such event.

G. Reporting and Recordkeeping Requirements

Sections 266.419, 420 and 421 present the recordkeeping and reporting requirements for USFRS, the generators and transporters. Pursuant to these rules, the generator will not be required to retain copies of the waste analysis or annual reports. Instead the burden will shift to USFRS to retain equivalent information to that contained within these reports. In particular, USFRS will retain for three years a copy of all approval letters to its approved customers and generators of USFRS XL wastes; any correspondence with its approved customers or generators relevant to their participation in this XL Project; a copy of the approved customer's and generator's XL Waste application form, site engineering form, summary of its generator closure review

[14] EPA changed this requirement from a 55 gallon drum to the appropriately sized polypropylene container based on its review of the public comments. See section V below for a summary of the public comments and the reason for this change.

[15] Based on a review of the public comments EPA modified this requirement to clarify that the USFRS XL waste MSDS must be sufficient to identify the hazards associated with and steps needed to respond to a spill or release of USFRS wastes. EPA also eliminated the requirement that the USFRS XL waste MSDS meet the OSHA requirements for an MSDS and allowed for USFRS to use either an MSDS or an equivalent document. See section V below for summary of the public comments and the reasons for this modification.

pursuant to § 266.412; waste analysis; its analyses of the approved customer's or generator's storage area; and the Transportation Tracking Document for each shipment of USFRS XL waste.

Each generator will be required to retain for three years records of any spill or emergency notifications and other duties imposed pursuant to § 266.408(e); the signed FPA and its certification; its weekly inspection log required by § 266.408(d); its compliance with the training requirements of § 266.408(h); a copy of the signed Transportation Tracking Document for USFRS XL wastes it generated; and its records of compliance with the decontamination requirements of § 266.412.

Each transporter will retain for three years a copy of the USFRS XL Waste FPA and its certification; a copy of the signed Transportation Tracking Document for USFRS XL waste it transported; and its record of any notification of spills or leaks of USFRS XL wastes required by § 266.411.

In addition to the records listed above, USFRS will develop and submit certain additional reports, lists and documents. Many of these reports and documents are in lieu of requiring the same or similar information from its generators (e.g., annual reports or contingency plan). The reporting requirements are presented in § 266.419 according to their frequency: annual reports (§ 266.419(a)), semi-annual reports (§ 266.419(b)) and quarterly reports (§ 266.419(c)). A summary of each report is presented below.

Quarterly reports are presented in § 266.419(c) and consist of status reports on generator and transporter participation in the XL Project. Separate lists, with similar information, will be reported for each. The generator list is summarized in this paragraph. USFRS will identify on the XL participant list information on its preliminary evaluation of the transporters and generators, the dates of EPA, MPCA and appropriate county approvals, the effective date of a company being added to the USFRS XL Project and any termination date. For the generators, USFRS will also include a summary of USFRS's profile analysis, the generator's process waste streams approved for participation in the XL Project and the condition of the customer's storage area at the time of its application to USFRS. For generators who discontinue participation in this XL Project, USFRS will include on the XL generator list the date of the notice of termination of its participation, the date USFRS removed the last ion exchange canister and filter container, and the date of the USFRS review of the generator's decontamination efforts. USFRS will update the XL participant list as persons are added to or eliminated from this XL Project. USFRS will have the XL generator list available for review by EPA or MPCA at its Roseville, Minnesota facility. USFRS will send a copy of the XL generator list to EPA, MPCA and appropriate county agencies on a quarterly basis.

The annual report requirements are presented in § 266.419(a) and are intended to provide a substitute for the hazardous waste biennial report. USFRS will provide an annual report on all USFRS XL wastes. USFRS will include in the annual report, at a minimum, each USFRS XL waste generator, the quantity of USFRS XL waste that USFRS received from each generator during the calendar year and a certification by USFRS that those wastes were treated at USFRS in accordance with the requirements imposed by new part 266, subpart O. USFRS will include information on the amount of metals it reclaimed and recycled from the resins.

USFRS will develop and track certain information that will be used to determine the environmental benefits derived from the USFRS XL Project. From the generators USFRS will report on an annual basis the following information: the amount of water recycled by the generators, the pretreatment chemicals and energy the generators did not use as a result of participating in this USFRS XL Project, the amount of water discharged to the local POTW before and during this project, the amount of sludge recovered by USFRS before and during this project, the amount of sludge recovered instead of being disposed by a generator (if the generator disposed of the sludge prior to participating in this project), the quantity of material (ion exchange resins, filters, other wastewater treatment sludge, residues) collected from each facility (monthly), the frequency of canister and container replacement in terms of process volume, the constituents in the material (ion exchange resins, filters, wastewater treatment sludge, residues) collected at each facility (e.g., recoverable metals, contaminants/non-recoverable materials), and constituents in the material (ion exchange resins, filters, wastewater treatment sludge, residues) disposed by each facility (e.g., contaminants/non-recoverable material).

USFRS will report on an annual basis the following information from its facility: quantity of material (ion exchange resins, filter media, wastewater treatment sludge, residues) to be processed, quantity of metals recovered, the constituents of the recovered material (ion exchange resins, filter media, wastewater treatment sludge, residues), quantity and constituents of the non-recoverable material (ion exchange resins, filter media, wastewater treatment sludge, residues) and how it was disposed.

USFRS shall report on an annual basis the following information from the metal reclamation facility it uses to recycle sludges: the quantity of each metal recovered.

Pursuant to § 266.419(b), USFRS will collect and report on a semi-annual basis financial information related to the costs and savings realized as a result of implementation of this project and sufficient information for EPA to determine the amount of superior environmental benefit resulting from this project. Pursuant to § 266.419(b)(1), the report will contain information which includes, but is not limited to: 1. The volume of waste collected and recycled, 2. The amount of metals recycled, 3. The volume of recycled material sold to others, 4. Data regarding the management of the ion exchange canisters and filter containers, 5. The constituents of the sludge and 6. Information regarding how the sludge and residues are managed.

Additionally, § 266.419(b)(2) requires USFRS to report certain financial information related to implementation of this XL Project. It specifies that USFRS will collect baseline and XL costs. The baseline costs shall be calculated using two scenarios: (1) Typical charges (prior to the XL Project) for pretreating and disposing effluent wastewater under the applicable Clean Water Act requirements and the costs for manifesting, transporting and disposing of F006 sludges; and (2) typical charges that would be incurred if wastes were recycled in compliance with RCRA and requirements for manifesting and transporting those hazardous wastes (including tax obligations under both scenarios). The XL costs will include the current costs to the generator for completing transportation tracking documents, the current transportation costs for XL wastes, the generator's cost to install the ion exchange resin process, and the cost to USFRS of metals reclamation off-site (including costs associated with transportation and disposal). USFRS will compare the baseline costs to the XL costs and provide an analysis of whether the project is resulting in cost savings for the generators and which aspects of the XL Project produce these savings.

H. Additional Requirements Imposed on USFRS

USFRS has a RCRA permit which allows it to receive the USFRS XL wastes. Pursuant to § 266.407 once USFRS receives the USFRS XL waste at its Roseville, Minnesota facility, the waste will lose its USFRS XL waste designation (XL001) and must be handled as a fully regulated hazardous waste (i.e, as F006 and any other applicable hazardous waste code designation). USFRS will determine the appropriate designation of the waste based on its waste profile analysis and knowledge of the waste stream. USFRS will comply with all terms and conditions of its RCRA permit for handling these hazardous wastes. USFRS will also be responsible for the conditions and terms identified in items A–F above as applicable to USFRS—e.g., waste profiling, use of the Transportation Tracking Document, generator annual report, training module, MSDS, discontinuation review of the customer, and transportation of waste to the Roseville, Minnesota facility. USFRS will arrange for the recycling through metals recovery of the metals which are contained in the generator's USFRS XL wastes. Pursuant to § 266.407(b) USFRS may not accept any customers into this Project unless and until it has arranged for recycling of the metals contained in the XL001 wastes it receives. This rule further requires USFRS to recycle the metals contained in the XL001 waste it receives throughout the duration of the XL Project.

To ensure proper coordination of responses to spills, leaks or emergencies of USFRS XL waste at the generator or while in transit, § 266.407(c) requires USFRS to have a spill response coordinator. This person will receive all calls from generators and transporters regarding spills, leaks or emergencies related to the USFRS XL wastes. This person shall also be responsible for coordinating the proper response to such spills, leaks or emergencies.

V. Response to Significant Public Comments and Changes From the Proposed Rule

During the comment period provided for the proposed rule EPA received comments from USFRS, the State of Minnesota and a citizen representing an unidentified third party. A summary of the comments, EPA's responses and any changes from the proposed rule is contained within this section.

Comment. USFRS requested EPA to include ''pre'' and ''post'' filters as part of the XL project. USFRS pointed out that the pre and post filters are an integral part of the ion exchange filter process which is the subject of the USFRS XL project. USFRS will handle these filters in the same manner that it does the ion exchange resin canisters. Namely, it will collect them from the generators and send them to a third party for recovery of the metals along with the sludges in the resin canisters. If the pre and post filters, however, are not included as part of the USFRS XL project they would be considered F006 hazardous waste. A project participant thus would be subject to the USFRS XL project requirement for the ion exchange resin canisters and the RCRA hazardous waste requirements for the pre and post filters. This dual system would discourage generators from participating and thus would reduce the environmental benefits anticipated from this project.

Response. EPA agrees that the pre and post filters should be included as part of this XL project and subject to the same management standards as the ion exchange resin canisters. Consequently, EPA will modify the definition of USFRS XL waste contained in § 266.401.

According to USFRS the ion exchange treatment system consists of three components: (1) filtration of the waste water prior to ion exchange resin treatment (''pre-filter'' phase); (2) the ion exchange resin treatment; and (3) filtration of the waste water after it exits the ion exchange resin treatment (''post-filter'' phase). The pre and post filters consist of polypropylene wound particle cartridges contained in plastic canisters. The canisters are connected directly by hose to the ion exchange resin canisters. The pre-filters collect a certain size particulate in the waste water prior to it being introduced to the ion exchange resin canister for treatment. The pre-filters are essential to ensuring that the ion exchange resin canister are not plugged or fouled. According to USFRS, without the pre-filter the ion exchange resin canisters will not work as effectively. The post-filters receive the waste waters after they have been treated by the ion exchange resin canisters and prior to discharge or re-use of the treated waste water. According to USFRS, the post-filters will not usually receive as much or as large a particulate size as the pre-filters. They are used for final polishing and as a fail-safe mechanism should there be a leak of the treatment resins from the ion exchange resin canisters. The pre-filters will usually collect metals such as copper, nickel, zinc and chrome. The post-filters may collect some of these same metals but after the waste water has been treated to levels which would meet the water treatment discharge levels for these contaminants. Both filters would be considered F006 hazardous waste by operation of the RCRA derived from rule, regardless of the concentration of the metals, since the waste waters are electroplating waste waters.

Neither the proposed rule nor the preamble to it mentions the pre and post filters. EPA was not aware of their existence and function in the ion exchange treatment system until USFRS raised the issue in its comments. Including these filters within the scope of this project is consistent with the goals of the USFRS XL Project. The preamble to the proposed rule stated that the primary purpose of the USFRS XL Project was to encourage the use of the ion exchange resin treatment system. USFRS suggested that if more companies used this system then there would be an increase in the recycling of the sludges which resulted from the process; a reduction in the use of potable water; and a reduction in the energy associated with the use of potable water in the production process. USFRS stated that generators were reluctant to use the ion exchange resin process because of the stigma and costs associated with the resins being identified as a RCRA hazardous waste. The resins would be considered an F006 hazardous waste by virtue of the electroplating process waste waters which came in contact with them. To reduce the stigma and the costs EPA proposed to identify the ion exchange resin canisters with a unique hazardous waste code (XL001) and to subject them to special management standards contained in new subpart O to part 266.

EPA agrees that if the pre and post filters were not included as part of this XL Project then they would be properly characterized as F006 hazardous waste by virtue of the ''derived from rule.'' The major contaminants on the filters and resin canisters are essentially the same—metals from electroplating waste waters. Regardless of whether they are identified as F006 or XL001 wastes the ion exchange resin canisters and pre and post filters would be subject to the same final disposition—metals recovery—under the USFRS XL Project. However, without making the change requested this would not occur. Additionally, there would be two separate management systems with some incompatibility between them. For example, if the pre and post filters are treated as F006 waste the generator will have to use the uniform hazardous waste manifest; can use any transporter; can arrange for the disposal of the filters

at any hazardous waste facility and depending on the volume of wastes it generates can store the filters up to 270 days. The same generator, however, under new subpart O would not be required to use the manifest for the ion exchange resin canisters but would have to use an approved transporter; would have to send the resin canisters to USFRS where USFRS would arrange for metals recovery; and would be limited to a 90 day storage time limit, regardless of the volume of wastes generated by the generator. Such a dual management system can work. However, if USFRS is correct (i.e., that it will act as a disincentive to certain generators) it may be counterproductive to the purpose and goal of this XL project. Conversely, it may be better to subject the filters to the special management standards of new subpart O because it requires metals recovery and for some generators, may place a shorter time period for the on-site storage of the filters. To the extent that it is administratively easier for a generator to have the same management system and requirements for essentially the same wastes it may result in more participants in this XL project. With more participants EPA would expect greater metal recovery amounts and greater reductions in the use of potable water and energy. For all of these reasons EPA believes that it is appropriate and may enhance the success of the USFRS XL project to include the pre and post filters in this XL Project. EPA believes it can do this by revising the definition of USFRS XL001 waste to include the pre-and post-filters and their containers. EPA will revise this definition accordingly and will make conforming changes in other parts of the rules where necessary. For example the MSDS required by § 266.405, the spill response requirements of §§ 266.408 and 411, the closure requirements of § 266.412 and the recycling requirements of § 266.407 will be revised to reflect this change.

Comment. USFRS requested EPA to clarify the definition of USFRS XL waste. USFRS questioned whether the requirement in the definition of ''USFRS XL waste'' that limited participation to generators who would reuse ''substantially all of the treated waste waters'' would include processes where up to 50% of the process waters require use of new water in order for the customer to operate its processes effectively. USFRS pointed out that in any water reuse system there is a percent of water that is discharged rather than being returned to the original process (referred to as ''bleed off''). Related to this issue USFRS suggested that the USFRS XL project be expanded to generators who use the ion exchange resin system regardless of whether they discharged the treated waste waters or reused them in their production process. USFRS felt that as long as the generators were required to send their resins to USFRS for metals recovery—a primary benefit of this project—there would be recovery of metals and a reduction in the disposal of these metals.

Response. USFRS projected that this project would benefit the environment by reducing the use of potable water in the manufacturing process and increasing the recycling of metals contained in the manufacturing waste waters. In the preamble to the proposed rule, EPA solicited comment on two related topics. First, EPA asked for data or comments on what would be an acceptable percent of ''bleed off.'' USFRS' proposal at that time was limited to those generators who reused their treated waste waters. EPA recognized that some bleed off would occur. However, without data it could not establish a numeric bench mark for water reuse. At that time EPA believed that a numeric benchmark would be useful to ensure that one of the goals of the project was obtained—i.e., reduction in the use of potable water. Second, EPA asked for comments on whether the reduction in the use of potable water was sufficient environmental benefit by itself to warrant proceeding with the USFRS XL project. EPA explained that although it proposed to require the recycling and recovery of the metals in the sludges [16] it was not confident that there were facilities available to complete this task. EPA was concerned that if USFRS was not able to find a recycler of this waste the project would not proceed. Consequently, there would not be any environmental benefit from the Project.

The USFRS XL project is a RCRA regulatory reform initiative. One of the major environmental benefit expected from the USFRS XL project is a reduction in the disposal of the electroplating waste water treatment sludges and an increase in the recovery of metals from the ion exchange resin and filters. An increase the recycling and recovery of metals from the resins and filters would increase the waste disposal environmental benefits derived from this project. During the comment period EPA did not receive any comment suggesting that it should eliminate the recycling requirement. On the contrary, the private citizen strongly encouraged EPA to retain this requirement. Consequently, if USFRS is correct, allowing generators who discharge their treated waters to participate in this project would satisfy this commenter and might enhance this project's ability to recover metals and reduce their disposal. One method of accomplishing this would be to revise the definition of USFRS XL waste to eliminate from the proposed rule the treated water reuse requirement—specifically, eliminate the phrase ''ion exchange resin canisters which result in reuse of substantially all of the treated waste waters.'' By doing this EPA, would also eliminate the need to identify a benchmark amount for bleed off and the requirement for any water re-use.

EPA recognizes that eliminating the water re-use requirement may have an impact on the amount of potable water used in the manufacturing process. This in turn may be less of an environmental benefit than EPA originally anticipated in the August 17, 2000 **Federal Register**. However, it is unclear, at this point, that such a negative impact will occur. It is possible that other factors, such as reduced local taxes for reduced water use or discharge, may work in concert with the rule and result in a net reduction in the use of potable water. To obtain an accurate assessment of the impact of this project on water use and re-use EPA will retain in the final rule the reporting requirements related to water reuse contained in the proposed rule. U.S. EPA believes that such information will be useful and valuable for it to more completely assess the overall environmental impact of this USFRS XL project.

Comment. USFRS wanted EPA to clarify that although its training manual will instruct participants on how to handle spills of USFRS XL waste it will not relieve them of the responsibility, if any, to have their own spill response plans and satisfy all federal, state and local requirements regarding training and how to handle spills.

Response. EPA agrees with USFRS. The applicability section of subpart O, § 266.400 clearly states that a participant in this XL project is relieved from compliance with specific RCRA requirements. All other federal, state and local requirements are applicable to the participants, including spill response and training requirements.

Comment. USFRS questioned the manner in which it will calculate the quantity of metals it recovers from its generators as required in new

[16] Section 266.407 conditions this project on USFRS finding a metals recovery facility and using such facility throughout this XL Project for all USFRS XL wastes.

§§ 266.419(a)(2) and (3). USFRS stated that it will calculate the metals collected/recovered for each generator based on the initial chemical profile analysis it performed on the generator's waste and the volume of resin received for regeneration during the relevant reporting period.

Response. EPA agrees with the method USFRS proposes and does not believe that a change in the rule is needed. The rule presently states that USFRS will report the quantity of metals it recovers at its facility. It does not specify a method for calculating that quantity. EPA recognizes that the method proposed by USFRS will provide it with an estimate of the actual amount of metals recovered not the actual amount recovered that it recovers. EPA believes that such an estimate is sufficient given the other data USFRS will report—amount of ion exchange resins, other wastewater treatment sludges and residues it recovers from each of its generators; the amount of water recycled by the generators and associated treatment costs saved by the generators; the amount of metals it recovers at its facility and the amount of metals actually recovered at off-site metals recovery facilities (see § 266.419(a)(4)).[17]

Comment. USFRS suggested that the rules be revised to allow for continued participation by a participant after it has changed ownership. USFRS stated that it was inappropriate to automatically terminate a participant given the efforts it has expended to enroll transporters and generators and the time it has taken to develop this Project. USFRS suggested that instead of an automatic termination there should be a review of the participant when there is a change in ownership.

Response. EPA agrees that new owners of generators or transporters may participate in this XL Project. EPA, however, does not believe it is appropriate or necessary to allow for a new owner of a generator or transporter to automatically continue participating in this Project pending a review and approval by EPA. EPA does believe that the new rules should be modified to allow for the substitution of a new owner of USFRS and to allow EPA to approve of a modified closure when there is new owner generator.

The August 17, 2000 **Federal Register** proposed that a company's continued participation in this XL Project would terminate when it changed owners. It did not require prior notice of the change in ownership.[18] The rules provided the prior owners with time to close and return to compliance with RCRA (see §§ 266.414–418) [19]. The time periods varied depending on whether the company was a generator, transporter or USFRS. If a generator changed owners the prior owner would have to discontinue generation of USFRS XL waste and complete the closure requirements contained in § 266.412. The prior owner would have 60 days from date of the change in ownership to disconnect its processes from the water treatment resin process, implement alternative treatment and disposal, remove all USFRS XL waste from its property and decontaminate the any contaminated areas.

The August 17, 2000, **Federal Register** proposed that generators and transporters may be added to this XL project at any time. Consequently, a new owner could be added before or after the change in ownership provided it met the criteria for such approval and the appropriate processes were completed. (See §§ 266.402 and 266.403). One of the criteria is prior approval of EPA. EPA's prior approval of XL participants is important to the success of EPA's XL projects and this XL Project in particular. A company must be knowledgeable of and committed to the XL project and the regulations promulgated thereunder. Additionally, it must have an exemplary environmental compliance history.

EPA believes that USFRS suggestion of allowing a new owner to continue without prior EPA approval may allow for a company which does not meet these criteria and does not qualify to participate. When a company changes ownership it is unknown whether the new owners meet these criteria. Additionally, a number of practical problems are presented. The new owners may decide not to participate in the XL project; they may decide to change personnel, operations or generate waste streams different from their predecessor; or they may have to clean-up wastes that the prior owner left. EPA believes that these issues should be resolved before a new owner is added to this XL project and generates USFRS XL waste. In instances where these issues are quickly resolved—e.g., everything stays the same but for the name of the owner—USFRS should be able to expedite the addition of the new owner to this XL project. Since the rules allow for the addition of a new generator or transporter at any time, a new owner could apply to participate prior to the change in ownership. This would minimize the disruption in any continuing operations. The advantage of terminating the prior owner's participation is that it clearly delineates the responsibility for any previously generated USFRS XL waste. The prior owner is responsible for closure.

EPA believes, however, that the termination procedures should be modified in one instance.[20] According to § 266.415(d) once there has been a change in ownership of a generator the prior generator has 60 days to complete the closure requirements of § 266.412. EPA is concerned that the rule as proposed would not allow a new owner to assume the prior generator's closure responsibilities or continue the pre-existing ion exchange resin process. This may be appropriate in certain instances—e.g., where the new owner is not approved or does not want to assume those responsibilities. However, there are other instances where it may be environmentally better to allow the new owner to continue the previous process without disruption or to assume the clean up responsibilities of the prior owner. To strike the proper balance between these two interests and to provide some flexibility EPA will change section 266.415(d) to require the prior owner to complete closure within 60 days of the change in ownership unless, within that time period, EPA has approved of the new owner and EPA has approved of any modifications the new owner proposes to the prior owner's closure responsibilities. If these approvals are not received within this

[17] EPA, expects that the facility USFRS uses to recycle its sludges will be able to provide actual amounts of metals recovered. Consequently, EPA has not changed section 266.419(a)(4).

[18] EPA established the post-notice and termination process in the proposed rules in part to avoid a concern frequently raised on an alternative—prior notice of ownership change and prior EPA approval. Frequently, for business purposes, companies want to keep these changes private until after they have occurred. Requiring prior notice appeared to be impractical.

[19] If a generator or transporter elects to terminate its participation prior to ever generating or transporting USFRS XL waste the rules provide a truncated termination procedure. This procedure does not require removal or decontamination of USFRS XL waste since none have been generated or transported. (See §§ 266.414 and 266.416).

[20] EPA does not believe it is necessary or appropriate to modify the procedures in section 266.414(b), 266.416(b) or 266.417(d), termination of an approved customer, approved transporter and transporter as a result of a change in ownership. For an approved customer and approved transporter there are no closure requirements specified since by definition they will never had handled USFRS XL waste. For the transporter the ''closure'' would consist merely of transporting the USFRS XL wastes it has to USFRS within 30 days of the change in ownership. This was inadvertently left out of section 266.417(d) but is consistent with 266.417(a), (b) and (c) and the general requirement to transport USFRS XL wastes to USFRS within 30 days of there receipt. (See section 266.410(a)). EPA will add this to section 266.417(d).

time period the prior owner is still responsible for completing the closure within the 60 days.

The change in ownership of USFRS presents a problem not previously contemplated by EPA when it developed the proposed rule. The rules do not provide a mechanism or procedure to add the new owner of USFRS. Instead, they required USFRS to notify EPA of the change in ownership within 30 days of it happening and then within 90 days to arrange for the transition of all the USFRS XL waste project participants to return to compliance with RCRA. (See § 266.418(b)). Consequently, if USFRS were to change ownership then this XL Project would automatically terminate. This would set into motion the termination of the continued participation of all of the generator and transporters approved for participation in this project. The automatic termination of USFRS could potentially have a significant economic and environmental impact as a large number of companies attempt to switch from the ion exchange resin filter system to some other system within the same time. Such a consequence may be unavoidable where there are substantive reasons for terminating USFRS continued participation or this XL project—e.g. USFRS continuously violates its permit or the project does not demonstrate any environmental benefit. However, in the case of a change in ownership this is not necessarily true. Consequently, EPA believes that some procedure should be established to allow for the new owner of USFRS to continue operating this XL Project. This would be consistent with the RCRA permit rules which allow for the continued operation of a permitted facility after a change in ownership, provided the Agency has approved of the change in ownership. Consequently, EPA has modified § 266.418(b) to require USFRS to provide EPA with 90 days advance notice of any change in ownership and to provide EPA with its proposed revisions to the FPA if the new owner wishes to continue this XL Project. If EPA and the new owner are able to agree upon and sign the proposed revisions to the FPA within that 90 day time frame then the new owner may continue this XL Project. If an agreement and signature is not obtained within that time frame then procedures presently in the rules for automatic termination apply.

Comment. USFRS and MPCA requested that EPA extend the duration of the project to account for the time that it will take to obtain the necessary State, county and federal approvals. Both entities were concerned that it may take up to a year to obtain all of the necessary governmental approvals. This time will erode the five years that were given for the duration of the project.

Response. EPA agrees that sufficient time should be allowed for the project. Proposed § 266.422 stated that the new federal rules would be effective for five years from the effective date of the final rules. However, the preamble to the proposed rules clearly stated that USFRS may not implement the program outlined in the rules until the State of Minnesota either: (1) Receives federal authorization for similar state rules, (2) issues variances under its existing federally authorized hazardous waste program or (3) receives federal authorization for permits it issues to participating generators, transporters and USFRS pursuant to the Minnesota XL statute. Each of these options can easily take six months, at a minimum, to complete.

Minnesota has indicated a preference for the latter option-using its XL statute to develop general permits for the generators and transporters and modifying the existing hazardous waste permit for USFRS. Minnesota most likely will work on the XL permits in a sequential manner. It will develop the generator and transporter general permits first and then make the changes needed to USFRS RCRA hazardous waste permit. It will not issue the modifications to the USFRS RCRA hazardous waste permit until the generator and transporter general permits are completed and Minnesota has received authorization for these permits.[21] In this process the modified USFRS RCRA hazardous waste permit is the last element needed to make this XL project effective in the State.

EPA anticipates that Minnesota will need up to year to complete all the steps needed to implement its preferred option. Consequently, without providing an extension to the effective date of the proposed rule the project will last for only four years, at most, not the five years proposed.

Providing more time may also act as an incentive for more generators to participate in the USFRS XL project. This in turn may provide USFRS and EPA with more reliable information on the environmental benefits derived from the project. It may also provide EPA with additional time to evaluate whether the project can and should be expanded. Consequently, EPA has modified § 266.422 in the following two ways to provide the full five years for the duration of the project. EPA has changed the effective date of subpart O to six months after publication of the final rule in conformance with section 6930(b) of RCRA. Second, EPA has changed § 266.422 to indicate that the project will run for five years from the date that Minnesota issues a modification to the USFRS RCRA permit to implement this XL project. Since the modified RCRA permit is the last step anticipated in Minnesota's implementation process for this project it is reasonable that the duration of the project be measured from that date.

Comment. USFRS requested EPA to amend the rules to allow it more than 30 days to pick up a generator's XL waste. USFRS indicated that this requirement would effectively reduce the 90 day storage allowed for generators of the USFRS XL waste to 30 days. This in turn would have the greatest impact on USFRS being able to attract new customers located outside the Minneapolis-St. Paul area. Generators outside of the metropolitan area would be most sensitive to transportation costs. The 30 day time limit would increase those transportation costs since USFRS expected that there would be more frequent pick-ups with smaller loads. If the time period were extended USFRS felt that some of the expenses could be reduced. USFRS suggested that the rule allow it to pick-up the XL waste within the 90 days allowed for the generator to store the XL waste. USFRS further suggested that it would agree that the rule state that at no time would the XL wastes be allowed to remain on-site for greater than 90 days.

Response. EPA agrees with USFRS' request and will revise § 266.410(a) and (c) to allow it and its transporter to pick up a generator's USFRS XL waste within the 90 days allowed the generator to store the waste. The changes suggested by USFRS are consistent with the goal of the project and the rule and may result in a rule which works better than the proposed rule.

One of the goals of this project is to increase the recycling of F006 waste. It is reasonable to expect that the more participants in this project the greater the chance that this goal will be met. Consequently, if USFRS is correct, then USFRS may be able to maximize the number of participants with EPA providing a longer time period for USFRS to pick up the wastes. EPA selected the 30 day time period in the proposed rule because it appeared that

[21] Although Minnesota has indicated a preference for issuing general permits under its XL statute, it might later decide to promulgate new state RCRA regulations and submit those to EPA for authorization or to issue variances under its approved RCRA program. In any case, USFRS' RCRA permit will need to be modified.

USFRS could meet this time period. The ultimate goal of the rule was to ensure that there was adequate cooperation between the project participants to accomplish the same goal—i.e., remove the XL waste from the generator's storage area prior to the expiration of the 90 day storage limit. This goal can be met by revising § 266.410(a) and (c) to specify that USFRS and its transporters will pick up a generator's XL waste before the 90 day storage time limit expires on the waste.[22]

Comment. USFRS requested EPA to change § 266.410(a) to allow it more time to send a copy of the Transportation Tracking document it received with the shipment of XL waste to the generator. USFRS stated that 5 days was inconsistent with its present practice approved by the State. Namely, USFRS mails copies of the hazardous waste manifests to the state and the generators once per week.

Response. EPA agrees to extend the time from 5 days to 10 days. This is more stringent than the 30 days allowed under RCRA but should allow USFRS to continue its existing practice which the State has approved for other hazardous waste shipments. It will also provide the generator and USFRS sufficient time to track any missing shipments.

Comment. USFRS requested EPA to modify § 266.410(a) to allow it to provide the generator's with the Transportation Tracking Document and warning statement at the time the transporter arrives at the generator to pick-up the USFRS XL waste. USFRS indicated that such a modification to the rule will make the rule harmonious with its existing system for all wastes. This would allow it to maintain the 48 hour response time for pick-up of its customer's wastes in the local area.

Response. EPA agrees to make the change requested by USFRS in § 266.410(a). The proposed rule stated that USFRS was to provide the Transportation Tracking Document and warning statement to the generator prior to the transporter arriving at the generator. The purpose of the timing requirement was to provide the generator with time to review the document and make any changes that might be necessary. This can be accomplished if the document arrives with the transporter. Additionally, since the generator and the transporter are still responsible for verifying the accuracy of the document under § 266.410(b) and (c) the ultimate goal of the rule is still achieved—i.e., accurate transportation tracking documents.

Comment. USFRS was concerned that it could not meet the MSDS requirements in §§ 266.405, 266.408(g), 266.410(c) and 266.411 because its MSDS covered the ion exchange resins prior to use (i.e., ''fresh resins'') whereas these rules contemplated an MSDS which covered the resins after use (i.e., with contamination on them). It proposed using another document—the Treatment and Storage form—which identifies the hazards associated with the wastes and emergency response protocols.

Response. EPA will revise § 266.405 to allow USFRS to use the MSDS or an equivalent form which identifies the hazards associated with the resins and filters after use and the emergency response protocols. This change should allow USFRS to use its Treatment and Storage form if it contained the requisite information.

Comment. USFRS stated that in certain instances the subpart O rules are more stringent than RCRA or its routine practices and should be revised to be the same as RCRA (e.g.., generator storage of USFRS XL waste limited to 90 days, regardless of the amount; storage of the USFRS XL waste on an impervious surface; time limits for exiting the XL project which are inconsistent with RCRA and notice to more entities of a spill than just MPCA). USFRS felt that these provisions would make it difficult to convince potential customers who are knowledgeable about RCRA to participate in this program.

Response. An XL project must be environmentally superior to the existing regulatory program. Consequently, EPA would anticipate that certain elements of this XL project would be more stringent than the RCRA regulatory program. In developing the subpart O rules, EPA attempted to balance the desire to maximize the number of participants with the need to ensure that the project would result in superior environmental benefits. EPA believes that it has done that by replacing the manifest and reporting requirements for the generators, expanding the scope of the program to include pre and post filters and eliminating the treated water re-use requirement. In exchange for these provisions EPA believes that the requirements identified as more stringent are a reasonable trade off.

Comment. USFRS suggested that § 266.412 was incorrect based on their understanding that it referred to discontinuation of business not the generator closure identified on page 50307 of the August 17, 2000 **Federal Register**.

Response. EPA disagrees with USFRS. § 266.412 requires the generators to complete closure at the time of termination of the generator's participation in the USFRS XL project. § 266.415 specifies the manner in which a generator may terminate its participation—either voluntarily, as a result of action EPA, MPCA or the County Agencies, as a result of action by USFRS or after a change in ownership. The rule also specifies the time period for completing closure under each of these scenarios—it is 60 days.

Comment. USFRS and MPCA requested EPA to commit to assisting it in expanding this project beyond the State of Minnesota.

Response. As a general goal EPA agrees that expanding an XL Project to other States and other companies may be a desired outcome of its XL program, if the pilot shows promise. EPA, however, believes that it is premature for it to make the commitment USFRS and MPCA seek. XL Projects are participant driven pilot projects. The time and resources necessary to develop a project is significant and is the responsibility of the project sponsor. USFRS did a good job of developing this XL Project with the State of Minnesota and tailoring it to the rules of that State and its local governments. However, in order to expand this project beyond the State of Minnesota USFRS will need to involve other State, local, environmental and industry groups. Additionally, it will need to modify the proposal in a manner which is consistent with each State's authorized hazardous waste program. For example, USFRS' transportation tracking document may present certain States with administrative issues.

To the extent this project is amenable to expansion EPA believes that it can make such a determination after USFRS has implemented this project for one or two years. After that time USFRS will have obtained actual data on the environmental benefits derived from this XL project. USFRS will also have had the opportunity to identify improvements to the Project and to convene the necessary stakeholder meetings. At that time EPA will be in a position to ascertain if this project is capable of being expanded on a national basis and the appropriate manner in which to make such a change.

Comment. USFRS stated that the use of 55 gallon steel drums to collect and contain spills of ion exchange resins would be inappropriate. The steel can corrode when in contact with certain

[22] USFRS did not request EPA to change the time period it would take the transporter to transport the XL wastes to its facility. Consequently, EPA will retain the requirement in 266.410(c) that the transporter deliver the USFRS XL waste to USFRS within 30 days of it picking it up from a USFRS XL waste generator.

resins [23] or can irreversibly foul them. Additionally, the amount spilled may be significantly less than 55 gallons. As an alternative USFRS suggested that the drum be a polycontainer compatible with the wastes and of sufficient size to contain the amount spilled.

Response. EPA will revise §§ 266.408(e) and 266.411 as suggested by USFRS.

Comment. USFRS was concerned that § 266.408(b) would require the generators to store the USFRS XL wastes in separate areas from their storage of other wastes. USFRS believed that simple segregation of the USFRS XL wastes would be sufficient.

Response. EPA agrees that simple segregation of the USFRS XL wastes from the other wastes is sufficient. It disagrees that § 266.408(b) requires storage in a separate area. Storage in a separate area within a storage area for other wastes would be acceptable.

Comment. One individual felt that the public participation was inadequate. He suggested that there was not enough ''non-governmental'' stakeholders. He said that the FPA should not be signed until there were additional public meetings and his client had an opportunity to become one of the stakeholders.

Response. Stakeholder involvement and representation is an important element for every XL project. It is the responsibility of the project sponsor and continues throughout the project—even during implementation. EPA regrets when any stakeholder is not able to participate as early in the process and as often as it would like. EPA certainly would expect that USFRS would include any stakeholder who wishes to be added to this stakeholder's group.

EPA disagrees, however, that there was inadequate public participation and that the FPA and rule should not be signed. USFRS had 9 separate stakeholder meetings. They invited and had in attendance representatives from industry, the environmental community, private citizens and the State and local governments. All of this was done prior to EPA public noticing the draft FPA and proposed rules on August 17, 2000. With the August 17, 2000 **Federal Register** EPA invited the public to submit comments and request a public meeting. Requests for a public meeting were to be made by August 24, 2000. EPA did not receive any such requests until it received this request on September 7, 2000. Even though this is a late request for a public meeting EPA has evaluated the merits of the request and believes that an additional public comment period or a public meeting are unnecessary. This commenter submitted two pages of substantive comments on the proposed rule and draft FPA. (EPA presents a more detailed summary and response to these comments below). The commenter was primarily concerned with EPA retaining the recycling requirement. EPA has done that. Additionally, this commenter will continue to have meaningful opportunities to comment on this project after the FPA and rule are signed. As stated earlier, stakeholder involvement continues after the FPA is signed and this rule is promulgated. That involvement will be meaningful. Major implementation issues and decisions still have to be completed. Signing the FPA and new rule is just the first step in the process. For example, the State will have to develop the legal mechanisms which it will use to implement this project. Public involvement may be useful in completing this. Additionally, some of the legal mechanisms the State may use may require public participation prior to completion of them. To the extent the commenter is concerned that it is precluded from participating in the project that is not correct. The project is structured in a manner which allows any person who qualifies to be added to the project as a generator or a transporter. To the extent the commenter is concerned that the environmental benefits of the project may be insufficient, any person—not just stakeholders—may advise EPA, USFRS, MPCA or the County Agencies of project problems at any time. If the problems are major and not capable of being fixed, EPA has retained the ability in both the FPA and rules to terminate this project at an earlier time.

Comment. One commenter responded to EPA's request for comments on whether this project should be conditioned on USFRS' ability to recycle the USFRS XL wastes. The commenter stated that the recycling requirement must be retained. He stated that before EPA eliminated that requirement it needed to conduct further studies. Those studies would provide data on the impact of the increased metal disposal against the environmental benefit of a reduction in the use of potable water. The commenter also wanted EPA to ensure that generators who are currently reclaiming metals from F006 wastes continue to do so.

Response. EPA agrees that the recycling aspect of this Project is a major part of it and has the potential to yield a significant environmental benefit. Furthermore, it appears that there is a market for this service and that USFRS will be able to obtain such services. EPA has, therefore, retained the recycling requirement. Consequently, USFRS and participating generators, through USFRS, will be recycling the USFRS XL wastes.

If the project operates as USFRS projects the amount of metals recycled and the number of generators who recycle metals may increase. USFRS anticipates this would happen, in part, as a result of its resin process collecting more metals prior to waste water discharge to a POTW and in part due to companies doing waste water treatment when they did not previously do it.

EPA disagrees with the commenter's suggestion that certain studies are needed prior to EPA approving of this project. XL projects are intended to pilot new approaches. By their nature, some projects will not have the data on the actual environmental benefits *a priori.* They may be used to collect the data to substantiate the benefits anticipated. Such projects may be used to assist EPA in obtaining the data and experience, on a small scale, it needs to determine whether larger, national changes should be made. This XL project does that. It requires USFRS to collect and analyze data which will allow EPA to assess the comparative environmental benefits derived from the use of its resin regeneration process and the alternative management standards imposed on F006 wastes which are recycled. (See § 266.419).

Comment. The State submitted written comments indicating that it was uncertain of the legal mechanisms it could use to implement the XL project. In its written comments, due to resource constraints and other uncertainties, it generally disagreed with certain options EPA outlined in the preamble to the proposed rule. It suggested that EPA use the FPA to incorporate their understandings and agreement on the implementation options to be used for this project.

Response. EPA shares the State's concerns about the length of time and resources it will need to finish the State and, in two instances, federal authorization proceedings to implement the new subpart O rules. EPA also agrees that the FPA can be used to identify the legal options and mechanisms the EPA and the State may use to implement this XL Project. EPA has revised the FPA to do that.

The FPA allows the State to chose any of the three options EPA identified in the preamble to the August 17, 2000, **Federal Register**. In summary those

[23] The resin canisters are steel but compatible with the resins because there is a liner which separates the resins from the steel.

options are: (1) Revise its existing hazardous waste rules to mirror new subpart O; (2) issue permits which mirror the new subpart O to the project participants using the State's XL statute; or (3) issue variance(s) which mirror the new subpart O to the project participants using the variance authority in its existing RCRA authorized hazardous waste program or. The first two options require the State to submit them to EPA for federal authorization after they are adopted by the State.[24] The State has indicated its preference for option 2 (issuing permit(s) and submitting an authorization application). To expedite matters, EPA has provided the State with guidance on the elements of an authorization application for option 2. EPA has also committed in the FPA to expedite its review of its request for authorization of option 2. Finally, EPA has delayed the start of the subpart O rules, and thus this project, in a manner which will allow USFRS to implement this XL project for the full five years, regardless of any delays the State or EPA may incur in putting in place the required legal mechanisms.

In addition to the changes already discussed EPA modified §§ 266.401, 266.403(c), 266.414, 266.415 and 266.416. EPA made these changes on its own initiative.

Sections 266.414–418 present the federal procedures for termination of an entities continued participation in this XL Project. EPA added in §§ 266.314, 266.315 and 266.316 that the State and County may have different procedures. Furthermore, EPA added that it is not bound by nor will it follow the State or local procedures. This is true regardless of the enforceable mechanisms the State uses to implement this XL Project. EPA explained this position in the preamble to the August 17, 2000 **Federal Register** and had stated it in proposed §§ 266.417 and 266.418. EPA inadvertently excluded this language in the proposed version of §§ 266.414, 266.415 and 266.416 and is correcting the final version of these sections with this final promulgation.

EPA is revising § 266.401 (definition of USFRS XL waste final project agreement) and § 266.403(c) to change the name Pioneer Transport to Pioneer Tank Lines. USFRS proposed Pioneer Tank Lines as one of the approved transporters for the USFRS XL waste. EPA mistakenly identified this company as Pioneer Transport in the proposed rules. EPA is correcting these rules to (§§ 266.401 and 266.403(c)) to reflect the correct name—Pioneer Tank Lines.

The designation for the regulatory text has been changed from subpart N, §§ 266.300–266.322 in the proposed rule to subpart O, §§ 266.400–266.422 in final rule. This is due to a numbering conflict with a simultaneously proposed rule.

VI. Additional Information

A. What Regulatory Changes Will Be Necessary To Implement This Project?

With the promulgation of this new rule no further federal regulatory changes will be needed. However, since the state of Minnesota is authorized under section 3006 of RCRA to implement the federal RCRA program it will have to complete certain steps to provide USFRS, its generators and transporters with the regulatory flexibility needed to implement the USFRS XL project. The preamble to the proposed rule provides a detailed discussion of the steps Minnesota can take to implement this USFRS XL project. The approved generators, transporters and USFRS are subject to the present state regulations, which do not provide this flexibility, until such time as new regulations are adopted by the state of Minnesota or an equivalent state legal mechanism is used and authorized as part of the approved federal hazardous waste program for Minnesota. Therefore, conforming state regulatory changes or legal mechanisms must be implemented in addition to the proposed federal changes for companies to enter into this XL Project. Additionally, depending on the mechanism selected by the State of Minnesota, EPA may have to review and approve of the mechanism as part of the State's authorized hazardous waste program.

B. Why Is EPA Supporting This New Approach to USFRS XL Waste Management?

EPA is supporting this new approach because it believes that it will provide superior environmental performance by promoting recycling of water and recovery and reuse of metals that would otherwise be land disposed. USFRS and its customers will be complying with requirements that are as protective of public health and the environment as the RCRA requirements that would otherwise be applicable. EPA also believes that implementation of this project will result in a significant cost savings to the participating customers. The success of this project will be evaluated on an ongoing basis and will determine whether this new approach to waste management should be extended to other areas of the country.

C. How Does This Rule Comply With Executive Order 12866?

Because this rules affects only U.S. Filter, its transporters and its customers, it is not a rule of general applicability. It is therefore, not subject to OMB review and Executive Order 12866. In addition, OMB has agreed that review of site-specific rules under Project XL is not necessary. Further, under Executive Order 12866, the Agency first must determine whether the regulatory action is ''significant'' and therefore subject to Office of Management and Budget (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: (1) 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 in State, local, or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) Materially alter the budgetary impact of entitlement, grants, user fees, or loan programs of the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Because the annualized cost of this proposed rule would be significantly less than $100 million and would not meet any of the other criteria specified in the Executive Order and because this proposed rule affects only USFRS and its transporters and generators, it is not a rule of general applicability or a ''significant regulatory action'' and therefore not subject to OMB review. Further today's proposed rule does not apply to any entity unless they choose on a voluntary basis to participate in this XL Project. Finally, OMB has agreed that review of site specific rules under Project XL is not necessary.

Executive Order 12866 also encourages agencies to provide a meaningful public comment period, and suggests that in most cases the comment period should be 60 days. However, in consideration of the very limited scope of today's rulemaking and the considerable public involvement in the development of the draft FPA, the EPA considers 30 days to be sufficient in providing a meaningful public comment period for today's action.

[24] The preamble to the proposed rule provides more information on the options, the rationale for each and the steps needed to make them legally enforceable.

D. Is a Regulatory Flexibility Analysis Required?

The Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 *et seq.* 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. Under section 605(b) of the RFA, however, if the head of an agency certifies that a rule will not have a significant economic impact on a substantial number of small entities, the statute does not require the agency to prepare a regulatory flexibility analysis. Pursuant to section 605(b), the Administrator certifies that this proposal, if promulgated, will not have a significant economic impact on a substantial number of small entities for the reasons explained below. Consequently, EPA has not prepared a regulatory flexibility analysis.

Small entities include small businesses, small organizations and small governmental jurisdictions. For purposes of assessing the impacts of today's proposed rule on small entities, small entity is defined as : (1) A small business according to RFA default definitions for small business (based on SBA size standards); (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.

Today's rule amends EPA's RCRA Regulations to modify the handling and reporting requirements for certain hazardous waste generators and transporters, as well as for USFRS. USFRS is not a small entity. The modifications authorized by the rule would reduce costs to the generators to whom it applies and those modifications should have no impact on costs to the transporters. EPA has concluded, therefore, that the rule will not have a significant economic impact on a substantial number of small entities.

E. Is an Information Collection Request Required for This Project Under the Paperwork Reduction Act?

The Office of Management and Budget (OMB) has approved the information collection requirements contained in this rule under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.) and has assigned OMB control number 2010–0026.

EPA is requiring that information be collected regarding which generators and transporters are eligible for regulatory flexibility under the USFRS XL Project. Information is also needed in order to keep generators, transporters, USFRS, and emergency response teams abreast of XL 001 waste, its contents, and when it is shipped and received. Finally information is needed to determine whether the project produces superior economic and environmental benefits. The success of the project will help determine whether it should be extended to other areas of the country. Participation in the project is voluntary; however, if a generator or transporter decides to participate, EPA requires the filing of this information. Quarterly reports will be publicly available. The estimated total cost burden of collecting the information is $240,670/year and the estimated total length of time to collect it is 4205 hours/year. The estimated total number of respondents is 91. 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. EPA is amending the 40 CFR part 9 table of currently approved ICR control numbers issued by OMB for various regulations to list the information requirements contained in this final rule. The table lists the CFR citations for EPA's reporting and recordkeeping requirements, and the current OMB control numbers. This listing of OMB control numbers and their subsequent codification in the CFR satisfy the requirements of the Paperwork Reduction Act and OMB's implementing regulations at 5 CFR part 1320.

F. Does This Project Trigger the Requirements of the 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 the alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under 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.

As noted above, this proposed rule is limited to USFRS and certain of its customers and transporters. This proposed rule would create no federal mandate because it is a voluntary program proposed by USFRS. Further, EPA is imposing no enforceable duties that are anticipated to be more expensive or more onerous for the parties that would exist without this proposed rule. The rule does not change the authorization status of the State. Since the proposed rule is a relaxation of the federal regulatory program, it will not take effect until the State adopts the

rule. The State is under no federal obligation to adopt less stringent requirements. EPA has also determined that this proposed 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. Thus, today's proposed rule is not subject to the requirements of sections 202 and 205 of the UMRA. EPA has also determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments. Nevertheless, in developing this proposed rule, EPA worked closely with MPCA, Ramsey, Hennepin, Anoka, Dakota, Carver, Scott and Washington Counties and received meaningful and timely input in the development of this proposed rule.

G. How Does This Rule Comply With Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks?

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.

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Order has the potential to influence the regulation. This proposed rule is not subject to Executive Order 13045 because it is not economically significant as defined in Executive Order 12866 and because the Agency does not have reason to believe the environmental, health or safety risks addressed by this action present a disproportionate risk to children. The proposed rule has no identifiable direct impact upon the health and/or safety risks to children and adoption of the proposed regulatory changes would not disproportionately affect children. Finally, all XL projects must demonstrate superior environmental performance. Therefore, EPA anticipates that the proposed rulemaking will benefit all people, including children. The proposed rulemaking is thus in compliance with the intent and requirements of the Executive Order.

H. How Does This Rule Comply With Executive Order 13132 on Federalism?

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.''

Under section 6 of Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation.

This proposed rule does not have federalism implications. It will not have 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, as specified in Executive Order 13132. The requirements outlined in today's proposed rule would apply only to the USFRS facility and generators and transporters of USFRS XL waste and will not take effect unless Minnesota chooses to adopt equivalent legal mechanisms or requirements under state law. Thus, the requirements of Section 6 of the Executive Order do not apply to this rule. Although Section 6 of Executive Order 13132 does not apply to this rule, EPA did fully coordinate and consult with State and local officials in developing this rule.

I. How Does This Rule Comply With Executive Order 13175: Consultation and Coordination With Indian Tribal Governments?

Tribal Governments (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.''

This final rule does not have tribal implications. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

In the spirit of Executive Order 13175, and consistent with EPA policy to promote communications between EPA and tribal governments, EPA specifically solicits additional comment on this proposed rule from tribal officials.

J. Does This Rule Comply With the National Technology Transfer and Advancement Act?

Section 12(d) of NTTAA, Public Law 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 standards. This proposed rulemaking sets alternative handling and paperwork requirements for certain hazardous wastes; it does not set technical standards. EPA is not considering the use of any voluntary consensus standards.

K. How Does This Rule Comply With the Congressional Review Act?

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 804 exempts from section 801 the following types of rules (1) rules of particular

applicability; (2) rules relating to agency management or personnel; and (3) rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties. 5 U.S.C. 804(3). EPA is not required to submit a rule report regarding today's action under section 801 because this rule is of particular applicability.

List of Subjects

40 CFR Part 261

Environmental protection, Hazardous waste, Recycling, Reporting and recordkeeping requirements.

40 CFR Part 266

Environmental protection, Hazardous waste, Recycling, Reporting and recordkeeping requirements.

Dated: May 3, 2001.

Christine Todd Whitman,

Administrator.

For the reasons set forth in the preamble, parts 261 and 266 of Chapter I of title 40 of the Code of Federal Regulations are amended as follows:

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

1. The authority citation for part 261 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921, 6922, 6924(y) and 6938.

Subpart A—General

2. Section 261.6 is amended by revising paragraph (a)(2) introductory text and by adding paragraph (a)(2)(v) to read as follows:

§ 261.6 Requirements for recyclable materials.

(a) * * *

(2) The following recyclable materials are not subject to the requirements of this section but are regulated under subparts C through O of part 266 of this chapter and all applicable provisions in parts 270 and 124 of this chapter:

* * * * *

(v) U.S. Filter Recovery Services XL waste (subpart O).

* * * * *

PART 266—STANDARDS FOR THE MANAGEMENT OF SPECIFIC HAZARDOUS WASTES AND SPECIFIC TYPES OF HAZARDOUS WASTE MANAGEMENT FACILITIES

1. The authority citation for part 266 continues to read as follows:

Authority: 42 U.S.C. 6905, 6906, 6912, 6922–6925, 6934 and 6937.

2. Part 266 is amended by adding a new subpart O to reads as follows:

Subpart O—Standards Applicable to U.S. Filter Recovery Services XL Waste and U.S. Filter Recovery Services, Inc.

Sec.

266.400 Purpose, scope, and applicability.
266.401 Definitions.
266.402 Procedures for adding persons as generators to EPA's USFRS XL Project.
266.403 Procedures for adding persons as transporters to EPA's USFRS XL Project.
266.404 USFRS requirements related to the development, use and content of USFRS XL Waste Training Module.
266.405 USFRS requirements relative to the development, use and content of USFRS XL Waste MSDS.
266.406 Waste characterization.
266.407 USFRS XL Waste Identification, handling, and Recycling.
266.408 Accumulation and storage prior to off-site transport.
266.409 USFRS XL waste transporter pre-transport requirements.
266.410 USFRS XL Waste Transport and Transportation Tracking Document.
266.411 Release of USFRS XL waste during transport.
266.412 USFRS XL Waste Generator Closure.
266.413 USFRS XL waste generator requirements to maintain alternate treatment or disposal capacity.
266.414 Termination of a USFRS XL waste approved customer's participation in the USFRS XL Project.
266.415 Termination of a USFRS XL waste generator's participation in the USFRS XL Project.
266.416 Termination of a USFRS XL waste approved transporter's participation in the USFRS XL Project.
266.417 Termination of a USFRS XL waste transporter's participation in the USFRS XL Project.
266.418 Termination of USFRS' participation in this XL Project.
266.419 USFRS Recordkeeping and reporting requirements.
266.420 USFRS XL waste generator recordkeeping and reporting requirement.
266.421 USFRS XL waste transporter recordkeeping and reporting requirement.
266.422 Effective Date and Duration of the project.

§ 266.400 Purpose, scope, and applicability.

The purpose of this subpart is to implement the U.S. Filter Recovery Services (USFRS) eXcellence in Leadership (XL) Project. Any person who is a USFRS XL waste generator or transporter must handle the USFRS XL waste in accordance with the requirements contained within this subpart. The standards and requirements of this subpart also apply to USFRS and its facility located at 2430 Rose Place, Roseville, Minnesota. These requirements are imposed on USFRS in addition to any requirements contained in its RCRA hazardous waste permit or other applicable state or federal law. USFRS XL waste generators and transporters are not required to comply with the requirements of 40 CFR 261.5, parts 262 through 266 (except this subpart O), parts 268, 270, 273 and 279 provided they manage USFRS XL waste in compliance with the requirements of this subpart O.

§ 266.401 Definitions.

County Environmental Agencies or County Agencies means the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott or Washington in Minnesota.

USFRS means U.S. Filter Recovery Services, Inc. whose principal place of business for the purposes of these rules is 2430 Rose Place, Roseville, Minnesota.

USFRS XL Waste means one or more USFRS used water treatment resin canisters and their contents, any associated USFRS pre- or post-resin filters and their containers and their contents from a USFRS XL waste generator located within the State of Minnesota. USFRS XL waste includes the ion exchange resins, the associated pre- and post-resin filters, wastes contained on or within the ion exchange resins and filters and any other wastes contained within the water treatment resin canisters and filter containers. USFRS XL waste also includes spills of XL waste which are handled in accordance with the requirements in this subpart. This definition does not include wastes that were generated prior to the date a generator is added to this USFRS XL Project. USFRS XL waste shall be identified by the waste code XL001.

USFRS XL Waste Application Form means the form approved by EPA and Minnesota Pollution Control Agency (MPCA) as part of the USFRS XL Waste Project or subsequently modified by USFRS and approved by EPA and MPCA and used for characterization of the chemical constituents of a person's USFRS XL waste. The USFRS XL Waste Application Form shall include all attachments by USFRS or the applicant, including but not limited to, the USFRS Site Engineering Form, Systems Engineering Form and any waste analysis.

USFRS XL Waste Approved Customer means only those persons located in Minnesota who have properly identified their wastes and processes on the USFRS XL waste application form; have not been excluded by EPA, MPCA or the County Agencies from participation in

the USFRS XL waste project; have signed the USFRS XL waste Final Project Agreement (FPA); have certified that they have read and understand the USFRS XL waste training module; and have not generated USFRS XL wastes.

USFRS XL waste approved transporter means a transporter located within the State of Minnesota who has a satisfactory safety rating from the United States Department of Transportation (USDOT) in the last year; has not been excluded by EPA, MPCA or the County Agencies from participation in the USFRS XL waste project; has signed the USFRS XL waste FPA; and has signed a certification that it has been trained by USFRS on the proper handling of USFRS XL wastes and understands its responsibilities under this subpart.

USFRS XL Waste Facility or USFRS Facility means the U.S. Filter Recovery Service, Inc. operations located at 2430 Rose Place, Roseville, Minnesota.

USFRS XL Waste Final Project Agreement (FPA) means the agreement signed by USFRS, EPA, MPCA, the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott and Washington in Minnesota, Pioneer Tank Lines and USFRS XL waste customers, generators and transporters. The FPA may be modified to add or delete participants, subject to the approval of EPA and MPCA. The FPA was signed by EPA, USFRS and MPCA on September 21, 2000.

USFRS XL Waste Generator means a USFRS XL waste approved customer who generates or generated USFRS XL waste.

USFRS XL Waste Project, USFRS XL Project or XL Project means the program identified in the Final Project Agreement and this part for the generation, transportation and subsequent treatment, storage and disposal of USFRS XL waste.

USFRS XL waste training module means the recorded training program approved by EPA and MPCA as part of the USFRS XL Waste Project or subsequently modified by USFRS and approved by EPA and MPCA and developed by USFRS for the purpose of informing USFRS XL waste approved customers, generators and transporters of the special requirements imposed on them by this part and the proper method of handling USFRS XL wastes.

USFRS XL Waste Transportation Tracking Document means the Transportation Tracking Document developed by USFRS which was approved by EPA and the MPCA as part of the USFRS XL Waste Project or subsequently modified by USFRS and approved by EPA and MPCA; and used when USFRS XL waste is transported off-site from a generator.

USFRS XL Waste Transporter means USFRS or a USFRS XL waste approved transporter who transports USFRS XL waste.

§ 266.402 Procedures for adding persons as generators to EPA's USFRS XL Project.

(a) Any person who wishes to participate in the USFRS XL Project as a generator must obtain the approval of the EPA and the Minnesota Pollution Control Agency (MPCA). The approval of the County Agency is also required if that person will generate USFRS XL waste at a location in the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott or Washington, Minnesota. The procedures identified in this subpart are to be followed to obtain EPA approval to add a person to the federal USFRS XL Project. USFRS and a proposed generator must also comply with the procedures identified by the MPCA, and appropriate County Agencies. A person may not be added to the federal USFRS XL Project unless it has the approval of EPA, MPCA and as appropriate the County Agencies.

(b) USFRS is the only entity which may propose to add a person as a generator to the USFRS XL Project. USFRS may propose to EPA to add persons to the USFRS XL Project at any time provided, USFRS complies with the requirements of this section. Prior to being considered a USFRS XL waste generator, a person must first be approved as a USFRS XL waste approved customer. Only a USFRS XL waste approved customer may become a USFRS XL waste generator. A person becomes a USFRS XL waste generator after it first generates or causes USFRS XL waste to be regulated.

(c) USFRS will conduct a preliminary evaluation of any person it wishes to propose to EPA to add to the USFRS XL Project as a generator. USFRS will complete this preliminary evaluation prior to proposing to EPA to add such a person to the USFRS XL Project. The preliminary evaluation will consist of the following activities: USFRS will require any person who wishes to become a USFRS XL waste generator to complete and sign the USFRS XL Waste Application Form; USFRS will complete the waste characterization required by 40 CFR 266.406(b); USFRS will evaluate the person's storage area for the USFRS XL waste to determine whether it meets the standards of this subpart O; and USFRS will provide the person with a copy of the USFRS XL waste MSDS, FPA and training module.

(d) After successfully completing the activities identified in paragraph (c) of this section, USFRS will provide EPA with the name and such other information as the Agency may require to determine if a person may participate in the USFRS XL Project as a generator. USFRS will propose for inclusion into the USFRS XL Project only those person(s) whose wastes are compatible with the ion exchange resin process and canisters and whose storage area meets the standards in this subpart O. EPA's approval shall be effective within twenty one days of EPA's receipt of USFRS's written notice proposing to add a person to the USFRS XL Project unless EPA, within that time period, provides USFRS with a written notice rejecting such person.

(e) After securing the approval of EPA, MPCA and the County Agencies, USFRS shall notify the person it proposed to add to the USFRS XL Project in writing that it is approved for participation in the USFRS XL Project. USFRS will assign to that person a unique client number and waste profile number for each waste stream approved for this XL project. USFRS will obtain from that person a copy of the signed USFRS XL waste FPA and a certification that it has read and agrees to follow the USFRS XL waste training module. USFRS shall also ensure that as part of this certification the approved customer identifies its contact person as required by 40 CFR 266.408(h). Upon request by EPA, USFRS will provide EPA with a copy of the signed documents or other documents it requests.

(f) USFRS will accept USFRS XL waste only from those persons who have received the approval of EPA, MPCA and, as appropriate, the County Agencies and who have signed the USFRS XL Project FPA and the certification identified in paragraph (e) of this section. A person's participation in this USFRS XL Project is effective after EPA, MPCA and, as appropriate, the County Agency approve of them and on the date that USFRS receives the signed USFRS XL waste FPA and certification. At that time the person is a USFRS XL waste approved customer. A USFRS XL waste approved customer becomes a USFRS XL waste generator when it first generates or causes USFRS XL wastes to be regulated. A USFRS XL waste generator must handle all USFRS XL wastes generated after the effective date of it being added to the USFRS XL Project in accordance with the provisions of this subpart O. USFRS XL waste that is generated prior to this date is not subject to this subpart O and it must be handled according to the appropriate hazardous waste characterization for that waste, (e.g..

F006 and any other applicable waste code).

(g) USFRS will require a USFRS XL waste approved customer and generator to update the USFRS XL waste application form prior to it adding to or modifying the waste streams or processes it identified on its initial USFRS XL waste application form. USFRS will notify EPA, MPCA and as appropriate, the County Agencies whenever a customer or generator notifies USFRS that it has or will add or modify waste streams or processes. EPA will notify USFRS if any further EPA approvals are required.

§ 266.403 Procedures for adding persons as transporters to EPA's USFRS XL Project.

(a) Any person who wishes to participate in the USFRS XL Project as a transporter must obtain the approval of the EPA and the MPCA. The approval of the County Agencies is also required if that person's principal place of business is located in the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott or Washington. The procedures identified in this subpart are to be followed to obtain EPA approval to add a person as a transporter to the federal USFRS XL Project. USFRS and a proposed transporter must also comply with the procedures identified by the MPCA, and as appropriate the County Agencies. A person may not be added to the federal USFRS XL Project unless it has received the approval of EPA, MPCA and as appropriate the County Agencies.

(b) USFRS is the only entity which may propose to EPA to add a person as a transporter to the USFRS XL Project.

(c) USFRS and Pioneer Tank Lines are approved USFRS XL waste transporters. USFRS may propose to EPA to add other persons as USFRS XL waste transporters provided USFRS complies with the requirements of this section. USFRS will conduct a preliminary evaluation of any person who it proposes to add as a USFRS XL waste transporter. As part of that preliminary evaluation USFRS will ascertain whether the transporter has a valid EPA identification number, a valid Minnesota hazardous materials registration (''Minnesota registration'') and a satisfactory safety rating from USDOT within the last year.

(d) After successfully completing the activities identified in paragraph (c) in this section USFRS will provide EPA with the name of the transporter, the unique USFRS client identification number for the transporter, the results of its preliminary evaluation identified in paragraph (c) and other information as EPA may require to determine if that person may participate in the USFRS XL Project. USFRS will propose for inclusion into the USFRS XL Project only those person(s) who have a satisfactory safety rating from USDOT. EPA's approval shall be effective within twenty one days of its receipt of USFRS's written notice proposing to add a person to the USFRS XL Project unless EPA, within that time period, provides USFRS with a written notice rejecting such person.

(e) After receiving the approval of EPA, MPCA and as appropriate the County Agencies USFRS shall notify the person in writing that it is approved for participation in the USFRS XL Project. USFRS will obtain from that person a copy of the signed USFRS XL waste FPA and a certification that it has been trained by USFRS on the proper handling of USFRS XL wastes and understands its responsibilities under this subpart O.

(f) USFRS will allow only USFRS XL approved transporters to transport USFRS XL wastes. A person's participation in this USFRS XL Project is effective after it receives the approval of EPA, MPCA and the County Agencies, as appropriate, and on the date that USFRS receives the signed USFRS XL waste FPA and certification. A USFRS XL waste approved transporter becomes a USFRS XL waste transporter when it first transports or accepts for transport USFRS XL waste.

(g) USFRS will require a USFRS XL waste approved transporter or USFRS XL waste transporter to notify it of any change in its rating from USDOT, its Minnesota registration or its EPA identification number. USFRS will notify EPA, MPCA and, the appropriate County Agencies in writing of any such changes. EPA will notify USFRS in writing of any additional information or steps that may be required as a result of such changes.

§ 266.404 USFRS requirements related to the development, use and content of USFRS XL Waste Training Module.

(a) USFRS will develop, implement and maintain a USFRS XL Waste Training Module. USFRS will provide this training module to every person who applies for participation in the USFRS XL Project. USFRS may use any recorded communication media that is appropriate for communicating the requirements of this subpart (e.g., printed brochures, videos, etc.).

(b) The Training Module will, at a minimum, identify the hazards presented by the USFRS XL waste: for generators, explain how to handle the installation and replacement of the ion exchange resin canisters and the pre- and post-resin filters; and explain the requirements imposed on the generator or transporter pursuant to this part.

(c) USFRS shall submit this training module to EPA for approval prior to accepting the first shipment of USFRS XL wastes.

§ 266.405 USFRS requirements relative to the development, use and content of USFRS XL Waste MSDS.

USFRS will develop a USFRS XL waste material safety data sheet (MSDS) or similar document which meets the requirements of this subpart. USFRS will provide a copy of the USFRS XL waste MSDS to every person who applies for participation in the USFRS XL Project. USFRS will ensure that the USFRS XL waste MSDS prominently instructs individuals in the proper handling and emergency response procedures for spills or leaks of the USFRS XL wastes.

§ 266.406 Waste characterization.

(a) *Submission of USFRS XL Waste Application Form by USFRS XL Waste Generator.* A person who proposes to participate in the USFRS XL Project as a generator of USFRS XL wastes must properly identify the wastes and processes which contribute to the production of the USFRS XL waste at its company. For the purposes of this subpart O it shall identify only those waste streams which meet the F006 listing and shall identify them on the USFRS XL waste application form. It shall complete and submit to USFRS the USFRS XL Waste Application Form. It shall update and submit to USFRS the XL Waste Application prior to changing any process which contributes to the USFRS XL waste it generates.

(b) *USFRS Waste Profile Analyses.* For any person which USFRS proposes to add to the USFRS XL Project as a generator, USFRS will perform a waste profile analysis of the waste stream(s) and process(es) which will contribute to the USFRS XL waste at that company. USFRS will update such analyses whenever a USFRS XL waste generator notifies USFRS of a change or modification to its waste stream or process contributing to its USFRS XL waste. USFRS will include in the waste profile analysis a complete chemical analysis of the waste stream(s) and a determination of its compatibility with the ion exchange resin process, canisters and filters. USFRS shall complete such analysis in accordance with the testing methods identified in the waste analysis plan contained within its RCRA hazardous waste permit. USFRS shall assign to each generator a unique

customer identification number and waste profile number.

§ 266.407 USFRS XL waste identification, handling, and recycling.

(a) USFRS XL waste will be denoted by the hazard waste code XL001 while it is handled by the USFRS XL waste generator or transporter. At the USFRS facility, the USFRS XL waste will be denoted by the waste code(s) it would have had at the generator but for its characterization as USFRS XL waste (i.e., F006 and any other applicable characteristic waste code). USFRS and others who may receive residuals from the USFRS XL waste will handle the USFRS XL waste and residuals according to the wastes code(s) it would have had at the generator (i.e., F006 and the appropriate characteristic hazardous waste code) and not according to the XL001 designation. USFRS shall handle the USFRS XL waste at its facility in accordance with its State issued RCRA hazardous waste permit and any applicable federal requirements.

(b) USFRS may not accept any customers into this Project unless and until it has arranged for recycling of the metals contained in the XL001 wastes it receives. USFRS shall continue to recycle the metals contained in the XL001 waste it receives throughout the duration of the XL Project.

(c) USFRS shall identify a spill response coordinator at its facility. This person shall be responsible for coordinating the proper response to any spill, leaks or emergencies of USFRS XL wastes at the generator or during transport. He will also be responsible for receiving the calls from the generators and transporters required by this subpart O for such spills, leaks or emergencies.

§ 266.408 Accumulation and storage prior to off-site transport.

A USFRS waste generator may store its USFRS XL waste on-site for less than 90 days, provided it complies with the following:

(a) *Condition and use of containers.* Except as provided in paragraph (e) of this section, the USFRS waste generator it will store the USFRS XL waste in the USFRS water treatment resin canisters and filter containers. At the time it places the resin canister or filter containers in storage it will ensure that the water treatment resin canisters and filter containers are disconnected from any processes and are sealed. It will ensure that the USFRS XL wastes are not mixed with other solid wastes. It will affix to the resin canisters and filter containers a warning statement containing the information presented in paragraph (c) of this section.

(b) *Condition of storage area.* It will store the USFRS XL waste on an impervious surface. The USFRS waste generator will store the USFRS XL waste separately from other wastes or materials and will ensure that there is adequate aisle space to determine the condition of the USFRS XL waste and to notice and respond to any leaks of USFRS XL waste.

(c) *Pre-transport requirements.* It will place the following warning statement prominently on the USFRS XL waste: XL001 wastes–USFRS ion exchange resin process wastes—Federal Law Prohibits Improper Disposal. This is USFRS XL waste from (insert XL waste generator's name). Handle as a hazardous waste and ship only to USFRS located at 2430 Rose Place, Roseville, MN. This waste was placed in this container on (date) and placed in storage at (insert USFRS XL waste generator's name) on (insert date). *If found, contact USFRS and the nearest police, public safety authority, EPA or MPCA. The USFRS telephone number is (insert phone number). USFRS Transportation Tracking Document Number_____ If spilled immediately contain the spill and prevent it from going into any water body; collect the spilled material and place in an appropriately sized polycontainer; contact USFRS and the nearest police, public safety authority, EPA or MPCA.*

(d) *Inspections.* The USFRS waste generator will inspect the condition of the USFRS XL waste weekly while it is in storage at its company. It will maintain a log of these inspections. The log will indicate the date the USFRS XL waste was placed in storage, the condition of the water treatment resin canister and filter containers at that time, the date(s) of the inspection, the person conducting the inspection, and the condition of the water treatment resin canisters and the filter containers and the storage area at the time of the inspection.

(e) *Response to spills or leaks.* The USFRS waste generator will immediately contain and collect any spill or leak of USFRS XL wastes. It will orally notify USFRS, and the duty officer at MPCA (Non-metro: 1–800–422–0798; Metro: 651–649–5451) within 24 hours of discovery of the spill or leak. It will place any spilled or leaked materials in an appropriately sized polycontainer and comply with the requirements of paragraphs (a) through (c) of this section. It will arrange with USFRS for the disposal of that spilled or leaked material with the next shipment of USFRS XL wastes from its company. If allowed by the local POTW it may discharge any leaked or spilled water to its permitted drainage system. Otherwise, such wasters will be sent to USFRS.

(f) *Decontamination of storage area.* The USFRS waste generator will decontaminate all areas, equipment or soils used for or contaminated with USFRS XL waste no later than the dates provided in section §§ 266.412, 266.414 and 266.415.

(g) *USFRS XL Waste MSDS.* It shall maintain and exhibit in a prominent location the USFRS XL Waste MSDS. It shall provide a copy of the USFRS XL waste MSDS to all local entities responsible for responding to releases of hazardous materials or wastes, (e.g., local police and fire departments, hospitals, etc.). It shall retain documentation of its efforts to comply with this paragraph (g).

(h) *Contact person.* No later than the date that it signs the FPA it will designate to USFRS a person who is responsible for handling its USFRS XL waste and its compliance with this subpart. That person shall complete training for the proper handling of USFRS XL waste and shall certify that he has read and understands the requirements imposed by this subpart O and the USFRS XL waste training module. That person shall also be responsible for responding to spills or leaks at the generator.

(i) *Communication devices.* It shall have an operating communication device (e.g., telephone, alarm, etc.) which allows the contact person to notify the appropriate state, local and federal officials and local hospitals and company personnel in case of an emergency.

§ 266.409 USFRS XL waste transporter pre-transport requirements.

A USFRS XL waste transporter will ensure that the USFRS XL waste is within an approved container which prominently displays the following warning statement: XL001 wastes—USFRS ion exchange resin process wastes—Federal Law Prohibits Improper Disposal. This is USFRS XL waste from (insert XL waste generator's name). Handle as a hazardous waste and ship only to USFRS located at 2430 Rose Place, Roseville, MN. This waste was placed in this container on (date) and placed in storage at (insert USFRS XL waste generator's name) on (insert date). *If found, contact USFRS and the nearest police, public safety authority, MPCA or EPA. The USFRS telephone number is (insert phone number). USFRS Transportation Tracking Document Number_____. If spilled*

immediately contain the spill and prevent it from going into any water body; collect the spilled material and place in an appropriately sized polycontainer; contact USFRS and the nearest police, public safety authority, EPA or MPCA.

§ 266.410 USFRS XL Waste Transport and Transportation Tracking Document.

A USFRS XL Transportation Tracking Document and USFRS XL Waste MSDS will accompany every shipment of USFRS XL waste from a USFRS XL waste generator off-site. Each resin canister and filter container will have the warning statement required by §§ 266.408(c) and 266.409 affixed to it. USFRS, and the USFRS XL waste generator and transporter shall comply with the following requirements:

(a) *USFRS.* USFRS will require each USFRS XL waste generator to contact USFRS to arrange for the transportation of the USFRS XL waste. USFRS will contact and use only USFRS XL waste transporters to transport the USFRS XL waste. USFRS will require that the USFRS XL waste transporter pick up the generator's USFRS XL waste prior to the expiration of the storage time limit provided to the generator pursuant to § 266.408. USFRS will complete and send to the USFRS XL waste generator the USFRS XL waste Transportation Tracking Document and warning statement identified in §§ 266.408(c) and 266.409. USFRS will ensure that the generator receives these documents by the time the transporter arrives at the generator. USFRS will include on the Transportation Tracking Document all information EPA determines is required to comply with this subpart O. USFRS will direct the USFRS XL waste transporter to ship the USFRS XL waste to its facility at 2430 Rose Place, Roseville, Minnesota within 30 days of its pick-up from a USFRS XL waste generator. If a shipment is not received within 30 days, USFRS will contact the transporter to determine the disposition of the load. If USFRS does not receive the shipment within 5 days of its scheduled arrival date, it will notify EPA, MPCA, the USFRS XL generator and as appropriate the County Agencies. USFRS will send a copy of the Transportation Tracking Document to the USFRS XL waste generator within 10 days of USFRS' receipt of the XL001 waste from the transporter.

(b) *USFRS XL waste generators.* A USFRS XL waste generator must contact USFRS for the off-site transport, treatment, storage or disposal of USFRS XL wastes. A USFRS waste generator will use only a USFRS XL waste transporter to transport the USFRS XL waste to the USFRS Roseville, Minnesota facility located at 2430 Rose Place. It must verify the accuracy of the USFRS XL Waste Transportation Tracking Document and warning statement, make any corrections to them that are necessary and sign the Transportation Tracking Document. It must affix the warning statement to each resin canister and filter container and provide a copy of the USFRS XL Waste Transportation Tracking Document and USFRS XL waste MSDS to the USFRS XL waste transporter at the time it provides the transporter with the USFRS XL waste.

(c) *USFRS XL waste transporter.* A USFRS XL waste transporter shall verify the accuracy of the information contained on the USFRS XL Waste Transportation Tracking Document and on the warning statement. It shall sign and date the USFRS Transportation Tracking Document for each shipment of USFRS XL waste it transports and carry it with each shipment that it carries. It shall carry the USFRS XL waste MSDS with each shipment. It shall pick up each shipment of USFRS XL waste prior to the expiration of the storage time limit provided the generator pursuant to § 266.408. It shall deliver each shipment of USFRS XL waste to the USFRS Roseville, Minnesota facility located at 2430 Rose Place within 30 days of it being picked-up at a USFRS XL waste generator. A USFRS transporter may store USFRS XL waste for no more than 10 days at a transfer facility without being subject to regulation under 40 CFR parts 264, 265, 268 and 270 for the storage of those wastes.

§ 266.411 Releases of USFRS XL waste during transport.

In the event of a release of USFRS XL waste during transportation, a USFRS XL waste transporter must take appropriate immediate action to protect human health and the environment, including preventing the spilled material from entering a water system or a water body. The USFRS XL waste transporter also must comply with the provisions of 40 CFR 263.31. The USFRS XL waste transporter will contact USFRS and the nearest police, public safety authority, EPA or MPCA, provide any emergency responder with a copy of the USFRS XL waste MSDS, handle the spilled material in accordance with the USFRS XL waste MSDS and the direction of any governmental entity charged with emergency response authority and transport any spilled USFRS XL waste and contaminated soils or equipment to the USFRS facility located at 2430 Rose Place, Roseville, Minnesota in a appropriately sized polycontainer.

§ 266.412 USFRS XL waste generator closure.

(a) *Generator responsibilities.* At the time of termination of a USFRS XL generator's participation in the USFRS XL Project, the USFRS XL waste generator will disconnect its process(es) from the water treatment resin canisters and filter containers; implement the alternative treatment or disposal required by § 266.413; arrange for the transport to USFRS of all USFRS XL waste that it has in storage; decontaminate any contamination resulting from the storage or handling of USFRS XL waste; and document its efforts to comply with this closure requirement.

(b) *USFRS responsibilities.* Prior to termination of a USFRS XL waste generator's participation in the USFRS XL Waste Project USFRS will remove all of the USFRS XL waste in the generator's storage area. USFRS will inspect the USFRS XL waste generator to determine if all USFRS XL wastes have been removed and to document the condition of the USFRS XL waste storage area. USFRS will provide a written summary to the customer, EPA, MPCA and as appropriate the County Agencies of its evaluation pursuant to this paragraph (b).

§ 266.413 USFRS XL waste generator requirements to maintain alternate treatment or disposal capacity.

During the period that it is participating in the USFRS XL waste Project, a USFRS XL waste generator shall maintain the ability to legally treat or dispose of its process wastes contributing to the USFRS XL waste by methods other than through transportation and treatment to USFRS' Roseville, Minnesota facility. A USFRS XL waste generator may use this alternative treatment or disposal method only after its participation in this XL Project has been terminated.

§ 266.414 Termination of a USFRS XL waste approved customer's participation in the USFRS XL Project.

The provisions in this section apply to a USFRS XL waste approved customer who has not yet generated USFRS XL waste. If a USFRS XL waste approved customer has generated or first caused to be regulated USFRS XL waste, then it is a USFRS XL waste generator and must comply with the termination provisions contained in § 266.415. The following procedures are to be followed to terminate a person's participation in the federal USFRS XL Project. MPCA or the County Agencies

may have their own procedures for terminating the participation of a person from their version of this federal USFRS XL Project. EPA is not bound by and will not follow those State or County procedures to terminate a person's continued participation in this USFRS XL Project. A USFRS waste approved customer's participation in the USFRS XL Project will terminate when the USFRS XL Project ends. It may terminate earlier either voluntarily, upon changes in ownership, upon notice by USFRS, EPA, MPCA or the appropriate County Agency.

(a) *Termination by the USFRS XL waste approved customer.* A USFRS XL waste approved customer may terminate its participation in the USFRS XL Project at any time prior to its first generating USFRS XL wastes. The USFRS XL waste approved customer will provide 5 days written notice to USFRS, EPA, MPCA and as appropriate the County Agencies its desire to terminate its in the USFRS XL Project. No further action is required by such USFRS XL waste approved customer.

(b) *Change in ownership.* A USFRS XL waste approved customer's participation will be automatically terminated upon a change in ownership. A USFRS XL waste approved customer must notify USFRS, EPA, MPCA and as appropriate the County Agencies within 5 days of a change in its ownership.

(c) *Termination by EPA, MPCA, County Agency or USFRS.* If EPA or USFRS propose to terminate a USFRS XL waste approved customer they shall provide it with 5 days written notice. If MPCA or the County Agency propose to terminate such person they shall follow their own procedures and provide EPA and USFRS with the results of such proceedings. If MPCA or the County Agency terminates such person's participation in the federal USFRS XL Project, such person will be automatically terminated without further proceedings under this subpart O.

§ 266.415 Termination of a USFRS XL waste generator's participation in the USFRS XL Project.

The procedures identified in this section are to be followed to terminate a waste generator's participation in the federal USFRS XL Project. MPCA or the County Agencies may have their own procedures for terminating the participation of a person from their version of this federal USFRS XL Project. EPA is not bound by and will not follow those State or County procedures to terminate a person's continued participation in this USFRS XL Project. A USFRS waste generator's participation in the USFRS XL Project may terminate when the USFRS XL Project ends. It may also terminate either voluntarily, upon changes in ownership, upon notice by USFRS, EPA, MPCA or the County Agency or at the termination of this subpart O.

(a) *Termination by the USFRS XL waste generator.* The USFRS XL waste generator will provide 60 days written notice to USFRS, EPA, MPCA and the County Agencies of its desire to discontinue participation in the USFRS XL Project. Within the 60 days the USFRS XL waste generator shall accomplish the closure required by § 266.412.

(b) *Termination by EPA, MPCA or the County Agency.* EPA, MPCA or the County Agency may terminate a USFRS XL waste generator's participation. If EPA proposes to terminate such person's participation then it will provide the generator with written notice. EPA retains the right to terminate a USFRS XL waste generator's participation in the USFRS XL Project if the USFRS XL waste generator is in non-compliance with the requirements of this subpart. In the event of termination by EPA, EPA will provide USFRS, the USFRS XL waste generator, MPCA, and as appropriate the County Agencies with 15 days written notice of its intent to terminate a generator's continued participation in the USFRS XL Project. During this period, which commences on receipt of the notice to terminate by the generator, the generator will have the opportunity to come back into compliance or to provide a written explanation as to why it was not in compliance and how it intends to return to compliance. If, upon review of the written explanation EPA re-issues a written notice terminating the generator from this XL Project the generator shall close in accordance with § 266.412. The USFRS XL waste generator shall complete the closure and comply with § 266.412 within sixty days of EPA's re-issuance of the notice of termination. If MPCA or the County Agency propose to terminate such person they shall follow their own procedures and provide EPA and USFRS with the results of such proceedings. If MPCA or the County Agency terminates such person's participation in the federal USFRS XL Project, that person's participation will be automatically terminated without further proceedings under this subpart and such person must comply with the closure requirements contained in § 266.412.

(c) *Termination by USFRS.* USFRS may terminate a USFRS XL waste generator's participation in the USFRS XL Project only after providing 60 days written notice to the generator, EPA, MPCA and the county agency. Within this time USFRS will arrange for the transport to its facility of the USFRS XL waste in storage. Additionally, USFRS will inspect the USFRS XL waste generator in accordance with § 266.412(b).

(d) *Termination as a result of changes in ownership.* A USFRS XL waste generator will provide written notice to USFRS, EPA, MPCA and as appropriate the County Agencies of a change in its ownership. It will provide such notice within 10 days of the change in ownership. Within the 60 days of the change in ownership the USFRS XL waste generator shall accomplish the closure required by § 266.412 unless, within that time period, EPA has approved of the new owner and EPA has approved of any modifications the new owner proposes to the prior owner's closure responsibilities. If these approvals are not received within this time period the prior owner is still responsible for completing the closure within the 60 days.

§ 266.416 Termination of a USFRS XL waste approved transporter's participation in the USFRS XL Project.

The provisions in this section apply to a USFRS XL waste approved transporter who has not transported or accepted for transport USFRS XL waste. If a USFRS XL waste approved transporter has transported or accepted for transport USFRS XL waste it is a USFRS XL waste transporter and must comply with the termination provisions contained in § 266.417. The procedures identified in this section are to be followed to terminate a person's participation in the federal USFRS XL Project. MPCA or the County Agencies may have their own procedures for terminating the participation of a person from their version of this federal USFRS XL Project. EPA is not bound by and will not follow those State or County procedures to terminate a person's continued participation in this USFRS XL Project. A USFRS waste approved transporter's participation in the USFRS XL Project will terminate when the USFRS XL Project ends. It may also terminate earlier either voluntarily, upon changes in ownership, upon notice by USFRS, EPA, MPCA or the County Agency.

(a) *Termination by the USFRS XL waste approved transporter.* A USFRS XL waste approved transporter may terminate its participation in the USFRS XL Project at any time prior to its first transporting or accepting for transport USFRS XL wastes. The USFRS XL waste approved transporter will provide 5

days written notice to USFRS, EPA, MPCA, and as appropriate the County Agencies of its desire to terminate its participation in the USFRS XL Project. No further action is required by such USFRS XL waste approved transporter.

(b) *Change in ownership.* A USFRS XL waste approved transporter will be automatically terminated upon a change in ownership. A USFRS XL waste approved transporter must notify USFRS, EPA, MPCA and as appropriate the County Agencies within 5 days of a change in its ownership.

(c) *Termination by EPA, MPCA, the County Agencies or USFRS.* EPA, MPCA, the County Agencies and USFRS may also terminate a USFRS XL waste approved transporter's participation in the USFRS XL. If EPA or USFRS propose such termination they will provide the transporter, each other, MPCA and the appropriate County Agencies with 5 days written notice.

§ 266.417 Termination of a USFRS XL waste transporter's participation in the USFRS XL Project.

The procedures identified in this section are to be followed to terminate a person's participation in the federal USFRS XL Project. MPCA or the County Agencies may have their own procedures for terminating the participation of a person from their version of this federal USFRS XL Project. EPA is not bound by and will not follow those State or County procedures to terminate a person's continued participation in this USFRS XL Project. A USFRS waste transporter's participation in the USFRS XL Project will terminate when the USFRS XL Project ends. It may terminate earlier either voluntarily, upon a change in ownership of the transporter, upon notice by USFRS, EPA, MPCA or the County Agencies or at the termination of this subpart O.

(a) *Termination by the USFRS XL waste transporter—voluntary and changes in ownership.* The USFRS XL waste transporter will provide 10 days written notice to USFRS, EPA, MPCA and as appropriate the County Agencies of its desire to terminate its participation in the USFRS XL Project or of a change in ownership. Within 30 days of that notice the USFRS XL waste transporter will ensure that all of its shipments of USFRS XL waste are delivered to the USFRS facility.

(b) *Termination by EPA, MPCA or the County Agencies.* EPA, MPCA or the County Agencies may terminate a USFRS XL waste transporter's participation in the USFRS XL Project. If MPCA or the County Agency propose to terminate such person they shall follow their own procedures and provide EPA and USFRS with the results of such proceedings. If MPCA or the County Agency does terminate such person's participation, such person's participation in the federal USFRS XL Project will be automatically terminated without further proceedings under this subpart and the transporter shall ensure that all shipments of XL waste are delivered to the USFRS facility within 30 days of notice of termination. If EPA proposes to terminate a transporter's participation in the USFRS XL Project EPA will provide such person, MPCA, the County Agency and USFRS with a 30 days written notice prior to terminating such person's participation in the USFRS XL Project. EPA retains the right to terminate a USFRS XL waste transporters participation in the USFRS XL Project if the USFRS XL waste transporter is not in compliance with the requirements of this subpart O. During this period, which commences on receipt of the notice by the transporter, the USFRS XL waste transporter will have the opportunity to come back into compliance or to provide a written explanation as to why it was not in compliance and how it intends to return to compliance. If, upon review of the written explanation EPA re-issues a written notice terminating the USFRS XL waste transporter from this XL Project the USFRS XL waste transporter shall ensure that all shipments of USFRS XL waste are delivered to the USFRS facility within 30 days of such re-issued notice.

(c) *Termination by USFRS.* USFRS may terminate a USFRS XL waste transporter's participation in the USFRS XL Project only after providing 30 days written notice to the transporter, EPA, MPCA and as appropriate the County Agencies. Within this time USFRS will arrange for the transport to its facility of the USFRS XL waste in the possession of the USFRS XL waste transporter.

(d) *Change in ownership.* A USFRS XL waste transporter will be automatically terminated upon a change in ownership. A USFRS XL waste transporter must notify USFRS, EPA, the County Agencies and MPCA within 5 days of a change in its ownership. Within 30 days of its notice of change of ownership the USFRS XL waste transporter shall ensure that all shipments of USFRS XL waste in its possession are delivered to the USFRS facility.

§ 266.418 Termination of USFRS' participation in this XL Project.

The procedures identified in this section are to be followed to terminate USFRS' participation in the federal USFRS XL Project. MPCA or the County Agencies may have their own procedures for terminating USFRS' participation from their version of this federal USFRS XL Project. EPA is not bound by and will not follow those State or County procedures to terminate USFRS' continued participation in this USFRS XL Project. USFRS' participation in the USFRS XL Project will terminate when the USFRS XL project ends. It may terminate earlier either voluntarily, upon a change in ownership of USFRS, upon notice of EPA, MPCA or as appropriate the County Agency. The USFRS XL Waste Project is terminated if USFRS' participation is terminated, unless there is a change in ownership of USFRS and EPA, MPCA and the County Agencies have approved the new owner's continuation in the USFRS XL project as provided in paragraph (b) of this section. In such an instance USFRS must supply EPA, MPCA and the County Agencies with a proposed schedule for transitioning all USFRS XL Project participants to compliance with the RCRA requirements within 120 days of a notice to terminate pursuant to this section.

(a) *USFRS' termination of its participation in this XL Project—voluntary termination.* USFRS will provide written notice to all USFRS XL Project participants (e.g., USFRS XL waste approved customers and approved transporters, USFRS XL waste generators and transporters), EPA, MPCA and the County Agencies of its desire to terminate its participation in the USFRS XL Project (''voluntary termination'') USFRS will provide its notice of voluntary termination 120 days prior to the date it proposes to terminate this XL Project. Within this 120 days USFRS will arrange for the transition of it and the USFRS XL waste Project participants to return to compliance with the RCRA requirements. During this time all USFRS XL Project participants will complete all closure activities required by § 266.412.

(b) *Termination as a result in a change of ownership of USFRS.* USFRS will provide written notice to EPA, MPCA and the County Agencies of any change in ownership of USFRS. USFRS will provide this notice 90 days prior to a change in ownership. At that time, if the new owner wishes to continue the USFRS XL waste Project it will submit any revisions it proposes to make to the FPA to add itself to the USFRS XL waste project. If EPA and the new owner are able to agree upon and sign the proposed revisions to the FPA within that time frame then the new owner may continue the USFRS XL Project. If an

agreement and signature is not obtained within that time frame, the USFRS XL Project will be terminated. If it does not obtain that approval or does not wish to continue the USFRS XL Project then USFRS will arrange for the transition of all USFRS XL waste Project participants to return to compliance with the RCRA requirements within 120 days of the change in ownership. All USFRS XL waste Project participants will complete all closure activities required by § 266.412.

(c) *EPA or MPCA termination of the USFRS XL Project.* EPA or MPCA may terminate this XL Project after providing written notice to USFRS. EPA retains the right to terminate this XL Project if:

(1) USFRS is in non-compliance with the requirements of this subpart;

(2) This Project does not provide superior environmental benefit; or,

(3) If there is repeated non-compliance by USFRS XL waste generators or transporters.

(d) In the event of termination by EPA, EPA will provide USFRS, MPCA and the County Agencies with 30 days written notice of its intent to terminate this XL Project. During this period, which commences on receipt of the notice by USFRS, USFRS will have the opportunity to come back into compliance, to provide a written explanation as to why it was not in compliance and how it intends to return to compliance or otherwise respond to the reasons for EPA's proposed termination. If, upon review of the written explanation EPA re-issues a written notice terminating this XL Project then USFRS shall submit to EPA within 30 days of its receipt of the re-issued notice its plan for transitioning all USFRS XL waste Project participants to compliance with the RCRA requirements. This transition plan shall contain a proposed schedule which accomplishes compliance with RCRA within 120 days of EPA's re-issued written notice.

§ 266.419 USFRS recordkeeping and reporting requirements.

(a) *Annual reporting.* USFRS will provide an annual report, on October 1, on all USFRS XL wastes. It will provide the information separately for each USFRS XL waste generator. The annual report, at a minimum, will include:

(1) An identification of each USFRS XL waste generator who sent USFRS XL wastes to USFRS; the quantity of XL waste that USFRS received from each USFRS XL waste generator during the calendar year and a certification by USFRS that those USFRS XL wastes were treated and recycled at USFRS in accordance with this subpart O;

(2) The amount of water recycled by the generators, the pretreatment chemicals and energy the generators did not use as a result of participating in this USFRS XL Project, the amount of water discharged to the local POTW before and during this project, the amount of sludge recovered by USFRS before and during this project, the amount of sludge recovered as opposed to disposed of by a generator (if the generator disposed of the sludge prior to participating in this project), the quantity of material (ion exchange resins, filters, other wastewater treatment sludge, residues) collected from each facility (monthly), the frequency of resin canister and filter replacement in terms of process volume, the constituents in the material (ion exchange resins, filters, other wastewater treatment sludge, residues) collected at each facility (e.g., recoverable metals, contaminants/non-recoverable materials); and constituents in the material (ion exchange resins, filters, other wastewater treatment sludge, residues) disposed by each facility (e.g., contaminants/non-recoverable material).

(3) Quantity of material (ion exchange resins, filters, other wastewater treatment sludge, residues) to be processed from the XL waste at the USFRS Roseville facility, quantity of the metals recovered from the XL waste at the USFRS Roseville facility, the constituents of the recovered material (ion exchange resins, filters, other wastewater treatment sludge, residues from the XL waste), quantity and constituents of the non-recoverable material from the XL waste (ion exchange resins, filters, other wastewater treatment sludge, residues), and how it was disposed of; and

(4) The quantity of each metal recovered at each metals reclamation facility it uses for this Project.

(b) *Quarterly reporting.* USFRS will submit a quarterly report to EPA, MPCA and the County Agencies on October 1, January 1, April 1 and July 1 which will include:

(1) Sufficient information for EPA to determine the amount of superior environmental benefit resulting from this project. That report will, at a minimum, contain information which includes, but is not limited to: the volume of water and waste collected and recycled; the amount of metals recycled; the volume of recycled material sold to others; data regarding the management of the ion exchange canisters and filter containers; the constituents of the sludge; and information regarding how the sludge and residues are managed;

(2) Financial information related to the costs and savings realized as a result of implementation of this project.

(i) USFRS will collect baseline and XL costs. The baseline costs shall be calculated using two scenarios:

(A) Typical expenses (including any hazardous waste taxes) of the generator (prior to the XL Project) for pretreating and disposing effluent wastewater under the applicable Clean Water Act requirements and the costs for manifesting, transporting and disposing of F006 sludges; and

(B) Typical expenses of the generator that would be incurred if waste were recycled in compliance with RCRA and requirements for manifesting and transportation of those hazardous wastes (including tax obligations under both scenarios).

(ii) The XL costs will include the costs to the generator for completing the Transportation Tracking Document, the transportation costs for XL wastes, the generator's cost to install the ion exchange canisters and filter containers, any other costs the generator incurs such as cleaning up any spills, payment of hazardous waste taxes, etc., the cost to USFRS of metals reclamation off-site (including costs associated with transportation or disposal). USFRS will compare the baseline costs to the XL costs and provide an analysis of whether the project is resulting in cost savings for generators and which aspects of the XL Project produce any savings. USFRS will also submit any of the information required in paragraphs (b)(2)(i)(A) and (B) of this section upon request by EPA, MPCA or the County Agency;

(3) A list of all USFRS XL Waste Approved Customers and Generators. USFRS shall include on that list the customer and generator's name, a summary of the results of the USFRS waste characterization of the customer and generator's waste stream(s) and process(es), the customer's and generator's process waste streams approved for participation in the USFRS XL Waste Project, the unique client number USFRS has assigned to the customer and generator and its waste stream, the date of USFRS notice to EPA and MPCA proposing to add the customer and generator to the USFRS XL Project; the date on which USFRS notified the customer that it is approved for participation in this USFRS XL Project; and the date USFRS received the signed FPA and certification from the customer or generator. The list shall also contain the date of any notice of termination, and if there is a termination, the date on which USFRS recovered all of its USFRS XL wastes

from the generator and the date USFRS conducted its visual evaluation of the condition of the USFRS XL waste storage areas and notice of compliance with § 266.412. USFRS will update its waste customer and generator list when new customers and generators have been approved by EPA, MPCA and the County Agencies or when a customer or generator has been terminated from this XL Project; and

(4) A list of all USFRS XL Waste Approved Transporters. USFRS shall include on this list the transporter's unique USFRS client number, the transporter's name, and if available, EPA identification number and its Minnesota registration number, the date of USFRS notice to EPA and MPCA proposing to add the transporter to the USFRS XL Project; the date on which USFRS notified the transporter that it is a USFRS XL Waste Approved Transporter; and the date on which it received the signed USFRS XL waste FPA and certification. The list shall also contain the date of any notice of termination, and if there is a termination, the date on which USFRS recovered all of its USFRS XL wastes from the transporter. This USFRS XL waste transporter list may be modified upon approval of EPA and MPCA.

(c) *Recordkeeping.* USFRS will retain for three years a copy of USFRS XL waste application forms, and correspondence with each USFRS XL waste approved customer and generator; records of any spill or leak notifications it receives; records of its compliance with this subpart O; and the USFRS XL waste Transportation Tracking Document for each shipment from a USFRS XL waste generator.

§ 266.420 USFRS XL waste generator recordkeeping and reporting requirement.

A USFRS XL waste generator will retain for three years a copy of the USFRS XL Waste FPA, with all appropriate signatures; its USFRS XL waste certification; its log of weekly inspections required by § 266.408(d); its record of any notification of spills or leaks of its USFRS XL wastes required by § 266.408(e); its compliance with the training and facility contact requirements of § 266.408(h); a copy of the signed Transportation Tracking Document for USFRS XL waste it generated; and documentation of its compliance with § 266.412.

§ 266.421 USFRS XL waste transporter recordkeeping and reporting requirement.

A USFRS XL waste transporter will retain for three years a copy of the USFRS XL Waste FPA, with all appropriate signatures; its USFRS XL waste certification; a copy of the signed Transportation Tracking Document for USFRS XL waste it transported; and its record of any notification of spills or leaks of its USFRS XL wastes required by § 266.411

§ 266.422 Effective date and duration of the project.

This subpart O is effective from November 23, 2001 until five years after the State of Minnesota modifies the USFRS RCRA hazardous waste permit to incorporate USFRS' duties under this subpart O.

[FR Doc. 01–11671 Filed 5–21–01; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–6965–2]

National Oil and Hazardous Substance Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule; deletion of the Gulf Coast Vacuum Services Superfund Site from the National Priorities List.

SUMMARY: The Environmental Protection Agency (EPA) Region 6 is publishing a direct final rule of deletion of the Gulf Coast Vacuum Services Superfund Site (Site), located in Vermilion Parish, Louisiana from the National Priorities List (NPL). The NPL, promulgated pursuant to section 105, 42 U.S.C. 9605(a) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is found at appendix B of 40 CFR part 300 of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). This direct final rule of deletion is being published by the EPA with the concurrence of the State of Louisiana, through the Louisiana Department of Environmental Quality (LDEQ), because the EPA has determined that all appropriate response actions under CERCLA have been completed and, therefore, further remedial action pursuant to CERCLA is not appropriate.

DATES: This direct final rule of deletion will be effective July 23, 2001 unless the EPA receives adverse comments by June 21, 2001. If adverse comments are received, the EPA will publish a timely withdrawal of the direct final rule of deletion in the **Federal Register** informing the public that the deletion will not take effect.

ADDRESSES: Comments may be mailed to: Ms. Beverly Negri, Community Involvement Coordinator (6SF–PO), U.S. EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, (214) 665–8157 or 1–800–533–3508.

Comprehensive information about the Site is available for viewing and copying at the Site information repositories located at: U.S. EPA Region 6 Library, Suite 12D13, 1445 Ross Avenue, Dallas, Texas 75202–2733, (214) 665–6524, Monday through Friday 7:30 a.m. to 4:30 p.m.; Vermilion Parish Library, 200 North Magdalen Square, Abbeville, Louisiana, 75011, (318) 893–2674, Monday and Thursday 9:00 a.m. to 8:00 p.m., Tuesday, Wednesday, and Friday 9:00 a.m. to 5:30 p.m., and Saturday 9:00 a.m. to 1:00 p.m.; and Louisiana Department of Environmental Quality, 7290 Bluebonnet Road, Baton Rouge, Louisiana 70809, (225) 765–0487, Monday through Friday 8:00 a.m. to 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: Mrs. Katrina Coltrain, Remedial Project Manager (6SF–LP), U.S. EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, (214) 665–8143 or 1–800–533–3508.

SUPPLEMENTARY INFORMATION:

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I. Introduction

EPA Region 6 is publishing this Direct Final Notice of Deletion of the Gulf Coast Vacuum Services Superfund Site from the NPL.

The EPA identifies sites that appear to present a significant risk to public health or the environment and maintains the NPL as the list of those sites. As described in § 300.425(e)(3) of the NCP, sites deleted from the NPL remain eligible for remedial actions, if conditions at a deleted site warrant such action.

Because the EPA considers this action to be noncontroversial and routine, the EPA is taking it without prior publication of a notice of intent to delete. This action will be effective July 23, 2001 unless the EPA receives adverse comments by June 21, 2001 on this rule. If adverse comments are received within the 30-day public comment period on this rule, the EPA will publish a timely Withdrawal of this Direct Final Rule of Deletion before the effective date of the deletion, and said deletion will not take effect. The EPA

will, as appropriate, prepare a response to comments and continue with the deletion process on the basis of the proposed Notice of Intent to Delete and the comments already received. There will be no additional opportunity to comment.

Section II of this document explains the criteria for deleting sites from the NPL. Section III discusses procedures that the EPA is using for this action. Section IV discusses the Gulf Coast Vacuum Services Superfund Site and demonstrates how it meets the deletion criteria. Section V discusses the EPA's action to delete the Site from the NPL unless adverse comments are received during the public comment period.

II. NPL Deletion Criteria

Section 300.425(e) of the NCP provides that releases may be deleted from the NPL where no further response is appropriate. In making a determination to delete a release from the NPL, the EPA shall consider, in consultation with the State, whether any of the following criteria have been met:

i. Responsible parties or other persons have implemented all appropriate response actions required;

ii. All appropriate Fund-financed (Hazardous Substance Superfund Response Trust Fund) response under CERCLA has been implemented, and no further response action by responsible parties is appropriate; or

iii. The remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, the taking of remedial measures is not appropriate.

Even if a site is deleted from the NPL, where hazardous substances, pollutants, or contaminants remain at the deleted site above levels that allow for unlimited use and unrestricted exposure, CERCLA section 121(c), 42 U.S.C. 9621(c) requires that a subsequent review of the site be conducted at least every five years after the initiation of the remedial action at the deleted site to ensure that the action remains protective of public health and the environment. If new information becomes available which indicates a need for further action, the EPA may initiate remedial actions. Whenever there is a significant release from a site deleted from the NPL, the deleted site may be restored to the NPL without application of the hazard ranking system.

III. Deletion Procedures

The following procedures apply to deletion of the Site:

(1) The EPA consulted with the State of Louisiana on the deletion of the Site from the NPL prior to developing this Direct Final Rule of Deletion.

(2) The State of Louisiana concurred with deletion of the Site from the NPL.

(3) Concurrently with the publication of this Direct Final rule of Deletion, a parallel proposed Notice of Intent to Delete published today in the ''Proposed Rules'' section of the **Federal Register** is being published in a major local newspaper of general circulation at or near the Site and is being distributed to appropriate federal, state, and local government officials and other interested parties; the newspaper notice announces the 30-day public comment period concerning this action.

(4) The EPA placed copies of documents supporting the deletion in the Site information repositories identified above.

(5) If adverse comments are received within the 30-day public comment period, the EPA will publish a timely notice of Withdrawal of this Direct Final rule of Deletion, before its effective date and will prepare a response to comments and continue with the deletion process on the basis of the proposed Notice of Intent to Delete and the comments already received.

Deletion of a site from the NPL does not itself create, alter, or revoke any individual's rights or obligations. Deletion of a site from the NPL does not in any way alter the EPA's right to take enforcement actions, as appropriate. The NPL is designed primarily for informational purposes and to assist the EPA management. Section 300.425(e)(3) of the NCP states that the deletion of a site from the NPL does not preclude eligibility for future response actions, should future conditions warrant such actions.

IV. Basis for Site Deletion

The following information provides the EPA's rationale for deleting the Site from the NPL:

A. Site Location

The Site is located 3.5 miles southwest of the town of Abbeville in Vermilion Parish, Louisiana, on Parish Road P–7–31, also called Junuis Road. The Site occupies approximately 12.8 acres, and is bounded to the north and west by pasture land and to the east and south by the D.L. Mud Superfund Site and the LeBoeuf Canal. Areas adjacent to the Site are used as pasture land for grazing cattle and for other agricultural uses, predominantly rice, sugar-cane, and soybean crop raising. Ten residences are located within ½ mile of the Site on Parish Road P–7–31 and Route 335, the nearest being on the southeast site boundary. Because these homes are outside the corporate limits of Abbeville, residents in the area rely on ground water for their drinking water and for irrigation.

B. Site History

The Site was a vacuum truck and oilfield drilling mud plant operation from approximately 1969 to 1980. During the period that the facility was in operation, unpermitted disposal of contaminated organic and inorganic materials, primarily oil industry-related waste, occurred in several open pits. Gulf Coast Vacuum Services and its predecessors used the property as a trucking terminal and disposal facility for materials and wastes generated from oil and gas exploration and production. Vacuum trucks were rinsed out in several on-site pits, while unpermitted disposal of contaminated material and waste also occurred. Primary hazardous substances at the Site were organic compounds such as benzene, carcinogenic polyaromatic hydrocarbons (PAHs), and metals such as arsenic and barium.

The EPA performed three Removal Actions at the Site prior to the initiation of a Remedial Action (RA). The purpose of these Removal Actions was to prevent contaminated rainwater, which accumulated on top of the sludge pits, from overflowing onto adjacent agricultural fields. These removals were conducted in March through April 1990, February through March 1991, and in April 1992. During each Removal Action, approximately 800,000 gallons of water were pumped, treated, and discharged. In addition, during the 1990 and 1992 removal actions, fencing around the pit areas was installed.

The EPA performed the Remedial Investigation (RI) of the Site from November 1990 through March 1992. Various heavy metal and PAH contaminants were detected at levels on-site that measured above health-based standards.

In July 1992, the EPA released the RI Report and the Feasibility Study (FS). The RI Report included all RI sampling results. The FS provided an in-depth analysis of remedial alternatives, which included on-site and off-site treatment alternatives such as incineration, on-site and off-site containment alternatives such as disposal and capping, and a ''no action'' alternative. The FS concluded that a ''no action'' alternative at the Site could result in a potential health threat to the public, through dermal contact with contaminated soils and sludges, and a potential health threat to nearby residents, who rely on ground water for their drinking water.

The EPA, in consultation with the LDEQ, signed two Records of Decision (ROD) on September 30, 1992. The Operable Unit 2 (OU2), Interim Source Control ROD, designed to address the short-term, immediate exposure risks associated with rainwater overflow from the pits, called for treatment of contaminated rainwater to LDEQ surface discharge standards, the consolidation of the Washout Pit into the West Pit, and the covering of the West Pit.

The September 1992 Operable Unit 1 (OU1), Final Source Action ROD, selected on-site incineration to address the long-term environmental and human health risks associated with the organic contaminants on-site. The OU1 ROD also selected stabilization and solidification of inorganic-contaminated soils and residuals of the organic treatment, and monitoring of the ground water. The OU1 ROD was amended in May 1995 (''the Amended ROD'') to change the way in which the organic-contaminated material was handled. Based on the OU1 ROD and the Amended ROD, the Final Source Control remedy for the Site included: on-site biological treatment of organic-contaminated pit sludges (surface and buried), associated soils and tank contents; stabilization and on-site disposal of the treated residuals from the bio-treatment as required to meet performance standards for inorganic compounds, and capping with a two (2) foot compacted clay cover; on-site stabilization and disposal of the Site soils contaminated with metals (inorganics), and capping with a two (2) foot compacted clay cover; and institutional controls, such as deed notices and long-term monitoring of the ground water.

One additional performance standard was that the stabilized material would have to pass Toxicity Characteristic Leaching Procedure (TCLP) requirements using a modified TCLP test (distilled water was substituted for the specified acid) and that the leachate from the TCLP test would also have to meet Clean Water Act Maximum Contaminant Levels.

The OU2 RD Work Plan submitted by the PRP Group was approved by the EPA on September 13, 1993. The OU1 RD Work Plan was approved by the EPA on June 2, 1997. These Work Plans detailed the design criteria and the steps that would be undertaken to achieve the goals of the Site RODs.

The OU2 ROD was implemented by a PRP group, consisting of 13 PRPs who were directed to do the action through a December 11, 1992, Unilateral Administrative Order (UAO). Implementation of the OU2 Remedial Action (RA) began on September 29, 1993. The OU2 RA work, performed in accordance with the UAO Statement of Work and the OU2 RD Work Plan, was completed on September 30, 1994. During the OU2 Interim Action, approximately 2 million gallons of water were treated and discharged, approximately 2,100 cubic yards of contaminated soil were moved from the Washout Pit to the West Pit, and the West Pit was covered with a synthetic cover. The OU2 remedial action was completed on September 30, 1994, the date the EPA approved the OU2 Remedial Action Certification Report.

On June 5, 1995, a Consent Decree (CD) between the EPA and a fourteen-member PRP group was entered in Federal District Court. The PRP group performed the OU1 activities under this CD and its accompanying Statement of Work and the OU1 RD Work Plan. OU1 remedy construction began on June 2, 1997. The PRPs conducted the following remedial activities: on-site biological treatment of 31,617 cubic yards of organic-contaminated pit sludges (surface and buried) and associated soils and tank contents; stabilization and on-site disposal (in the excavated West Pit and Washout Pit) of 21,347 cubic yards of Site soils contaminated with metals (inorganics) and approximately 20,000 cubic yards of biological treatment residuals; capping of the stabilized material with a two (2) foot compacted clay cover and seeding of the cover; fencing of the Site; implementation of deed notices; and ground water monitoring.

Confirmatory samples were taken of all excavated areas of the Site to ensure that all materials with concentrations of contaminants higher than the health-based Remedial Action Goals (RAGs) had been removed. In addition, performance samples were taken to ensure that the bio-treatment residuals met the RAGs, to show that the stabilized Site materials met the TCLP standard, and to show that the stabilized material had the physical properties (such as strength) specified in the RD work plan.

A pre-final inspection was conducted on February 19, 1999, and a final inspection was conducted on March 11, 1999. The EPA determined that the RA was complete during the final inspection, except for the submittal of the RA report and the filing of deed notices. The PRP group submitted the RA Report for OU1 to EPA on June 11, 1999. This report was reviewed by the LDEQ and a representative of the Technical Assistance Grant (TAG) group for the Site, and minor adjustments were made. Institutional controls, in the form of restrictive covenants were filed on September 29, 1999. The EPA approved the RA Report on October 4, 1999, and issued a Final Close Out Report on March 24, 2000.

C. Characterization of Risk

The following contaminants were detected in the various Site media above health-based standards: Surface Soils—arsenic (2.3–56.7 mg/kg) and barium (480–21,400 mg/kg); Sludges—carcinogenic PAHs (.09–7.5 mg/kg), benzene (7–529 mg/kg); and Ground Water-barium (Non-detect (ND)—5550 μg/L), cadmium (ND–210 μg/L), chromium (ND—2580 μg/L), mercury (ND—4.6 μg/L), and lead (ND—2580 μg/L).

The RAGs specified in the OU1 ROD and the Amended ROD are: arsenic, 16 mg/kg; barium, 5,400 mg/kg, total carcinogenic PAHs, 3 mg/kg; total non-carcinogenic PAHs, Hazard Index < 1; previously unidentified carcinogenic compounds of concern (COCs), residual risk < 10–4—10–6 cumulative risk prior to stabilization and capping; and previously unidentified non-carcinogenic compounds of concern, HI < 1.

D. Future Activity

Site Operation & Maintenance (O&M) activities which will be performed by the PRP Group include routine Site inspections to ensure that the cap on the disposal cells remains intact and maintenance of perimeter fencing. These activities are sufficient to maintain the protectiveness of the remedy. The PRP group, as agreed upon in the CD and accompanying Statement of Work and as detailed in the RA Work Plan and the O&M Plan, has assumed all responsibility for O&M at the Site. In addition, under the CD, the PRP Group shall perform ground water monitoring during the O&M period. Plans for O&M are in place and are sufficient to maintain the protectiveness of the remedy. The PRP Group is fulfilling its obligation to perform the O&M. All institutional controls are also in place, as the Site is fenced and a declaration of restrictions was filed with Vermilion Parish on September 29, 1999, restricting use of the Site ground water and limiting activities in the capped disposal cells.

Because the implementation of the Site remedies resulted in hazardous substances remaining on-site at concentration levels above levels that allow for unlimited use and unrestricted exposure (see CERCLA section 121(c), 42 U.S.C. 9621(c), and 40 CFR 300.430(f)(4)(ii)), a review will be conducted at least every five years after

commencement of the Remedial Action to assure that human health and the environment are being protected by the response action. The five-year reviews will be conducted pursuant to ''Comprehensive Five-Year Review Guidance,'' OSWER Directive 9355.7–03B–P, Draft October 1999, or whatever EPA guidance is current at the time of the review. All response activities have been completed at the Site other than O&M and five-year reviews.

E. Community Involvement

Public participation activities have been satisfied as required in CERCLA section 113(k), 42 U.S.C. 9613(k), and CERCLA section 117, 42 U.S.C. 9617. Documents in the deletion docket which the EPA relied on for recommendation of the deletion from the NPL are available to the public in the information repositories.

V. Deletion Action

The EPA, with concurrence of the State of Louisiana, has determined that all appropriate responses under CERCLA have been completed, and that no further response actions, under CERCLA, other than O&M and five-year reviews, are necessary. Therefore, the EPA is deleting the Site from the NPL.

Because the EPA considers this action to be noncontroversial and routine, EPA is taking it without prior publication of a notice of intent to delete. This action will be effective July 23, 2001 unless EPA receives adverse comments by June 21, 2001. If adverse comments are received within the 30-day public comment period on the proposal, the EPA will publish a timely Withdrawal of this Direct Final rule of Deletion before the effective date of the deletion, and it will not take effect, and the EPA will prepare a response to comments and continue with the deletion process on the basis of the proposed Notice of Intent to Delete and the comments already received. There will be no additional opportunity to comment.

List of Subjects in 40 CFR Part 300

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

Dated: March 19, 2001.

Lynda F. Carroll,

Acting Regional Administrator, U.S. EPA, Region 6.

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

PART 300—[AMENDED]

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

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

Appendix B—[Amended]

2. Table 1 of Appendix B to Part 300 is amended under State of Louisiana (''LA'') by removing the site name ''Gulf Coast Vacuum Services'' and the city ''Abbeville, Louisiana.''

[FR Doc. 01–12703 Filed 5–21–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–6956–2]

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

AGENCY: Environmental Protection Agency.

ACTION: Direct final deletion of the Cleveland Mill Superfund Site from the National Priorities List.

SUMMARY: The Environmental Protection Agency (EPA) Region 6 is publishing a direct final deletion of the Cleveland Mill Superfund Site (the ''Site''), located in Grant County, New Mexico, from the National Priorities List (NPL).

The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is appendix B of 40 CFR part 300, which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). This direct final deletion is being published by EPA with the concurrence of the State of New Mexico, through the New Mexico Environment Department (NMED) because EPA has determined that all appropriate response actions under CERCLA have been completed at the Site and, therefore, further remedial action pursuant to CERCLA is not appropriate.

DATES: This direct final deletion will be effective July 23, 2001 unless EPA receives adverse comments by June 21, 2001. If adverse comments are received, EPA will publish a timely withdrawal of the direct final deletion in the **Federal Register** informing the public that the deletion will not take effect.

ADDRESSES: Comments may be mailed to: Ms. Beverly Negri, Community Involvement Coordinator (6SF–PO), U.S. EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, (214) 665–8157 or 1–800–533–3508.

Information Repositories: Comprehensive information about the Site is available for viewing and copying at the Site information repositories located at: U.S. EPA Region 6 Library, 12th Floor, 1445 Ross Avenue, Suite 12D13, Dallas, Texas 75202–2733, (214) 665–6424, Monday through Friday 7:30 a.m. to 4:30 p.m.; Silver City Public Library, 5151 West College Avenue, Silver City, New Mexico 88061, (505) 538–3672, Monday and Thursday 9:00 a.m. to 8:00 p.m., Tuesday and Wednesday 9:00 a.m. to 6:00 p.m., Friday 9:00 a.m. to 5:00 p.m., and Saturday 9:00 a.m. to 1:00 p.m.; New Mexico Environment Department Library, 1190 St. Francis Drive, Santa Fe, New Mexico 87502, (505) 827–2844, Monday through Friday 8:30 a.m. to 5:30 p.m.

FOR FURTHER INFORMATION CONTACT: Ms. Kathleen Aisling, Remedial Project Manager (6SF–LT), U.S. EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, (214) 665–8509 or 1–800–533–3508.

SUPPLEMENTARY INFORMATION:

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I. Introduction

EPA Region 6 is publishing this direct final notice of deletion of the Cleveland Mill Superfund Site from the NPL.

The EPA identifies sites that appear to present a significant risk to public health or the environment and maintains the NPL as the list of those sites. As described in the NCP at 40 CFR 300.425(e)(3), sites deleted from the NPL remain eligible for remedial actions if conditions at a deleted site warrant such action.

Because EPA considers this action to be noncontroversial and routine, EPA is taking it without prior publication of a notice of intent to delete. This action will be effective July 23, 2001 unless EPA receives adverse comments by June 21, 2001 on this document. If adverse comments are received within the 30-day public comment period on this deletion, EPA will publish a timely withdrawal of this direct final deletion before the effective date of the deletion and the deletion will not take effect. EPA will, as appropriate, prepare a response to comments and continue with the deletion process on the basis of

the notice of intent to delete and the comments already received. There will be no additional opportunity to comment.

Section II of this document explains the criteria for deleting sites from the NPL. Section III discusses procedures that EPA is using for this action. Section IV discusses the Cleveland Mill Superfund Site and demonstrates how it meets the deletion criteria. Section V discusses EPA's action to delete the Site from the NPL unless adverse comments are received during the public comment period.

II. NPL Deletion Criteria

Section 300.425(e) of the NCP provides that releases may be deleted from the NPL where no further response is appropriate. In making a determination to delete a release from the NPL, EPA shall consider, in consultation with the State, whether any of the following criteria have been met:

i. Responsible parties or other persons have implemented all appropriate response actions required;

ii. All appropriate Fund-financed (Hazardous Substance Superfund Response Trust Fund) response under CERCLA has been implemented, and no further response action by responsible parties is appropriate; or

iii. The remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, the taking of remedial measures is not appropriate.

Even if a site is deleted from the NPL, where hazardous substances, pollutants, or contaminants remain at the deleted site above levels that allow for unlimited use and unrestricted exposure, CERCLA section 121(c), 42 U.S.C. 9621(c), requires that a subsequent review of the site be conducted at least every five years after the initiation of the remedial action at the deleted site to ensure that the action remains protective of public health and the environment. If new information becomes available which indicates a need for further action, EPA may initiate remedial actions. Whenever there is a significant release from a site deleted from the NPL, the deleted site may be restored to the NPL without application of the hazard ranking system.

III. Deletion Procedures

The following procedures apply to deletion of the Site:

(1) The EPA consulted with NMED on the deletion of the Site from the NPL prior to developing this direct final deletion.

(2) The NMED concurred with deletion of the Site from the NPL.

(3) Concurrently with the publication of this direct final deletion, a notice of the availability of the parallel notice of intent to delete published today in the ''Proposed Rules'' section of the **Federal Register** is being published in a major local newspaper of general circulation at or near the Site and is being distributed to appropriate federal, state, and local government officials and other interested parties; the newspaper notice announces the 30-day public comment period concerning the notice of intent to delete the Site from the NPL.

(4) The EPA placed copies of documents supporting the deletion in the Site information repositories identified above.

(5) If adverse comments are received within the 30-day public comment period on this document, EPA will publish a timely notice of withdrawal of this direct final deletion before its effective date and will prepare a response to comments and continue with the deletion process on the basis of the notice of intent to delete and the comments already received.

Deletion of a site from the NPL does not itself create, alter, or revoke any individual's rights or obligations. Deletion of a site from the NPL does not in any way alter EPA's right to take enforcement actions, as appropriate. The NPL is designed primarily for informational purposes and to assist EPA management. Section 300.425(e)(3) of the NCP states that the deletion of a site from the NPL does not preclude eligibility for future response actions, should future conditions warrant such actions.

IV. Basis for Site Deletion

The following information provides EPA's rationale for deleting the Site from the NPL:

A. Site Location

The Site is located in Grant County, in southwestern New Mexico, approximately 5.5 miles northeast of Silver City, New Mexico. The Site includes approximately 4 acres in mountainous terrain and 14 acres which extend down a drainage area into the streambed of Little Walnut Creek. The surrounding property is located in a rapidly developing residential area that is adjacent to the Gila National Forest and private lands. The population within a 3-mile radius of the Site is estimated to be 1,200.

B. Site History

The Site is a former ore processing mill area adjacent to the Cleveland Mine. The Cleveland Mine, located approximately 0.5 mile northeast of the mill area, is one of the Cleveland Group of Mines located in the West Pinos Altos Mining District. The first of the Cleveland Mining claims was staked in the early 1900s and included a milling operation at the Site. The milling operation employed a gravity separator until 1916, and a flotation process from 1916 until at least 1919. Approximately 125,000 tons of lead, zinc, and copper ore were produced from the Cleveland Mine during the period from about 1900 until 1919. After this time, the site was leased for mining and grazing. The tailings from the milling operations were deposited at the headwaters of the Little Walnut Creek and both the soil and the surface water were contaminated with Site-related hazardous substances.

The Site was proposed for inclusion on the NPL on June 24, 1988, and inclusion was finalized on March 31, 1989, pursuant to section 105 of CERCLA, 42 U.S.C. 9605, identifying the Site as a priority for long-term remedial evaluation and response.

Remedial Investigation and Feasibility Study (RI/FS)

From August 1990 through March 1992, NMED, under an agreement with EPA, conducted a Remedial Investigation (RI) at the Cleveland Mill Superfund Site to determine the nature and extent of the problem presented by the release of hazardous substances, pollutants or contaminants at the Site. Hazardous substances were detected in soil and other surface materials at the site at concentration levels that exceed health-based standards: arsenic ranged from 4.1 to 3,020 milligrams per kilogram (mg/kg); beryllium ranged from 0.25 to 12.8 mg/kg; cadmium ranged from 0.15 to 376 mg/kg; lead ranged from 5.8 to 13,500 mg/kg; and zinc ranged from 57.3 to 122,000 mg/kg. The NMED also conducted a Feasibility Study (FS) on the Site, under an agreement with EPA. The primary objective of the FS, completed in March 1993, was to ensure that appropriate remedial alternatives were developed and evaluated such that relevant information concerning the remedial action options could be presented to a decision-maker (in this case the EPA Region 6 Regional Administrator) and an appropriate remedy selected.

On April 9, 1993, the EPA released the RI and FS Reports. The RI concluded that if no action was taken at the Site, there would be a threat to human health because Site visitors may be exposed to dangerous concentrations of hazardous substances in tailings, sediment, and surface water at the Site. Moreover, there was a potential for the

wells of nearby residents to become contaminated. These residents rely on ground water for drinking.

Record of Decision Findings

On September 24, 1993, after consideration of public comments, the EPA, with the concurrence of the NMED, issued a Record of Decision (ROD) memorializing its selection of a remedy to address the contamination at the Site. The remedy was chosen in accordance with CERCLA and the NCP. The ROD was based on the administrative record for the Site. The overall Site remedy, as described in the 1993 ROD, called for excavation of the contaminated mill waste material, transportation of the waste material to a reprocessor for treatment, and disposal of the treatment residuals at the reprocessing facility in an area where other tailings and residuals from ore-processing were disposed. The remedy in the 1993 ROD did not include a remedy for the shallow on-site aquifer because the EPA believed that the contamination would attenuate once the source (i.e., the contaminated waste material) was removed. Therefore, the 1993 ROD included ground water monitoring, to ensure that the contamination did not worsen or spread to nearby residential wells prior to the excavation and removal of the source of the contamination, and to verify that the ground water quality improved once the source was removed.

Removal Action

In a June 1995, Consent Decree (CD), the participating companies agreed to implement the remedy specified in the 1993 ROD. However, the 1993 ROD remedy was not implemented because the search for an acceptable off-site disposal facility was ultimately unsuccessful, and because, during the search, unanticipated and powerful rainfall events caused hazardous substances from the Site to migrate in contaminated runoff. This unanticipated contaminant migration posed an immediate increased risk to human health and the environment.

On July 11, 1997, to address the immediate risk, the EPA, with the concurrence of the NMED, issued an Action Memorandum that authorized a time-critical removal action to physically address the Site contamination and to restore affected surface areas at the Site. The participating companies agreed to implement this removal action through an EPA Administrative Order on Consent (AOC) which became effective on September 23, 1997. As described below, the removal action included the excavation of the contaminated material, and the placement of that material in an on-Site containment cell. The field activities required by the AOC were completed on November 19, 1998, the date on which the seeds of native plants were sown on the last area of the Site in order to provide vegetative cover. Completion of the final AOC requirement occurred on December 10, 1998, the date the participating companies submitted the Removal Action Final Report which was accepted by EPA.

Cleanup Activities Performed

The cleanup activities at the Site were conducted from September 1997 through December 1998 during the time-critical removal action. The time-critical removal action included:

- Excavation of 164,960 cubic yards of contaminated tailings and sediment from the mine area, the mill area, and the streambed;
- Neutralization of the acidic excavated material through admixing with limestone;
- Disposal of the neutralized material in a limestone cell constructed at the Site;
- Covering of the cell with a multi-layered cap,
- Construction of erosion control measures such as terraces; and
- Reseeding of the disturbed areas of the Site and the disposal cell cap.

C. Characterization of Risk

Contaminated materials were removed from Site soils and sediments until concentrations of contaminants remaining on the Site met the health-based remediation goals specified in the 1993 ROD (these goals were referred to as ''Remedial Action Goals'' in the ROD) and incorporated into the Action Memorandum as soil and sediment ''cleanup levels.'' Cleanup levels for soil and sediment included: arsenic, 30 milligrams per kilogram in soil (mg/kg); beryllium, 4 mg/kg; cadmium, 140 mg/kg; lead, 500 mg/kg; and zinc, 82,000 mg/kg. At the conclusion of the time-critical removal action, confirmatory samples were taken at all excavated areas of the Site to verify that all soils (including tailings) and sediment with concentrations of contaminants higher than the cleanup levels (i.e., the remediation goals established in the ROD) had been removed.

The environmental threat at the Site was addressed through this time-critical removal. As part of this removal, the waste material in the mill area and in the stream was excavated, the waste material was treated with limestone to neutralize its acidity, the treated material was disposed of in a limestone cell constructed at the Site, and the cell was covered by a multi-layered cap.

The EPA issued an Amended ROD for the Site on September 20, 1999, stating that no further response action was necessary; however, as explained in the Amended ROD, the continuation of ground water and surface water monitoring, operation and maintenance (O&M) of the constructed remedy, and implementation of the existing institutional controls will continue. The O&M activities include inspections to ensure that erosion does not compromise the remedy and to ensure that the revegetation efforts are successful. Institutional controls include restrictive covenants warning against the use of ground water and advising future owners about the risks of disturbing the cover and/or the underlying material.

The original selected remedy, the time-critical removal action and the remedy selected in the Amended ROD (collectively the ''Site remedies'') are protective of public health and the environment, comply with federal and state requirements that are legally applicable or relevant and appropriate to the remedial action, and are cost effective. The Site remedies utilized permanent solutions to the maximum extent practicable for this Site. This Site meets all the completion requirements as specified in ''Close Out Procedures for National Priorities List Sites,'' OSWER Directive 9320.2–09A–P (2000), and in the June 16, 2000, Site Close Out Report prepared by the EPA Region 6 Superfund Division.

D. Future Activity

Because the implementation of the Site remedies resulted in hazardous substances remaining on-site at concentration levels above levels that allow for unlimited use and unrestricted exposure (see 42 U.S.C. 9621(c), and 40 CFR 300.430(f)(4)(ii)), a review will be conducted at least every five years after commencement of the remedial action (which, at this Site for the purposes of the five-year review only, is considered to be the start of the time-critical removal action) to assure that human health and the environment are being protected by the response action. The five-year reviews will be conducted pursuant to ''Structure and Components of Five-Year Reviews,'' OSWER Directive 9355.7–02 (May 23, 1991) and ''Supplemental Five-Year Review Guidance,'' OSWER Directive 9355.7–02A (July 26, 1994) or other EPA guidance current at the time of the review. All response activities have

been completed at the Site other than O&M and five-year reviews.

E. Community Involvement

Public participation activities have been satisfied as required by CERCLA section 113(k), 42 U.S.C. 9613(k), and CERCLA section 117, 42 U.S.C. 9617. Documents in the deletion docket which EPA relied on for its decision to delete the Site from the NPL are available to the public at the information repositories.

V. Deletion Action

The EPA, with concurrence of the NMED, has determined that responsible parties have implemented all appropriate response actions required at the Site and that no further response actions, under CERCLA, other than O&M and five-year reviews, are necessary. Therefore, EPA is deleting the Site from the NPL.

Because EPA considers this action to be noncontroversial and routine, EPA is taking it without prior publication of a notice of intent to delete. This action will be effective July 23, 2001 unless EPA receives adverse comments by June 21, 2001. If adverse comments are received within the 30-day public comment period, EPA will publish a timely withdrawal of this direct final deletion before the effective date of the deletion and it will not take effect and EPA will prepare a response to comments and continue with the deletion process on the basis of the notice of intent to delete and the comments already received. There will be no additional opportunity to comment.

List of Subjects in 40 CFR Part 300

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

Dated: January 22, 2001.

Jerry Clifford,

Deputy Regional Administrator, Region 6.

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

PART 300—[AMENDED]

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

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

Appendix B—[Amended]

2. Table 1 of Appendix B to Part 300 is amended by removing the site for Cleveland Mill, Silver City, NM.

[FR Doc. 01–12705 Filed 5–21–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–6957–8]

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

AGENCY: Environmental Protection Agency.

ACTION: Direct Final Deletion of the Brodhead Creek Superfund Site from the National Priorities List.

SUMMARY: The Environmental Protection Agency (EPA) Region III is publishing a direct final deletion of the Brodhead Creek Superfund Site (Site) located in the Borough of Stroudsburg, Monroe County, Pennsylvania, from the National Priorities List (NPL).

The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is Appendix B of 40 CFR Part 300, which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). This direct final deletion is being published by EPA with the concurrence of the Commonwealth of Pennsylvania, through the Pennsylvania Department of Environmental Protection (PADEP) because EPA has determined that all appropriate response actions under CERCLA have been completed and, therefore, further remedial action pursuant to CERCLA is not appropriate.

DATES: This direct final deletion will be effective July 23, 2001, unless EPA receives adverse comments by June 21, 2001. If adverse comments are received, EPA will publish a timely withdrawal of the direct final deletion in the **Federal Register** informing the public that the deletion will not take effect.

ADDRESSES: Comments may be mailed to: William Hudson, Community Involvement Coordinator, (3HS43), U.S. EPA Region III, 1650 Arch Street, Philadelphia, PA 19103, (215) 814–5532.

Information Repositories: Comprehensive information about the Site is available for viewing and copying at the Site Information Repositories at the following locations: U.S. EPA Region III, Regional Center for Environmental Information (RCEI), 1650 Arch Street, Philadelphia, PA 19103, (215) 814–5364, Monday through Friday 8:00 a.m. to 4:30 p.m.; the Stroudsburg Borough Building, Seventh and Sarah Streets, Stroudsburg, PA 18360, (570) 421–5444, Monday through Friday 8:00 to 5:00 p.m.; and the Pennsylvania Department of Environmental Protection, Northeast Regional Office, 2 Public Square, Wilkes-Barre, PA 18711–0790, (570) 826–2511, Monday through Friday 9:00 a.m. to 3:00 p.m.

FOR FURTHER INFORMATION CONTACT: John Banks, Remedial Project Manager (3HS22), U.S. EPA Region III, 1650 Arch Street, Philadelphia, PA 19103, (215) 814–3214, Fax (215) 814–3002, e-mail *banks.john-d@epa.gov.*

SUPPLEMENTARY INFORMATION:

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I. Introduction
II. NPL Deletion Criteria
III. Deletion Procedures
IV. Basis for Site Deletion
I. Deletion Action

I. Introduction

EPA Region III is publishing this direct final deletion of the Brodhead Creek Superfund Site from the NPL.

The EPA identifies sites that appear to present a significant risk to public health or the environment and maintains the NPL as the list of those sites. As described in § 300.425(e)(3) of the NCP, sites deleted from the NPL remain eligible for remedial actions if conditions at a deleted site warrant such action.

Because EPA considers this action to be noncontroversial and routine, EPA is taking it without prior publication of a notice of intent to delete. This action will be effective July 23, 2001 unless EPA receives adverse comments by June 21, 2001. If adverse comments are received within the 30-day public comment period on this document, EPA will publish a timely withdrawal of this direct final deletion before the effective date of the deletion and the deletion will not take effect. EPA will, as appropriate, prepare a response to comments and continue with the deletion process on the basis of the notice of intent to delete and the comments already received. There will be no additional opportunity to comment.

Section II of this document explains the criteria for deleting sites from the NPL. Section III discusses procedures that EPA is using for this action. Section IV discusses the Brodhead Creek Superfund Site and demonstrates how it meets the deletion criteria. Section V

discusses EPA's action to delete the Site from the NPL unless adverse comments are received during the public comment period.

II. NPL Deletion Criteria

Section 300.425(e) of the NCP provides that releases may be deleted from the NPL where no further response is appropriate. In making a determination to delete a release from the NPL, EPA shall consider, in consultation with the State, whether any of the following criteria have been met:

i. Responsible parties or other persons have implemented all appropriate response actions required;

ii. All appropriate Fund-financed (Hazardous Substance Superfund Response Trust Fund) response under CERCLA has been implemented, and no further response action by responsible parties is appropriate; or

iii. The remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, the taking of remedial measures is not appropriate.

Even if a site is deleted from the NPL, where hazardous substances, pollutants, or contaminants remain at the deleted site above levels that allow for unlimited use and unrestricted exposure, CERCLA Section 121(c), 42 U.S.C. 9621(c) requires that a subsequent review of the site be conducted at least every five years after the initiation of the remedial action at the deleted site to ensure that the action remains protective of public health and the environment. If new information becomes available which indicates a need for further action, EPA may initiate remedial actions. Whenever there is a significant release from a site deleted from the NPL, the deleted site may be restored to the NPL without application of the hazard ranking system.

III. Deletion Procedures

The following procedures apply to deletion of the Site:

(1) The EPA consulted with the Commonwealth of Pennsylvania on the deletion of the Site from the NPL prior to developing this direct final deletion.

(2) The Commonwealth of Pennsylvania concurred with the deletion of the Site from the NPL.

(3) Concurrently with the publication of this direct final deletion, a notice of the availability of the parallel notice of intent to delete published today in the ''Proposed Rules'' section of the **Federal Register** is being published in a major local newspaper of general circulation at or near the Site and is being distributed to the appropriate federal, state, and local government officials and other interested parties; the newspaper notice announces the 30-day public comment period concerning the notice of intent to delete the Site from the NPL.

(4) The EPA placed copies of documents supporting the deletion in the Site information repositories identified above.

(5) If adverse comments are received within the 30-day public comment period on this document, EPA will publish a timely withdrawal of this direct final deletion before its effective date and will prepare a response to comments and continue with the deletion process on the basis of the notice of intent to delete and the comments already received.

Deletion of a Site from the NPL does not itself create, alter, or revoke any individual's rights or obligations. Deletion of a site from the NPL does not in any way alter EPA's right to take enforcement actions, as appropriate. The NPL is designed primarily for informational purposes and to assist EPA management. Section 300.425(e)(3) of the NCP states that the deletion of a site from the NPL does not preclude eligibility for future response actions, should future conditions warrant such action.

IV. Basis for Site Deletion

The following information provides EPA's rationale for deleting the Site from the NPL:

A. Site Location

The Brodhead Creek Site occupies approximately 12 acres of a flood plain area on the western bank of Brodhead Creek at the confluence of Brodhead Creek and McMichael Creek in the Borough of Stroudsburg in Monroe County, Pennsylvania.

B. Site History

The Site is the former location of a coal gasification plant which operated from approximately 1888 to 1944. A waste product from these operations was a black tar-like liquid (''coal tar'') which has a density greater than water and which is principally composed of polynuclear aromatic hydrocarbons (''PAHs''). The coal tar was placed in an open pit located on the Site. This practice continued to the mid-1940s when the plant was abandoned.

On October 7, 1980, during construction repairs to the flood control levee at the Site, materials identified as coal tar were observed seeping into Brodhead Creek. As a result, several investigations and emergency response measures were initiated by EPA, PADEP, and Pennsylvania Power and Light Company (PP&L) from 1981 through 1984, including: (1) Installation of temporary filter fences and underflow dams to intercept coal tar seepage; (2) installation of a temporary coal tar recovery pit on the west bank of Brodhead Creek; (3) construction of a slurry wall by EPA to mitigate coal tar migration from the Site toward Brodhead Creek; (4) excavation of a backwater channel area where coal tar seepage appeared to be particularly significant; and (5) installation of recovery wells in the main coal tar pool by PP&L, with the subsequent recovery of approximately 8,000 gallons of coal tar.

The Site was placed on the NPL in December 1982, with a Hazard Ranking Score of 31.09.

Remedial Investigation and Feasibility Study (RI/FS)

On August 20, 1987, PP&L and Union Gas Company (UGC) entered into a Consent Order and Agreement with the Commonwealth of Pennsylvania to conduct the original remedial investigation and feasibility study (RI/FS) for the Brodhead Creek Site. The original RI/FS was completed in 1991.

The results of the original RI indicated that coal tar from the former coal gasification operations had migrated vertically through the unsaturated and saturated portions of the stream gravel unit underlying the Site to the interface with the silty sand. The silty sand prevents further downward movement of the coal tar because of the higher capillary pressures within that unit. Approximately 4.28 acres of the gravel unit at the Site were contaminated with free and residual coal tar. The free coal tar (i.e., coal tar at 100% pore volume saturation) is limited to a small area of a stratigraphic depression east of the slurry wall near monitoring well MW–2 (the MW–2 Area) and to the lowest portion of the stratigraphic depression located west of the slurry wall (the RCC Area). Both of these free coal tar accumulations are confined from further downward migration by the top of the silty sand unit. Residual coal tar (i.e., coal tar at less than 100% pore volume saturation) can be found throughout the remainder of the 4.28 acres.

The total volume of free coal tar at the Site was estimated to be 9,000 gallons, 8,715 gallons at the RCC Area and 338 gallons at the MW–2 Area. The extent of residual coal tar contamination at the Site was estimated to be from 303,000 gallons to 409,000 gallons.

Characterization of Risk

The risk assessment in the original RI identified PAHs, benzene, and arsenic

as the primary contaminants of concern at the Site. Federal Maximum Contaminant Levels (MCLs) for drinking water established pursuant to the Safe Drinking Water Act, 42 U.S.C. 300f *et seq.*, were exceeded for arsenic, benzene, and benzo(a)pyrene in the subsurface gravel unit. Proposed MCLs were exceeded in the ground water in the gravel unit for the following PAHs: benzo(a)anthracene; benzo(b)fluoranthene; benzo(k)fluoranthene; chrysene, dibenz(a,h)anthracene; and indenopyrene. These PAHs, as well as arsenic and benzene, are ''hazardous substances'' as defined in Section 101(14) of CERCLA.

After reviewing the results of the original RI/FS, EPA divided the remedial work to be undertaken at the Site into two operable units (''OUs''). These were as follows:

OU–1: Contaminated subsurface soils containing free coal tar in the stream gravel unit

OU–2: Ground water in the stream gravel unit to and including bedrock

EPA determined that an interim remedial action should be taken for OU–1 to initiate reduction of the toxicity, mobility, and volume of contaminants in the stream gravel unit at the Site. The interim remedial action would entail the removal of the free coal tar from the stream gravel unit. The free coal tar was a principal threat to human health and the environment since it imparted high levels of contaminants to the ground water in the stream gravel unit and could serve as a potential source of release of contamination to the ground water in bedrock. Implementation of an interim remedial action would remove the source of the highest level of contamination and would reduce further leaching of contaminants into the ground water. Data generated during the implementation of the interim action and further investigations for OU–2 would provide the information necessary to assist EPA in determining whether (and where) restoration of ground water to beneficial use was feasible. This in turn would enable EPA to issue a final Record of Decision for the Brodhead Creek Site.

Record of Decision Findings for OU–1

In a Record of Decision (ROD) issued on March 29, 1991, EPA selected an interim remedial action for OU–1 which included the following major components:

—Recovery of free coal tar from the subsurface soils utilizing the innovative technology of enhanced recovery (referred to as the Contained Recovery of Oily Waste (CROW) process);
—Disposal of the recovered coal tar at an off-site permitted facility;
—Imposition of institutional controls to limit future use of the Site; and
—Monitoring of ground water and biota in Brodhead Creek to ensure protection of human health and the environment.

Response Actions for OU–1

On September 2, 1992, EPA, PP&L and UGC entered into a Consent Decree under which the companies agreed to implement the remedial design/remedial action (RD/RA) for OU–1 at the Site. The original performance standard in the ROD required that at least 60% of the free coal tar in the subsurface soils be removed. On July 14, 1994, EPA issued an Explanation of Significant Differences (ESD) which revised the performance standard in the ROD by requiring the operation of the CROW process until the increase in cumulative recovery of the coal tar dropped to 0.5% or less per pore volume flushed through the formation. This revision of the performance standard was based on EPA's determination that accurate measurement of the removal of 60% of the free coal tar would not be possible because of the geology of the Site and the nature of the subsurface coal tar contamination. By June of 1996, approximately 1,500 total gallons of coal tar had been removed from the RCC Area and the performance standard had been met.

EPA determined during the CROW operational period that it would not be practical to implement CROW at the MW–2 Area (the area located at monitoring well MW–2) since the MW–2 Area contained only a small amount of free coal tar. Instead, EPA determined that the relatively minor amount of coal tar in the MW–2 Area wells should be removed via intermittent pumping. Approximately 100.5 gallons of coal tar were recovered from the MW–2 Area between February 1996 and March 1997.

Because of the variable nature of the coal tar recovery effort at the MW–2 wells, EPA determined that continued active intermittent pumping of the MW–2 wells could be suspended. However, as part of operation and maintenance of the Site, EPA has required that the MW–2 wells, and any wells in the RCC Area that have historically contained coal tar, be monitored for a free coal tar surface as part of the long-term ground water monitoring requirement at the Site. If a coal tar layer greater than six inches is discovered, it will be removed by pumping at that time.

These changes for the MW–2 Area were documented in a second Explanation of Significant Differences dated September 30, 1997. This second ESD also converted the interim remedy in the ROD for OU–1 into the final remedy for the Site and described the long-term monitoring strategy for the Site.

Record of Decision Findings for OU–2

On June 3, 1992, EPA, PP&L and UGC entered into a Consent Order under which the companies agreed to conduct a Focused RI/FS for OU–2 to further investigate ground water contamination at the Site. On June 30, 1995, EPA issued a ROD for OU–2 at the Brodhead Creek Site. This ROD addressed ground water contamination and residual coal tar contamination in the subsurface soils. In the ROD for OU–2, EPA selected a No Further Action alternative and established a technical impracticability (''TI'') zone within which the Agency determined it would be impracticable to remediate ground water and residual coal tar contamination. EPA waived federal MCLs and Pennsylvania's Applicable or Relevant and Appropriate Requirement (ARAR) for cleanup to ''background'' levels of contamination on the basis of ''Technical Impracticability.'' Several Site-specific constraints made the implementation of engineering solutions to the residual coal tar contamination impracticable. As stated in the OU–2 ROD, these included: (1) the need to temporarily reroute Brodhead Creek to access coal tar-impacted soils beneath the creek bed; (2) the need to reinforce the existing interstate I–80 bridge abutments in order to protect them from the increased velocity and height of the creek which would result from rerouting the creek; and (3) the need to restore wetlands which would be impacted by any remediation alternative. In addition, the existing earthen levee which currently bisects the Site, and which protects the Borough of Stroudsburg and the slurry wall installed by EPA as an emergency action in the early 1980s, would probably sustain damage from the implementation of any engineering alternative, and require repair.

In the ROD for OU–2, EPA determined that the No Further Action alternative, in conjunction with the OU–1 selected remedy, is protective of human health and the environment. Implementation of the OU–1 enhanced recovery program for the free coal tar areas on-site reduced the areas of highest subsurface soil contamination. The OU–1 monitoring program will provide the data required to evaluate the fate of the coal tar-related constituents,

the integrity of the slurry wall and the ''health'' of the biological community in Brodhead Creek. This will provide long term protection against the unlikely event that Site conditions might change and potential exposures increase. In addition, the slurry wall installed at the Site will continue to prevent free coal tar from discharging to Brodhead Creek.

C. Future Activity

Operation and Maintenance

Operation and Maintenance (O&M) activities, which are performed by PP&L(now known as PPL Electric Utilities Corporation (PPL)) with EPA oversight, include periodic inspections, ground water monitoring, stream sediment and biota monitoring, and the removal of relatively minor amounts of free coal tar from the two stratigraphically isolated areas of the Site, as necessary, but no less often than annually, and any other activities necessary to ensure continued protection of public health and the environment. The free coal tar removal, in conjunction with long-term ground water monitoring, will continue to ensure the effectiveness of the completed remedy at the Brodhead Creek Site.

Five-Year Review

CERCLA requires a five-year review of all sites with hazardous substances remaining above the health based levels for unrestricted use of the Site. Since residual coal tar contamination and ground water contamination remain at the Site, the five-year review process will be used to ensure that the selected remedy continues to be protective of human health and the environment. EPA completed the first five-year review of the Brodhead Creek Site on May 28, 1999. In that five-year review, EPA determined that the remedy was not completely protective of human health and the environment because institutional controls on future land use at the Site had not yet been implemented. On September 22, 2000, institutional controls which limit future land use at the Brodhead Creek Site were implemented by PPL and UGC (now known as PFG Gas, Inc.), and recorded at the Monroe County Courthouse, Recorder of Deeds Office, in Stroudsburg, Pennsylvania. These controls include restricting use of ground water at the Site and prohibiting excavation at the Site unless prior written approval is provided by the property owner, EPA, and PADEP. These institutional controls will reinforce the protectiveness of the selected remedy. EPA has determined that all requirements of the ROD for OU–1, as modified by the ESDs dated July 14, 1994 and September 30, 1997, have been achieved at the Site and the Site is protective of human health and the environment. EPA plans to complete the next five year review prior to May 28, 2004.

D. Community Involvement

Public participation activities have been satisfied as required in CERCLA Section 113(k), 42 U.S.C. 9613(k), and CERCLA Section 117, 42 U.S.C 9617. Documents in the deletion docket which EPA relied on for recommendation of the deletion from the NPL are available to the public in the information repositories.

V. Deletion Action

The EPA, with the concurrence of the Commonwealth of Pennsylvania, has determined that all appropriate responses under CERCLA have been completed, and that no further response actions, under CERCLA, other than O&M and five-year reviews, are necessary. Therefore, EPA is deleting the Site from the NPL.

Because EPA considers this action to be noncontroversial and routine, EPA is taking it without prior publication of a notice of intent to delete. This action will be effective July 23, 2001 unless EPA receives adverse comments by June 21, 2001 on this document. If adverse comments are received within the 30-day public comment period on this document to delete, EPA will publish a timely withdrawal of this direct final deletion before the effective date of the deletion and the deletion will not take effect. EPA will prepare a response to comments and continue with the deletion process on the basis of the notice of intent to delete and the comments already received. There will be no additional opportunity to comment.

List of Subjects in 40 CFR Part 300

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

Dated: March 8, 2001.

Thomas C. Voltaggio,

Acting Regional Administrator, U.S. EPA Region III.

For the reasons set out in this document, 40 CFR Part 300 is amended as follows:

PART 300—[AMENDED]

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

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

Appendix B—[Amended]

2. Table 1 of Appendix B to Part 300 is amended by removing the site for ''Brodhead Creek, Stroudsburg, PA.''

[FR Doc. 01–12707 Filed 5–21–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–6969–7]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final deletion of the Salem Acres Superfund Site from the National Priorities List.

SUMMARY: EPA—New England is publishing a direct final deletion of the Salem Acres Superfund Site (Site), located in Salem, Massachusetts, from the National Priorities List (NPL).

The NPL, promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is Appendix B of 40 CFR Part 300, which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). This direct final deletion is being published by EPA with the concurrence of the Commonwealth of Massachusetts, through the Department of Environmental Protection (MADEP) because EPA has determined that all appropriate response actions under CERCLA have been completed and, therefore, further remedial action pursuant to CERCLA is not appropriate.

DATES: This direct final deletion will be effective July 23, 2001 unless EPA receives adverse comments by June 21, 2001. If adverse comments are received, EPA will publish a timely withdrawal of the direct final deletion in the **Federal Register** informing the public that the deletion will not take effect.

ADDRESSES: Comments may be mailed to Elaine Stanley, Remedial Project Manager, U.S. Environmental Protection Agency—New England, One Congress

Street, Suite 1100 (HBO), Boston, Massachusetts 02114–2023, (617) 918–1332, Fax (617) 918–1291, e-mail: *stanley.elainet@epa.gov.*

Information Repositories: Comprehensive information about the Site is available for viewing and copying at the Site information repositories located at: U.S. Environmental Protection Agency—New England Records Center, One Congress Street, Suite 1100, (HBS), Boston, Massachusetts 02114–2023, (617) 918–1440 or 1–800–252–3402-toll-free, Monday through Friday—9 a.m. to 5 p.m.; and the Salem Public Library, 370 Essex Street, Salem, Massachusetts 01970, (978) 744–0860, Monday through Thursday—9 a.m. to 9 p.m., Friday and Saturday—9 a.m. to 5 p.m. and Sunday—1 p.m. to 5 p.m.

FOR FURTHER INFORMATION CONTACT: Elaine Stanley, Remedial Project Manager, U.S. Environmental Protection Agency, One Congress Street, Suite 1100 (HBO), Boston, Massachusetts 02114–2023, (617) 918–1332, Fax (617) 918–1291, e-mail: *stanley.elainet@epa.gov.*

SUPPLEMENTARY INFORMATION:

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I. Introduction
II. NPL Deletion Criteria
III. Deletion Procedures
IV. Basis for Site Deletion
V. Deletion Action

I. Introduction

EPA—New England is publishing this direct final notice of deletion of the Salem Acres Superfund Site from the NPL.

The EPA identifies sites that appear to present a significant risk to public health or the environment and maintains the NPL as the list of those sites. As described in § 300.425(e)(3) of the NCP, sites deleted from the NPL remain eligible for remedial actions if conditions at a deleted site warrant such action.

Because EPA considers this action to be noncontroversial and routine, EPA is taking it without prior publication of a notice of intent to delete. This action will be effective July 23, 2001 unless EPA receives adverse comments by June 21, 2001 on this document. If adverse comments are received within the 30-day public comment period on this document, EPA will publish a timely withdrawal of this direct final deletion before the effective date of the deletion and the deletion will not take effect. EPA will, as appropriate, prepare a response to comments and continue with the deletion process on the basis of the notice of intent to delete and the comments already received. There will be no additional opportunity to comment.

Section II of this document explains the criteria for deleting sites from the NPL. Section III discusses the procedures that EPA is using for this action. Section IV discusses the Salem Acres Superfund Site and demonstrates how it meets the deletion criteria. Section V discusses EPA's action to delete the site from the NPL unless adverse comments are received during the public comment period.

II. NPL Deletion Criteria

Section 300.425(e) of the NCP provides that release may be deleted from the NPL where no further response is appropriate. In making a determination to delete a release from the NPL, EPA shall consider, in consultation with the State, whether any of the following criteria has been met:

(i) Responsible parties or other persons have implemented all appropriate response actions required;

(ii) All appropriate Fund-financed (Hazardous Substance Superfund Response Trust Fund) response under CERCLA has been implemented, and no further response action by responsible parties is appropriate; or

(iii) The remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, taking of remedial measures is not appropriate.

Even if a site is deleted from the NPL, where hazardous substances, pollutants, or contaminants remain at the deleted site above levels that allow for unlimited use and unrestricted exposure, CERCLA Section 121(c), 42 U.S.C. 9621(c) requires that a subsequent review of the site will be conducted at least every five years after the initiation of the remedial action at the deleted site to ensure that the action remains protective of public health and the environment. In the case of this Site, a five year review is not necessary since all hazardous substances, pollutants and contaminants have been removed from the Site. If new information becomes available which indicates a need for further action, EPA may initiate remedial actions. Whenever there is a significant release from a site deleted from the NPL, the deleted site may be restored to the NPL without the application of the hazard ranking system.

III. Deletion Procedures

The following procedures apply to deletion of the Site:

(1) The EPA consulted with the Commonwealth of Massachusetts on the deletion of the Site from the NPL prior to developing this direct final deletion.

(2) The Commonwealth of Massachusetts concurred with the deletion of the Site from the NPL.

(3) Concurrently with the publication of this direct final deletion, a notice of the availability of the parallel notice of intent to delete published today in the ''Proposed Rules'' section of the **Federal Register** is being published in a major local newspaper of general circulation at or near the Site and is being distributed to appropriate federal, state and local government officials and other interested parties; the newspaper notice announces the 30-day public comment period concerning the notice of intent to delete the Site from the NPL.

(4) The EPA places copies of the documents supporting the deletion in the Site information repositories identified.

(5) If adverse comments are received within the 30-day public comment period on this document, EPA will publish a timely notice of withdrawal of this direct final deletion before its effective date and will prepare a response to comments and continue with the deletion process on the basis of the notice of intent to delete and the comments already received.

Deletion of a site from the NPL does not itself create, alter, or revoke any individual's rights or obligations. Deletion of a site from the NPL does not in any way alter EPA's right to take enforcement actions, as appropriate. The NPL is designed primarily for informational purposes and to assist EPA management. Section 300.425(e)(3) of the NCP states that the deletion of a site from the NPL does not preclude eligibility for future response actions, should future conditions warrant such actions.

IV. Basis for Site Deletion

The following information provides EPA's rationale for deleting the Site from the NPL:

Site Location

The Salem Acres Superfund Site (Site) is an approximately two hundred and thirty-five (235) acre parcel of land located in the Cities of Peabody and Salem, Massachusetts. The entire Site is zoned residential but remains undeveloped. The actual contaminated portion of the Site was confined to the southernmost thirteen acres of the property. This area borders a residential area to the south, wetlands to the east and west and undeveloped upland to the north.

Site History

The contaminated area consisted of three adjacent and separate disposal areas. There is a Responsible Party (RP) associated with each area. The first area where hazardous substances were located consisted of eight unlined sludge lagoons containing industrial sewage sludge originating from and disposed of by the South Essex Sewerage District (SESD), a wastewater treatment plant located in Salem, MA. The second area containing hazardous substances consisted of a coal fly ash pile disposed of by the Massachusetts Electric Company (MEC). Disposal activities by SESD and MEC occurred between the mid 1940's and 1969. The third and final area containing hazardous substances included an old landfill and three debris piles (collectively Landfill) which existed prior to the present ownership of the property. The owner of the property, Ugo DiBiase Salem Realty Trust (DiBiase) is the RP for the Landfill. Generation and disposal of the landfill and debris piles is not known. Although DiBiase did not contribute any waste to the Site, it was deemed liable by virtue of property ownership and failing to take any action to minimize exposure to contaminants. Operable Unit No. 1 includes the entire Site.

EPA conducted two Emergency Removal Actions (ERAs) at the Site, one in 1987 and one in 1990. EPA funded the first action and a portion of the second action with SESD performing and funding the remaining portion of the second action. The first action consisted of lagoon water removal and disposal, capping the lagoons, constructing a slurry wall and provide fencing to preclude site access. The second action consisted drum repacking and storage, fence and gate replacement and installation of signs.

Remedial Investigation and Feasibility Study (RI/FS)

The SESD completed a site-wide Remedial Investigation (RI) on May 29, 1992. They then conducted a Feasibility Study (FS) which was completed in June 1992. Results of the RI showed the nature and extent of contamination and assessed the associated risks from exposure. The contaminants of concern include polynuclear aromatic hydrocarbons (PAHs), polychlorinated biphenyls PCBs, dioxins/furans, volatile organic compounds (VOCs), semi-VOCs (sVOCs), chromium, arsenic, beryllium, vanadium and thallium. The concentration levels for the dioxin equivalent 2,3,7,8-TCDD found during the RA were below the cleanup level of 1 part per billion. The primary exposure pathways for both existing and future land use (residential) that showed unacceptable risk include: ingestion, dermal contact and inhalation of (airborne particulates originating from) sludge, fly ash and contaminated soil.

The FS developed and evaluated various remedies for each contaminated area, including RCRA capping, incineration, immobilization, thermal desorption, solvent extraction, in-situ vitrification, sludge fixation, excavation and off-site disposal.

Record of Decision Findings

A Record of Decision (ROD) was signed on March 25, 1993. The ROD required a preferred remedy of soil/sludge fixation, excavation and off-site disposal at a permitted landfill. Implementation of the preferred remedy required that certain conditions be met which included that the waste must be classified as non-hazardous under RCRA before shipment off-site. If these conditions could not be met, the ROD required construction of a RCRA cap over the hazardous substances to minimize possible exposure, implementation of institutional controls and long term monitoring to assure cap integrity. All areas to be remediated on Site are identified as Operable Unit No. 1. If the preferred remedy proved to be feasible, then no institutional controls or long term monitoring would be required.

On April 11, 1997, EPA issued an Explanation of Significant Difference (ESD). Based on updated toxicity data regarding carcinogenic polyaromatic hydrocarbons (cPAHs), EPA recalculated cleanup values for soils using this new information. The cleanup risk value established in the ROD for the Site was held constant, providing the same level of protectiveness. Each cPAH was given a separate cleanup value rather than a total cPAH value 1.2 parts per million (ppm) provided in the ROD. In addition, EPA calculated a new cleanup value for beryllium after a background study was performed. EPA redefined the background concentration of beryllium in soils as 1.0 ppm and revised the cleanup level from 0.42 ppm to 1.0. The excess lifetime cancer risk resulting from exposure to 1 ppm beryllium in soils given the exposure scenario and assumptions specified in the HRA is 2×10^{-6} which is consistent with EPA's goal for remedial actions (clean up to within the acceptable risk range of 1×10^{-4} to 1×10^{-6}).

Characterization of Risk

The risk assessment performed as part of the RI for existing and future use scenarios determined that unacceptable risks exist from exposure to cPAHs, PCBs, dioxins/furans, VOCs, sVOCs, chromium, arsenic, beryllium, vanadium and thallium. The primary exposure pathways for both existing and future land use (residential) that showed unacceptable risk include: ingestion, dermal contact and inhalation of (airborne particulates originating from) sludge, fly ash and contaminated soil.

Response Actions

Each of the three RPs entered into separate Consent Decrees to pay for past costs expended at the Site, all future costs incurred at the Site and to perform separate remedial designs (RDs) (SESD and MEC only) and remedial actions (RAs) for each responsible area. The U.S. Army Corps of Engineers, on behalf of the EPA, performed the RD for the Landfill with Fund-lead monies. Just prior to the start of a fund lead RA, DiBiase entered into a Consent Decree to perform the RA and to cover certain past and all future costs associated with its cleanup. All future costs incurred by EPA and DEP for each of the three RD/RAs were covered by each respective RP. EPA retained the Corps to provide design review and evaluation, oversight of the remedial actions, including evaluation of quality assurance/quality control (QA/QC) procedures, performance standards and verified that the validated data met the established data quality objectives (DQOs) for each project.

For the first RA, DiBiase excavated approximately 2,000 cubic yards (cy) of material and disposed of it at an off-site permitted landfill. During the remedial action, fly ash was shown to be present well into the landfill. DiBiase removed approximately 1,500 cy of fly ash and MEC agreed to incur the costs associated with this work. Final site restoration of the Landfill and debris piles was performed in the spring of 1996.

MEC commenced RA activities in August 1995 and was substantially completed but discontinued in December 1995 at the boundary of the fly ash area and the adjacent wetland. Approximately 11,000 cy of fly ash and approximately 6,100 cy of adjacent contaminated soils were excavated and shipped off-site to a permitted special waste landfill located in New Hampshire. Site restoration was performed in the spring of 1996.

MEC excavated the remaining fly ash found in the wetlands in August 1999. Approximately 1,000 cy of fly ash was

removed from the wetland and shipped off-site to an appropriate landfill. Restoration of the wetland included seeding the slopes with an appropriate wetland soils and seed mix. A final inspection was performed on August 18, 1999. This is the date for which all construction activities were considered complete for the entire Site.

SESD performed treatability tests for the fixation of the sludges during the pre-design phase. The purpose of fixation was to render any ignitable sludges non-ignitable. The treatability study shown that the sludges were non-ignitable and non-RCRA toxic and thus not RCRA-characteristic hazardous waste. SESD implemented the remedy of excavation and off-site disposal. The remedial work commenced in September 1996 and substantially completed in September 1997. Final site restoration was completed in the spring of 1998. A final site inspection for the sludge areas occurred on April 29, 1999.

A total of 28,755 tons of sludge were excavated and disposed of off-site at a permitted solid waste disposal facility located in Maine. A total of 60,304 tons of soil were excavated and disposed of at a solid waste disposal facility in Massachusetts. The slurry wall, sludge lagoon HDPE covers installed during the 1987 ERA and other demolition debris were also removed and sent to the Massachusetts disposal facility. A total of approximately 7.5 million gallons of site water accumulated in the excavated areas were collected and discharged to the SESD treatment plant for treatment via municipal sewer. The water was tested regularly to ensure compliance with the plant's pre-treatment limits. The high volume of water that accumulated in the excavated areas was due to the occurrence of a hundred year storm event, unanticipated depth of excavation and contractor delays based on cost claims with SESD.

Each of the RPs monitored surface water and sediments in the wetlands prior to and after their remediation. SESD was also tasked to monitor Site ground water during and after remediation. The last and final ground water sampling event occurred in May of 1999. The results showed that ground water was not impacted by any remediation. Ground water had also not been impacted by past disposal of materials at the Site.

Cleanup Standards

Remedial action cleanup activities at the Site were consistent with the NCP, the ROD, the ESD and with each RD/RA Consent Decree and provides protection to human health and the environment. RD/RA plans for all phases of construction included a Quality Assurance Project Plan (QAPPs) and incorporated all EPA and State quality assurance and quality control procedures and protocols (where necessary). All procedures and protocol were followed for soil, sediment, water and air sampling during the RA. EPA analytical methods were used for the confirmatory and monitoring samples during all RA activities. EPA has determined that the analytical results, having been Tier III validated, are accurate to the degree needed to assure satisfactory execution of each RA, show that the cleanup standards have been met, and are consistent with the ROD/ESD and the RD plans and specifications.

Operations and Maintenance

The Site has been entirely cleaned up in accordance with the ROD, the ESD and the three CDs. There will be no need for operation and maintenance activities at the Site. The Site requires no institutional controls and now provides for unrestricted use. The Site is zoned as residential. The landowner has informally suggested that he may build multi-family residences on the Site but at the time of this writing, no definitive or formal plans have been made public.

Five-Year Review

No hazardous substances remain at the site above health-based levels after the completion of all remedial actions. Therefore, pursuant to CERCLA Section 121(c) and as provided in OSWER Directive 9355.7–02, Structure and Components of Five-Year Reviews, May 23, 1991 and OSWER Directive 9355.702A, Supplemental Five-Year Review Guidance, July, 26, 1994, five year reviews will not be necessary.

Community Involvement

Public participation activities have been satisfied as required in CERCLA Section 113(k), 42 U.S.C. 9613(k), and CERCLA Section 117, 42 U.S.C. 9617. Documents in the deletion docket which EPA relied on for recommendation of the deletion from the NPL are available to the public in the information repositories.

Informal public meetings were held in the neighborhood prior to and after each remedial action. Representatives from EPA, MADEP and the RPs with their consultants and contractors were present. These meetings proved to be extremely helpful in providing the public, especially the immediate neighborhood residents who would be most affected, with important information regarding activities associated with each remedial action. These meetings were also particularly useful for the agencies and the RPs in hearing and addressing the residents' concerns regarding on-site and off-site activities. Some examples of what the agencies and the RPs implemented as a result of these meetings included: prohibiting truck traffic before 8 a.m. and after 5 p.m. and during school bus pickup and drop off periods; setting a speed limit of 15 m.p.h. for all site-related vehicles on residential streets; daily street cleaning; air monitoring at the site gate adjacent to the neighborhood and the RPs agreeing to repave the neighborhood roadway used to transport wastes off-site.

V. Deletion Action

The EPA, with concurrence from the Commonwealth of Massachusetts, has determined that all appropriate responses under CERCLA have been completed, and that no further response actions, under CERCLA are necessary. Therefore, EPA is deleting the Site from the NPL.

Because EPA considers this action to be noncontroversial and routine, EPA is taking it without prior publication of a notice of intent to delete. This action will become effective July 23, 2001 unless EPA receives adverse comments by June 21, 2001. If adverse comments are received within the 30-day public comment period on this document, EPA will publish a timely withdrawal of this direct final deletion before the effective date of the deletion and it will not take effect and, EPA will prepare a response to comments and continue with the deletion process on the basis of the notice of intent to delete and the comments already received. There will be no additional opportunity to comment.

List of Subjects in 40 CFR Part 300

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

Dated: March 23, 2001.

Ira W. Leighton,

Acting Regional Administrator, U.S. EPA—New England.

For the reasons set out in this document, 40 CFR part 300 continues to read as follows:

PART 300—[AMENDED]

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

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

Appendix B—[Amended]

2. Table 1 of Appendix B to part 300 is amended under Salem Acres Superfund Site by removing the ''Salem Acres Superfund Site, Salem, Massachusetts''.

[FR Doc. 01–12709 Filed 5–21–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–6947–1]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Partial direct final deletion of the California Gulch Superfund Site from the National Priorities List (NPL).

SUMMARY: The Environmental Protection Agency (EPA) Region 8 announces its deletion of Operable Unit 2 (OU2) of the California Gulch Superfund Site (Site) from the National Priorities List (NPL) and requests public comment on this action. The NPL constitutes appendix B of 40 CFR part 300, the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended. This partial deletion of the California Gulch Site is in accordance with 40 CFR 300.425(e) and the Notice of Policy Change: Partial Deletion of Sites Listed on the National Priorities List, 60 FR 55466 (Nov. 1, 1995).

This partial deletion pertains to the area addressed by OU 2, and includes the Malta Gulch Fluvial Tailing, Leadville Corporation Mill, Malta Gulch Tailing Impoundment, and the Malta Tailing Impoundment. EPA has issued a Record of Decision (ROD) for OU 2. EPA bases its partial deletion of this area on the determination by EPA and the State of Colorado, through the Colorado Department of Public Health and Environment (CDPHE), that all appropriate actions under CERCLA have been implemented at these sites.

The California Gulch Site has been divided into 12 operable units. This partial deletion pertains only to OU 2 of the Site. Response activities will continue at the remaining OUs.

DATES: This ''direct final'' action will be effective July 23, 2001 unless EPA receives significant adverse or critical comments by June 21, 2001. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Comments may be mailed to Rebecca Thomas, Remedial Project Manager, Environmental Protection Agency, Region 8, Mail Code 8EPR-SR, 999 18th Street, Suite 300, Denver, CO 80202. Telephone: (303) 312–6552.

Information Repositories: Comprehensive information on the California Gulch Site is available through EPA, Region 8 public docket, which is located at EPA, Region 8, Superfund Records Center and is available for viewing from 8:00 a.m. to 4:30 p.m., Monday through Friday, excluding holidays. Requests for documents should be directed to the EPA, Region 8, Superfund Records Center. The address for the Region 8 Superfund Records Center is: U.S. Environmental Protection Agency, Superfund Record Center 999 18th Street, 5th Floor, Denver, CO 80202, Telephone (303) 312–6473.

FOR FURTHER INFORMATION CONTACT: Rebecca Thomas, Remedial Project Manager, Environmental Protection Agency, Region 8, Mail Code 8EPR-SR, 999 18th Street, Suite 300, Denver, CO 80202. Telephone: (303) 312–6552.

SUPPLEMENTARY INFORMATION:

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I. Introduction
II. NPL Deletion Criteria
III. Deletion Procedures
IV. Basis for Intended Partial Site Deletion

I. Introduction

The Environmental Protection Agency, Region 8 announces its deletion of a portion of the California Gulch Superfund Site (Site), located in Lake County, Colorado from the National Priorities List (NPL), which constitutes appendix B of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 CFR part 300, and requests comments on this proposal. This partial deletion pertains to Operable Unit 2 (OU 2), which consists of the Lower Malta Gulch Fluvial Tailing, Leadville Corporation Mill, Malta Gulch Tailing Impoundment, and the Malta Tailing Impoundment.

The Site is divided into 12 Operable Units (OUs) pursuant to agreement reached in a 1994 Consent Decree settlement. The 12 OUs comprising the California Gulch Site are as follows:

1. Yak Tunnel/Water Treatment Plant.
2. Malta Gulch Tailing Impoundments and Lower Malta Gulch Fluvial Tailing.
3. D&RG Slag piles and Railroad Yard/Easement.
4. Upper California Gulch.
5. Asarco Smelter sites/Slag/Mill sites.
6. Starr Ditch/Stray Horse Gulch/Lower Evans Gulch/Penrose Mine Waste Pile.
7. Apache Tailing Impoundments.
8. Lower California Gulch.
9. Residential and Commercial Populated Areas.
10. Oregon Gulch.
11. Arkansas River Valley Floodplain.
12. Site-wide Water Quality.

OUs 2 through 11 were designated in order to facilitate source remediation of specific geographic areas. OUs 2 through 11 pertain to distinct geographical areas corresponding to areas of responsibility for the identified responsible parties with EPA taking responsibility for areas where no responsible party could be identified, the United States was a responsible party, or cash-out settlements had been reached with the responsible parties. OU 12, which covers the entire Site was designated to address Site-wide surface and groundwater after completion of source remediation pursuant to OUs 2 through 11. EPA is deleting the areas addressed by OU 2 because all appropriate CERCLA response actions have been completed in these areas as described in Section IV. However, response activities are not complete for the other areas. Therefore, those areas will remain on the NPL and are not the subject of this partial deletion.

The NPL is a list maintained by EPA of sites that EPA has determined present a significant risk to public health, welfare, or the environment. Sites on the NPL may be the subject of remedial actions financed by the Hazardous Substance Superfund (Fund). Pursuant to 40 CFR 300.4–25(e) of the NCP, any site or portion of a site deleted from the NPL remains eligible for Fund-financed remedial actions if conditions at the site warrant such action.

EPA will accept any dissenting comments on this partial deletion for thirty days following publication of this document in the **Federal Register**.

II. NPL Deletion Criteria

The NCP establishes the criteria that EPA uses to delete sites from the NPL. In accordance with 40 CFR 300.425(e), sites may be deleted from the NPL where no further response is appropriate to protect public health or the environment. In making such a determination pursuant to § 300.425(e),

EPA will consider, in consultation with the State, whether any of the following criteria have been met:

- Section 300.425(e)(1)(i). Responsible parties or other persons have implemented all appropriate response actions required; or
- Section 300.425(e)(1)(ii). All appropriate Fund-financed response under CERCLA has been implemented, and no further response action by responsible parties is appropriate; or
- Section 300.425(e)(1)(iii). The remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, taking of remedial measures is not appropriate.

Deletion of an operable unit at a site from the NPL does not preclude eligibility for subsequent Fund-financed actions at the operable unit deleted, it future site conditions warrant such actions. Section 300.425(e)(3) of the NCP provides that Fund-financed actions may be taken at sites that have been deleted from the NPL. A partial deletion of a site from the NPL does no affect or impede EPA's ability to conduct CERCLA response activities at operable units not deleted and remaining on the NPL. In addition, deletion of a portion of a site from the NPL does not affect the liability of responsible parties or impede agency efforts to recover costs associated with response efforts.

III. Deletion Procedures

Deletion or partial deletion of sites from the NPL does not itself create, alter, or revoke any individual's rights or obligations. The NPL is designed primarily for informational purposes and to assist EPA management. The following procedures were used for the partial deletion of this site:

(1) EPA, Region VIII has recommended the partial deletion of the California Gulch Site and has prepared the relevant documents.

(2) The State of Colorado, through the Colorado Department of Public Health and Environment (CDPHE) has concurred with EPA's recommendation for a partial deletion.

(3) Concurrent with this partial deletion, a public notice has been published in a local newspaper and has been distributed to appropriate Federal, State and local officials, and other interested parties. These notices announce a thirty (30) day public comment period on the deletion package, which commences on the date of publication of this document in the **Federal Register** and a newspaper of record.

(4) EPA, Region VIII has made all relevant documents available in the Regional Office, Superfund Record Center.

EPA is requesting only dissenting comments on the Direct Final Action to Delete. For deletion of the release from the Site, EPA's Regional Office will accept and evaluate public comments on EPA's action before making a final decision to delete. If necessary, the Agency will prepare a Responsiveness Summary, responding to each significant comment submitted during the public comment period. Deletion of the Site from the NPL does not itself create, alter, or revoke any individual's rights or obligations. The NPL is designed primarily for informational purposes and to assist Agency management. As mentioned in section II of this document, § 300.425 (e)(3) of the NCP states that the deletion of a release from a site from the NPL does not preclude eligibility for future response actions.

IV. Basis for Partial Site Deletion

The following provides EPA's rationale for deletion of OU 2 from the NPL and EPA's findings that the criteria in 40 CFR 300.425(e) are satisfied.

Background

The California Gulch Superfund Site is located in Lake County, Colorado approximately 100 miles southwest of Denver. The California Gulch Superfund Site was listed on the National Priorities List on September 8, 1983. The Site is in a highly mineralized area of the Colorado Rocky Mountains covering 16 ½ square miles of a watershed that drains along California Gulch to the Arkansas River. Mining, mineral processing, and smelting activities have occurred at the Site for more than 130 years. The Site includes the City of Leadville, various parts of the Leadville Historic Mining District, and a section of the Arkansas River from the confluence of California Gulch to the confluence of Lake Fork Creek.

A site-wide Phase I Remedial Investigation (Phase I RI), which primarily addressed surface and groundwater contamination, was issued in January 1987. As a result of the Phase I RI, EPA developed the first operable unit at the Site, the Yak Tunnel. This first operable unit was designed to address the largest single source of metallic loading.

The Phase I RI was followed by a number of additional site-wide studies, including the Tailing Disposal Area Remedial Investigation Report, Baseline Human Health Risk Assessment Part A, Part B, and Part C, Ecological Risk Assessment for Terrestrial Ecosystems, Baseline Aquatic Ecological Risk Assessment, Groundwater RI, Surface Water RI, Waste Rock RI, and Site-wide Screening Feasibility Study. In addition, OU 2 specific studies were conducted, including the Malta Gulch Tailing Engineering Evaluation/Cost Analysis and studies conducted by the Hecla Mining Company (Hecla).

In order to expedite the clean-up of the Site, EPA agreed, pursuant to a 1994 Consent Decree settlement, to divide the Site into eleven additional Operable Units. With the exception of OU 12, the operable units pertain to distinct geographical areas corresponding to areas of responsibility for the identified responsible parties and/or to distinct sources of contamination. EPA has taken responsibility for operable units where no responsible party could be identified, the United States was a responsible party, or cash-out settlements had been reached with the responsible parties. Under the settlement agreement reached in 1994, OUs 2 through 11 were designated to deal with areas where the appropriate responsible party or the United States would conduct source remediation. The settlement agreement recognized that additional source remediation or other appropriate response actions related to surface or ground water could occur as part of OU 12 anywhere within the 16.5 square mile of the Site. The OUs are as follows:

1. Yak Tunnel/Water Treatment Plant.
2. Malta Gulch Tailing Impoundments and Lower Malta Gulch Fluvial Tailing.
3. D&RG Slag piles and Railroad Yard/Easement.
4. Upper California Gulch.
5. Asarco Smelter sites/Slag/Mill sites.
6. Starr Ditch/Stray Horse Gulch/Lower Evans Gulch/Penrose Mine Waste Pile.
7. Apache Tailing Impoundments.
8. Lower California Gulch.
9. Residential and Commercial Populated Areas.
10. Oregon Gulch.
11. Arkansas River Valley Floodplain.
12. Site-wide Surface and Ground Water.

The source areas to be addressed by OU 2 included the Malta Gulch Tailing Impoundments, including the Leadville Corporation Mill; the Malta Tailing Impoundment, including the Leadville Silver & Gold Mill facility; and the fluvial tailing in the area known as the Lower Malta Gulch. Pursuant to settlements reached with the responsible parties at each of these properties, EPA is responsible for

conducting the appropriate response actions at these properties.

EPA performed four (4) removal/response actions at these sites. In chronological order, the fluvial tailing in Lower Malta Gulch were excavated from the Gulch and placed in a portion of the Malta Gulch Tailing Impoundment. These materials were graded, capped and revegetated. The remainder of the Malta Gulch Tailing Impoundment was capped in 1992 by Leadville Corporation to control fugitive dust emissions. The material in the Malta Tailing Impoundment (Leadville Silver & Gold) was graded, capped and revegetated. And, forty-two drums were removed from the Leadville Corporation Mill and appropriately disposed.

On September 30, 1999, after completion of the removal actions, EPA issued a Record of Decision for OU 2 presenting EPA's decision that no further CERCLA action, as regards source remediation, is necessary to protect human health and the environment. The OU 2 ROD also provided for long-term monitoring of the Impoundments, including monitoring of the present use restrictions to prevent uses incompatible with the response actions would be necessary at the Malta Gulch Tailing Impoundment and the Malta Tailing Impoundment. Monitoring may include minor maintenance. Monitoring and any minor maintenance will be implemented by the Colorado Mountain College and through funds received by the United States in a settlement with a potentially responsible party. In the event that significant maintenance issues are identified by the Colorado Mountain College, EPA will take appropriate action to ensure protectiveness of the remedy. In addition, five-year reviews are also necessary for these sites.

OU 2 Response Actions

Lower Malta Gulch

The fluvial tailings in Lower Malta Gulch, also identified as Fluvial Tailing #7 in the Tailing Disposal Area Remedial Investigation Report, lie directly downstream of the Malta Gulch Tailing Impoundments. Malta Gulch runs in a southwesterly direction for about three miles where it joins California Gulch.

The fluvial tailing in Lower Malta Gulch originated from the milling operations conducted by the Ore & Chemical Company (OCC) from the fall of 1943 through August 1946. OCC had constructed a large tonnage sink-float mill near the site of the present day Leadville Corporation Mill. OCC deposited approximately 800,000 tons of tailing behind low profile berms. These berms appear to have been unsuccessful in completely containing the tailing and there appears to have been periodic releases of OCC tailing into the Lower Malta Gulch.

Fluvial Tailing Site #7 covered an area of approximately 26 acres. Sampling at this site found lead levels ranging from 5.5 to 47,800 parts per million (ppm). The Time Critical Removal Action for Lower Malta Gulch Fluvial Tailing was performed in the 1995 and 1996 construction seasons. The materials excavated from Lower Malta Gulch Fluvial Tailing were disposed at the Malta Gulch Tailing Impoundment prior to the Non-Time Critical Removal Action which was planned for Malta Gulch Tailing Impoundment in 1996.

During the 1995 construction season, approximately 34,000 cubic yards of contaminated material was removed from Lower Malta Gulch Fluvial Tailing and deposited in the Malta Gulch Tailing Impoundment. Four check dams, and a diversion berm between the upper and lower portions of Malta Gulch were constructed to manage surface runoff. Revegetation work in Malta Gulch was performed in 1996.

The clean-up standard for this removal was the industrial/commercial clean-up level for California Gulch of 6,700 ppm total lead. Confirmation sampling demonstrated that the excavation and removal had successfully lowered lead levels to below the Site residential clean-up level of 3,500 ppm total lead, thus no institutional controls are necessary at this portion of OU 2. Subsequent monitoring in 1997 and 1998 have verified that the revegetation was successful and no long term monitoring is required.

Malta Gulch Tailing Impoundments

The Malta Gulch Tailing Impoundment (MGTI) is located at the upper end of Malta Gulch about two miles west of the City of Leadville. The Stringtown portion of the Leadville Mining Area District, which includes the Malta Gulch Tailing Impoundments (MGTI), was developed between 1879 and 1882 as a large group of placer claims.

As explained above, it appears that the earliest use of this area for tailing disposal was from the fall of 1943 through August 1946 by the OCC. The OCC tailing berms became the pre-cursors to the current basins known as Impoundments #1 and #2. From the period of 1945 to 1973, there was no activity at this portion of the Site although ownership of the property changed hands numerous times. The property was purchased by its current owner, Leadville Corporation, in 1968. In 1974, the Hecla Mining Company (Hecla), in conjunction with Day Mines, leased the property as a site for disposal of tailing generated from its milling of ores from the Sherman Mine which was a silver mine in a dolomite formation. The MGTI, in its present configuration, was constructed in 1974 by Hecla/Day. Hecla/Day also constructed 3 tailing impoundments (#1, 2, 3), two water retention impoundments (#4 and 6) and a clarification basin (#5). The entire facility occupies approximately 23 acres. These milling operations were permitted and bonded by the State of Colorado's Division of Minerals & Geology, and the permit remains in effect. Hecla leased the MGTI from Leadville Corporation until 1987. During its leasehold, Hecla/Day operated an on-site flotation mill that generated approximately 680,000 tons of tailing. No cyanide was used in the processing during this time. The Leadville Corp. refitted the mill to use a cyanide leaching process and approximately 50,000 tons of dolomitic tailing were added to the impoundments in 1988.

Hecla completed an engineering evaluation/cost analysis (EE/CA) for the MGTI in July, 1993. Sampling at the MGTI showed lead in the range of 800 to 57,600 parts per million (ppm). Based on the findings of the EE/CA, EPA conducted a non-time critical removal to consolidate, grade, cap, and revegetate the MGTI.

Capping work at the MGTI included the completion of the dust control dolomite gravel caps at Ponds 1, 2, and 3 that was initiated by Leadville Corporation in 1991. EPA work at the MGTI was performed in two field construction seasons. Clean-up activities commenced on October 5, 1995 and were completed on October 15, 1996. Borrow material was obtained from the Leadville Corporation borrow pit immediate north of the impoundments across County Road 3. Borrow material is comprised of non-mineralized glacial moraine deposits. This helped assure that cap materials had lead levels below the 6,700 mg/kg total lead (the commercial/industrial soil lead action level for this property). Borrow was placed at a depth of 6–12 inches. Prior to capping, 30,000 cubic yards of metals-contaminated fluvial tailings from Lower Malta Gulch were also transported and placed in the MGTI Pond 3. These materials were capped, graded, and revegetated. Other elements of the MGTI clean-up included: The

construction of a rip-rap geotextile spillway to control runoff, the stabilization of a section of retainment berm, the reestablishment of the local drainage and fencing, and soil hot spot removals and revegetation of areas around the mill building.

In order to ensure continued protectiveness of the remedy, long-term monitoring will be conducted in accordance with the Monitoring Plan to assure that the cover material and vegetation remain effective. In addition, present zoning of the MGTI is Industrial Mining which will not allow uses inconsistent with the remedy. Periodic monitoring and review is necessary to verify that zoning of the MGTI has not been changed to allow uses inconsistent with the remedy, and that groundwater is not being used as a source of drinking water. Monitoring is also necessary to periodically review the status of this DMG permit. Site closure and reclamation will be completed in accordance with the DMG permit requirements. The long-term monitoring program for the MGTI will be implemented by the Colorado Mountain College. This program will commence upon finalization of the work plan submitted in August 2000.

Malta Tailing Impoundment

The Malta Tailing Impoundment (MTI), owned by Leadville Silver & Gold, Inc., is located 1.5 miles west of Leadville, 0.8 miles north of Stringtown and 0.6 miles north of California Gulch. Leadville Silver & Gold, Inc. constructed a mill to recover pyritic materials from various tailing and waste materials from nearby properties which had been obtained under leasehold arrangements. This pyritic materials recovery process operated from 1983 through 1988.

Approximately 2,000 tons of pyrite were shipped to various off-site smelters for use as a flux. As a result of this operation, approximately 10,000 cubic yards of tailing were disposed of at the Malta Tailing Impoundment.

The Malta Tailing Impoundment consists of three small impoundments surrounded by berms, and occupies 4.6 acres of nearly flat land at the top of a ridge. The total volume of tailing is estimated to be slightly in excess of 10,000 cubic yards.

Areas within the immediate vicinity of the tailing impoundments were littered with scrap metal, concrete slabs, and other mining/processing material. There was also a stockpile of mine waste, including drums of product, nearby.

Sampling of the tailing showed lead concentrations ranging from 3,850 mg/Kg to 7,250 mg/Kg. The tailing and pyritic material presented a risk to human health and the environment, since they are a source of acid mine drainage.

In the fall of 1996, EPA conducted a removal action to consolidate the acid-generating materials, neutralize the acidic leachate, and grade, cap, and revegetate the MTI. In addition, the piles of pyrite concentrate, and drums were removed during the 1996 construction season, for use as a product.

Confirmation samples showed the revegetated soil surface of the impoundment to be below the 6,700 ppm total lead commercial/industrial Site standard.

In order to ensure continued protectiveness of the remedy, long-term monitoring will be required to assure that the cover material and vegetation remain effective. In addition, present zoning of the MTI is Industrial Mining which will not allow uses inconsistent with the remedy. Periodic monitoring and review is necessary to verify that zoning of the MTI has not been changed to allow uses inconsistent with the remedy, and that groundwater is not used as a source for drinking water. Monitoring may include minor maintenance. Monitoring and any minor maintenance will be implemented by the Colorado Mountain College. In the event that significant maintenance issues are identified by the Colorado Mountain College, EPA will take appropriate action to ensure protectiveness of the remedy. This program commenced in July 2000.

Leadville Corporation Mill, Drum Removal

The Leadville Corporation mill is located at the southern boundary of the MGTI. In 1997, officials of the State's Division of Minerals & Geology conducted a mine permit inspection and discovered that 42 drums, in one of the buildings at the Leadville Corporation mill, were corroding and beginning to leak. Since Leadville Corporation did not have the resources to dispose of the drums, the State requested EPA's Emergency Response Team to dispose of them. Thirty-six 55 gallon drums and six 5 gallon drums were involved. The drums contained hazardous substances which represented a threat to human health and the environment. The drums contained acids, bases and flammable liquids.

EPA conducted an emergency removal action in 1998 to address the threats posed by these drums. The drums were over packed and sent off-site for appropriate disposal. This was a complete removal so no monitoring or institutional controls are necessary for this portion of OU 2.

Community Involvement

At Leadville, Colorado, the public interest in the clean up of this Superfund Site has been intensive; many public meetings have been held. Numerous Fact Sheets have been released to the public. On August 2, 1993, the public was notified in the local newspaper that the Final Engineering Evaluation/Cost Analysis (EE/CA), Malta Gulch Tailing, Leadville, Colorado, dated July 29, 1993 was available for review and comment. EPA held a public meeting in Leadville on August 12, 1993. The comment period continued through September 1, 1993. EPA responded to all comments on the EE/CA in a Responsiveness Summary which was prepared in September 1993 prior to the issuance of the Action Memorandum on September 10, 1993. The notice of availability of the Proposed Plan and supporting documents was published in the Leadville Herald Democrat on March 13, 1997. The public comment period was held from March 19, 1997 to April 18, 1997. A Public meeting was held on March 19, 1997. Responses to all comments received during the public comment period are included in the Responsiveness Summary attached to the ROD for OU 2. On September 30, 1999, EPA issued a final ROD for OU 2. As described above, the ROD called only for ongoing monitoring of active response actions and use restrictions. EPA's decision is based on information contained in the final Administrative Record for OU 2. The final Administrative Record is available at the California Gulch Site information repository and the EPA Region 8, Superfund Records Center.

Current Status

Based on the successful completion of the above described removal actions and implementation of the long-term monitoring program for the MGTI and MTI, there are no further response actions planned or scheduled for OU 2.

Because this decision results in hazardous substances remaining on site, above health-based levels, monitoring of the previous response actions will be required. This monitoring will be conducted in addition to site-wide five-year reviews. The next five-year review at the California Gulch Site is scheduled to be initiated in October 2000 for completion in 2001.

While EPA does not believe that any future response action in the Malta Gulch area will be needed, if future conditions warrant such action, the

deletion areas of the California Gulch Superfund Site remain eligible for future Fund-financed response actions. Furthermore, this partial deletion does not alter the status of the other OUs of the Site which are not being deleted and remain on the NPL. EPA, with concurrence from the State of Colorado, has determined that all appropriate CERCLA response actions have been completed at OU 2 and protection of human health and the environment has been achieved in this area. Therefore, EPA is deleting the Malta Gulch area of the California Gulch Superfund Site from the NPL. This action will be effective July 23, 2001. However, if EPA receives dissenting comments by June 21, 2001, EPA will publish a document that withdraws this action.

List of Subjects in 40 CFR Part 300

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

Dated: February 12, 2001.

Jack W. McGraw,

Acting Regional Administrator, Region 8.

Part 300, Title 40 of Chapter 1 of the Code of Federal Regulations is amended as follows:

PART 300—[AMENDED]

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

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

[Amended]

2. Table 1 of appendix B to part 300 is amended by revising the entry for ''California Gulch'' so that it reads as follows:

TABLE 1.—GENERAL SUPERFUND SECTION

State	Site name	City/County	Notes
*	*	*	*
CO	California Gulch.	Leadville	P
*	*	*	*

P = Sites with partial deletion(s).

[FR Doc. 01–12710 Filed 5–21–01; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Parts 441 and 483

[HCFA–2065–IFC2]

RIN 0938–AJ96

Medicaid Program; Use of Restraint and Seclusion in Psychiatric Residential Treatment Facilities Providing Inpatient Psychiatric Services to Individuals Under Age 21

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Interim final rule; amendment and clarification with request for comment.

SUMMARY: On January 22, 2001, we published an interim final rule with comment period (66 FR 7148) that established a definition of a ''psychiatric residential treatment facility'' that is not a hospital and that may furnish covered Medicaid inpatient psychiatric services for individuals under age 21. The interim final rule established standards for the use of restraints or seclusion that psychiatric residential treatment facilities must have in place to protect the health and safety of residents.

In response to some of the concerns submitted in comments on that interim rule, this document clarifies what facilities are subject to the requirements of the interim final rule, modifies reporting requirements to facilitate HCFA monitoring, and amends staffing requirements applicable to restraints and seclusion.

Due to the operational significance of these issues, amendment to the interim final rule is required by the May 22, 2001 effective date of the interim final rule. Without such amendments, we are concerned that substantial numbers of facilities would not be able to comply with certain requirements of our interim final rule, and that beneficiaries will suffer needless displacement from those facilities. We are also concerned that HCFA will not be able to timely obtain data necessary to monitor for situations involving jeopardy to program beneficiaries. We will accept comments on these amendments, and will address all comments on the interim final rule and these amendments at a later date.

DATES: *Effective date:* May 22, 2001.

Comment date: Comments concerning these amendments to the interim final rule will be considered if we receive them at the appropriate address, as provided below, no later than 5 p.m. on July 23, 2001.

ADDRESSES: Mail written comments (one original and three copies) to the following address ONLY: Health Care Financing Administration, Department of Health and Human Services, Attention: HCFA–2065–IFC2, P.O. Box 8010, Baltimore, MD 21244–8010.

If you prefer, you may deliver your written comments (one original and three copies) by courier to one of the following addresses: Room 443–G, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201, or C5–15–03, Central Building, 7500 Security Boulevard, Baltimore, MD 21244–1850.

Comments mailed to those addresses may be delayed and could be considered late.

Because of staffing and resource limitations, we cannot accept comments by facsimile (FAX) transmission. In commenting, please refer to file code HCFA–2065–IFC2.

Comments received timely will be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, in Room 443–G of the Department's offices at 200 Independence Avenue, SW., Washington, DC, on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (Phone (202) 690–7890).

For comments that relate to information collection requirements, mail a copy of comments to: Health Care Financing Administration, Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards, Room N2–14–26, 7500 Security Boulevard, Baltimore, MD 21244–1850, Attn: Julie Brown, HCFA–2065–IFC.

FOR FURTHER INFORMATION CONTACT: Mary Kay Mullen, (410) 786–5480.

SUPPLEMENTARY INFORMATION:

I. Background

On January 22, 2001, we published an interim final rule with comment period (66 FR 7148) that defined a ''psychiatric residential treatment facility'' that is not a hospital and that may furnish covered Medicaid inpatient psychiatric services for individuals under age 21. The interim final rule established standards for the use of restraints or seclusion in psychiatric residential treatment facilities to protect the health and safety of residents.

Section 3207 of the Children's Health Act of 2000 (Pub. L. 106–310) requires that health care facilities receiving support in any form from any program supported in whole or part with funds appropriated to any Federal department or agency shall protect and promote the

rights of each resident of a facility, including the right to be free from any restraint or involuntary seclusion imposed for purposes of discipline or convenience. This Act permits the Secretary to issue regulations that afford residents greater protections regarding restraint and seclusion than the standards published in the new law. Our interim final rule provides greater protections than those required in section 3207.

II. Clarification of Applicability of the Rule

This document clarifies the facilities that are subject to the requirements of the January 22, 2001 interim final rule. It became apparent from the number of comments we received to the interim final rule that many facilities are unclear whether or not they are subject to the requirements of the interim final.

The interim final rule applies to psychiatric residential treatment facilities that receive payment for providing the Medicaid inpatient psychiatric services benefit for individuals under age 21. The Medicaid inpatient psychiatric services benefit for individuals under age 21 may be provided in a psychiatric hospital (that meets the applicable hospital conditions of participation set forth in 42 CFR part 482) or in ''another inpatient setting that the Secretary has specified in regulations'' pursuant to section 1905(h) of the Social Security Act. As set forth in the interim final rule, psychiatric residential treatment facilities are facilities that are not licensed as hospitals but meet the requirements in 42 CFR part 441 subpart D, the requirements of 42 CFR part 483, subpart G, and have a provider agreement with the state Medicaid agency.

A psychiatric residential treatment facility's payment for inpatient psychiatric services to individuals under age 21 includes compensation for the resident's room and board as well as a comprehensive package of services. This rule does not apply to other providers that receive Medicaid compensation on a service-by-service basis and do not receive Medicaid payment for the individual's room and board. An example would be a facility receiving Medicaid payment for outpatient rehabilitation services.

If a facility is uncertain whether or not this rule applies, it should contact the state Medicaid agency for further information regarding the applicability of this regulation.

Additionally, we have received numerous inquiries regarding the attestation date contained in § 483.374(a)(1). This document does not change the requirement that facilities with a current provider agreement must provide its attestation to the State Medicaid agency by July 21, 2001.

III. Amendments to the Interim Final Rule

This document also makes amendments to sections of the rule relating to orders for the use of restraint and seclusion; consultation with the resident's treatment team physician; monitoring of the resident in seclusion or restraint; and facility reporting requirements. The changes being made are in response to the serious and immediate concerns raised by comments submitted on the interim final rule. These comments described the severe shortage of registered nurses as well as the unavailability of psychiatrists as the two major reasons why facilities would not be able to comply with the requirements of our interim final rule. They stated that the shortage of these personnel is a national problem. Although we considered the ordinary costs of additional personnel in additional staffing in issuing the interim final rule, we did not take into account the lack of availability of sufficient numbers of trained individuals to meet those staffing needs. We agree that the scope of the shortage of professionals to provide services in psychiatric residential treatment facilities is critical. As a result, we are concerned that substantial numbers of facilities will be unable to meet the conditions of participation to participate in the Medicaid program and that beneficiaries will be left without adequate placements. Therefore, we have reviewed the requirements in the interim final rule and are amending the rule to permit staffing alternatives that ensure sufficient beneficiary protection but are less burdensome for facilities.

This document also amends our definition of ''personal restraint'' to clarify that briefly holding without undue force a resident for the purpose of comforting him or her, or holding a resident's hand or arm to safely escort him or her from one area to another is not a restraint. Many commenters stated that our definition is so broad that staff would be prohibited from comforting an upset resident, or holding a resident's hand to safely escort him or her across a street. This was not our intention, and we are concerned that this reading could prevent facilities from participating in the Medicaid program, and result in needless displacement of Medicaid beneficiaries.

This document also amends our requirements for facility reporting of serious occurrences. We are adding the requirement that a facility must report the death of any resident to the Health Care Financing Administration (HCFA) regional office. This change is required to ensure that HCFA has sufficient timely information to identify threats to beneficiary health and welfare.

The specific changes made in this document are as follows:

Section 483.352 Definitions

In § 483.352, we are amending the definition of ''personal restraint'' by adding a clarifying statement that ''personal restraint'' does not include briefly holding without undue force a resident in order to calm or comfort him or her, or holding a resident's hand to safely escort him or her from one area to another.

Section 483.358 Orders for the Use of Restraint or Seclusion

We are amending § 483.358(a) to state that orders for restraint or seclusion must be by a physician, or other licensed practitioner permitted by the state and the facility to order restraint or seclusion and trained in the use of emergency safety interventions. We have included ''other licensed practitioner permitted by the state and the facility to order restraint or seclusion'' to be consistent with the language in the Children's Health Act of 2000. As with all staff, other licensed practitioners permitted by the state and the facility to order restraint or seclusion and trained in the use of restraints and seclusion as set out in § 483.376. Section 441.151 also requires that inpatient psychiatric services for recipients under age 21 be furnished under the direction of a physician.

We are amending § 483.358(b) to state that if the resident's treatment team physician is available, only he or she can order restraint or seclusion.

We are amending § 483.358(c) to state that a physician or other licensed practitioner permitted by the state and the facility to order restraint or seclusion must order the least restrictive emergency safety intervention that is most likely to be effective in resolving the emergency safety situation based on consultation with staff.

We are amending § 483.358(d) to state that if the order for restraint or seclusion is verbal, the verbal order must be received by a registered nurse or other licensed staff, such as a licensed practical nurse. The physician or other licensed practitioner permitted by the state and the facility to order restraint or seclusion must verify the verbal order in a signed written form in the resident's record. The physician or other licensed

practitioner permitted by the state and the facility to order restraint or seclusion must be available to staff for consultation, at least by telephone, throughout the period of the emergency safety intervention.

We are amending § 483.358(f) to state that a physician or ''other licensed practitioner trained in the use of emergency safety interventions, and permitted by the state and the facility to assess the physical and psychological well being of residents'' must conduct a face-to-face assessment of the physical and psychological well being of the resident within 1 hour of the initiation of the emergency safety intervention.

We are amending paragraphs (g)(1) and (g)(3) and (j) to include ''other licensed practitioner permitted by the state and the facility to order restraint or seclusion''.

Section 483.360 Consultation With Treatment Team Physician

We are amending § 483.360 to state that if a physician or other licensed practitioner permitted by the state and the facility to order restraint or seclusion orders the use of restraint or seclusion, the resident's treatment team physician must be contacted, unless the ordering physician is in fact the resident's treatment team physician.

Section 483.362 Monitoring of the Resident In and Immediately After Restraint

We are amending § 483.362(b) to state that if the emergency safety situation continues beyond the time limit of the order for the use of restraint, a registered nurse or other licensed staff, such as a licensed practical nurse, must immediately contact the ordering physician or other licensed practitioner permitted by the state and the facility to order restraint or seclusion to receive further instructions.

We are amending § 483.362(c) to state that a physician, or other licensed practitioner permitted by the state and the facility to evaluate the resident's well-being and trained in the use of emergency safety interventions, must evaluate the resident's well-being immediately after the restraint is removed.

Section 483.364 Monitoring of the Resident in and Immediately After Seclusion

We are amending § 483.364(c) to state that if the emergency safety situation continues beyond the time limit of the order for the use of seclusion, a registered nurse or other licensed staff, such as a licensed practical nurse, must immediately contact the ordering physician or other licensed practitioner permitted by the state and the facility to order restraint or seclusion to receive further instructions.

We are amending § 483.364(d) to state that a physician, or other licensed practitioner permitted by the state and the facility to evaluate the resident's well-being and trained in the use of emergency safety interventions, must evaluate the resident's well-being immediately after the resident is removed from seclusion.

Section 483.374 Facility Reporting

We are amending § 483.374 by adding a new paragraph (c) to require that facilities report the death of any resident to the Health Care Financing Administration (HCFA) regional office.

IV. Response to Comments on This Interim Final Rule

We will be accepting comments concerning the amendments to the interim final rule contained in this document.

Because of the large number of items of correspondence we normally receive on **Federal Register** documents published for comment, we are not able to acknowledge or respond to them individually. We will consider all comments we receive by the date and time specified in the ''DATES'' section of this document, and, when we proceed with a subsequent document, we will respond to the comments in the preamble to that document.

V. Waiver of Proposed Rulemaking and Waiver of the 30-Day Delay in the Effective Date

In accordance with the requirements of the Administrative Procedures Act (APA), we ordinarily publish a notice of proposed rulemaking in the **Federal Register** and invite public comment on the proposed rule before the final rule is made effective. The notice of proposed rulemaking required by the APA includes a reference to the legal authority under which the rule is proposed, and the terms and substance of the proposed rule or a description of the subject matter and issues involved.

In November 1994, we issued a proposed rule that contained limitations on the use of restraints and seclusion by psychiatric residential treatment facilities. The interim final rule clarified and further developed these proposed limitations. To the extent that the interim final rule could not be viewed as a logical outgrowth of the 1994 proposed rule, we found good cause to waive requirements for proposed rulemaking. The APA permits waiver of these requirements if the agency finds good cause that notice and comment procedure is impracticable, unnecessary, or contrary to the public interest, and incorporates a statement of the finding and its reasons in the rule issued. We found good cause based on the strong public interest in preventing deaths and injuries to children that are the result of inappropriate use of restraint and seclusion in psychiatric residential treatment facilities. The full rationale for this finding was set forth in the preamble to the January 22, 2001 interim final rule.

Because we believe that the amendments and clarifications set forth in this document are essential to the effective implementation of the basic requirements of the January 22, 2001 interim final rule, the same concerns expressed in our waiver of proposed rulemaking for that rule apply here. In addition, without the amendments and clarifications set forth in this document, we believe there is a risk that beneficiaries will be needlessly displaced as substantial numbers of facilities terminate participation in the Medicaid program as psychiatric residential treatment facilities. In particular, absent clarification of the term ''personal restraint,'' facilities could be terminated for failure to meet conditions of participation for actions that do not warrant concern. Absent changes to staffing requirements, nationwide nurse and psychiatrist shortages could mean that numerous facilities would become unable to meet the conditions of participation. The amendments contained in this document will provide adequate beneficiary protections in a less burdensome manner and will minimize potential beneficary displacement. In addition, the changes in this document to include HCFA in reporting requirements are necessary to ensure that HCFA has timely information to monitor jeopardy to program beneficiaries.

In sum, we find good cause to waive asking for comment on these amendments to the January rule before making them effective, based on the public interest of avoiding displacement and other potential harm to program beneficiaries. We invite parties to submit comments on these changes, which we will consider in crafting the final rule that applies to these psychiatric residential treatment facilities.

In addition, we find good cause to waive requirements for a 30 day delay in the effective date of these clarifications and amendments to the interim final rule. Under the APA, publication of a substantive rule must

be not less than 30 days before its effective date, unless otherwise provided by the agency for good cause found and published with the rule. These clarifications and amendments are an integral operational part of the overall interim final rule. A delay in the effective date for these clarifications and amendments would be contrary to public interest because a delay would result in inconsistent standards for affected facilities over a relatively short time period. Moreover, there would be some possibility of disruption of services to program beneficiaries to the extent that facilities elect not to continue participation in the Medicaid program until the amendments and clarifications become effective. Moreover, a delay in the effective date would be impracticable to administer because facility guidance, quality monitoring and surveyor training are not designed to accommodate rapid changes in applicable standards. In sum, we find that a 30 day delay in the effective date would be both impracticable and contrary to the public interest because the delay would not be administratively feasible and would risk inconsistent facility standards and potential disruption of services to beneficiaries.

VI. Collection of Information Requirements

Under the Paperwork Reduction Act of 1995, we are required to provide a 60-day notice in the **Federal Register** and solicit public comment before a collection of information requirement is submitted to the Office of Management and Budget (OMB) for review and approval. In order to fairly evaluate whether an information collection should be approved by OMB, section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 (PRA) requires that we solicit comment on the following issues:

- The need for the information collection and its usefulness in carrying out the proper functions of our agency.
- The accuracy of our estimate of the information collection burden.
- The quality, utility, and clarity of the information to be collected.
- Recommendations to minimize the information collection burden on the affected public, including automated collection techniques.

The information collection requirements in the interim rule published in the **Federal Register** on January 22, 2001, as well as the amendments made in this regulation have been approved by OMB through November 30, 2001 under OMB control number 0938–0833. We solicited comments on these requirements in the January 22, 2001 interim final rule, and have made minimal changes to the requirements in this rule. We are again soliciting public comment on each of these issues for the sections that contain information collection requirements. Comments will be considered in evaluating these information collection requirements under the Paperwork Reduction Act.

The following is a summary of the information collection requirements contained in both the January 22 interim rule and in this amendment to the interim rule.

Section 441.151 General Requirements

Paragraph (a)(4) of this section requires that inpatient psychiatric services for individuals under age 21 must be certified in writing to be necessary in the setting in which the services will be provided (or are being provided in emergency circumstances) in accordance with § 441.152.

The certification requirement of this section is not new. The paperwork burden is contained in the referenced § 441.152, which specifies the certification requirements, has been approved under OMB #0938–0754.

Section 483.356 Protection of Residents

Paragraph (c) of this section, ''Notification of facility policy,'' requires facility staff to inform each incoming resident (and, in the case of a minor, the resident's parent(s) or legal guardian(s)) at admission, of the facility's policy regarding the use of restraint or seclusion during an emergency safety situation that may occur while the resident is in the facility. Staff must obtain an acknowledgment, in writing, from the resident, or in the case of a minor, the resident's parent(s) or legal guardian(s), that he or she has been informed of the facility's policy. Staff must file the written acknowledgment in the resident's record.

In order to estimate the burden of this requirement on facilities, we used data from National Center for Health Statistics, *Health, United States* published in 1999 (page 278) which indicated that there were 459 psychiatric residential treatment facilities in 1994, the latest year for which data are available. We estimate an annual growth rate in the number of these facilities to be 2 percent. Using this growth rate, we determined that there would be approximately 475 to 500 psychiatric residential treatment facilities nationally as of FFY 2001. These data showed that there are approximately 70 residents per facility at any one time. This equates to a total nationwide bed capacity approximating 35,000 beds. Through an informal survey of providers, we estimate an average resident length of stay to be 9 months and based on a 9-month stay, each facility would admit an estimated average of 95 residents per year, or an estimated total of up to 47,500 residents nationally. We believe it will take each facility 8 hours to develop a policy statement regarding the use of restraints and seclusion, and an average of 30 minutes to present the information to each incoming resident and the parent(s) or guardian(s), and to obtain and file the acknowledgment.

Thus, there will be a one-time burden of 4,000 hours nationwide to develop the statement and an annual burden of 48 hours per psychiatric residential treatment facility and 23,750 hours nationally to disclose the policy.

Section 483.358 Orders for the Use of Restraint or Seclusion

In accordance with paragraph (d) of this section, a physician's or other licensed practitioner's verbal order must be obtained by a registered nurse or other licensed staff, such as a licensed practical nurse, while the emergency safety intervention is being initiated by staff, or immediately after the emergency safety situation ends. The verbal order must be followed with the physician's or other licensed practitioner's signature verifying the verbal order.

This document changes the January 22 interim rule to allow a registered nurse or other licensed staff such as a licensed practical nurse to obtain a verbal order from a physician or ''other licensed practitioner permitted by the state and the facility to order restraint or seclusion'', and requires the physician or the other licensed practitioner permitted by the state and the facility to order restraint or seclusion that gave the verbal order to verify, by signature, that he or she gave the order.

While the information collection requirement in this paragraph is subject to the PRA, we believe the burden associated with it is exempt as defined in 5 CFR 1320.3(b)(2) because the time, effort, and financial resources necessary to comply with the requirement are incurred by persons in the normal course of their activities.

In accordance with paragraph (g) of this section, each order for restraint or seclusion must be documented in the resident's record. Documentation must include—

(1) The name of the physician or other licensed practitioner permitted by the

state and the facility to order restraint or seclusion;

(2) The date and time the order was obtained;

(3) The emergency safety intervention ordered, including the length of time for which the physician or other licensed physician permitted by the state and the facility to authorize its use;

(4) The time the emergency safety intervention actually began and ended;

(5) The time and results of any 1 hour assessments required in paragraph (f) of this section.

(6) The emergency safety situation that required the resident to be restrained or put in seclusion; and

(7) The name, title, and credentials of staff involved in the emergency safety intervention.

There are an estimated average of 47 situations per month per psychiatric residential treatment facility where restraint or seclusion is used, or approximately 282,000 situations nationally, per year. We estimate that it will take approximately 30 minutes per situation, or 282 hours annually per psychiatric residential treatment facility, for a national total of 141,000 hours annually to comply with the documentation requirements.

In accordance with paragraph (i) of this section, the facility must maintain an aggregate record of all emergency safety situations, the interventions used, and their outcomes.

Based on 15 minutes per situation, we estimate that it will take 141 hours per psychiatric residential treatment facility, and a national total of 70,500 hours annually to comply with this documentation requirement.

In accordance with paragraph (j) of this section, the physician or other licensed practitioner permitted by the state and the facility to order restraint or seclusion must sign the order in the resident's record as soon as possible, but no later than 24 hours after the order is issued.

The revision to this paragraph requires an ''other licensed practitioner permitted by the state and the facility to order restraint or seclusion'' to sign orders he or she has given. This does not increase the facility's burden, since only one person is still signing.

While these information collection requirements are subject to the PRA, we believe the burden associated with them is exempt as defined in 5 CFR 1320.3(b)(2) because the time, effort, and financial resources necessary to comply with the requirement are incurred by persons in the normal course of their activities.

§ 483.360 Consultation With Treatment Team Physician

This section requires that, if a physician or other licensed practitioner permitted by the state and the facility to order restraint or seclusion orders the use of restraint or seclusion and he or she is not the resident's treatment team physician, then the ordering physician or other licensed practitioner permitted by the state and the facility to order restraint or seclusion must consult with the resident's treatment team physician as soon as possible and inform the team physician of the emergency safety situation that required the resident to be restrained or placed in seclusion and document the time the team physician was consulted.

Paragraph (b) of this section requires the facility to document in the resident's record the date and time the team physician was consulted.

The amendments to the January 22 interim rule, made by this document, require an ''other licensed practitioner permitted by the state and the facility to order restraint or seclusion'' to follow the same procedures as a physician. This change does not change the burden from that stated in the original interim rule. In that rule, we stated that we estimate that it will take approximately 30 minutes per situation, 282 hours annually per psychiatric residential treatment facility, or 141,000 hours nationally to comply with the documentation and disclosure requirements of this section, based on an assumption that approximately half of the situations will require that the facility staff separately notify the treatment team physician.

Section 483.366 Notification of Parent(s) or Legal Guardian(s)

If the resident is a minor as defined in § 483.352, paragraph (a) of this section requires the facility to notify the parent(s) or legal guardian(s) of a resident who has been restrained or placed in seclusion as soon as possible after the initiation of each emergency safety intervention.

Paragraph (b) of this section requires the facility to document in the resident's record that the parent(s) or legal guardian(s) has been notified of the emergency safety intervention, including the date and time of notification and the name of the staff person providing the notification.

We estimate that it will take 30 minutes to notify a parent or guardian and 15 minutes to document that notification. The total annual burden will be 423 hours per psychiatric residential treatment facility and 211,500 hours nationally, based on the assumption that virtually all of the residents will be minors as defined in § 483.352.

Section 483.370 Postintervention Debriefings

Paragraph (c) of this section requires that staff document in the resident's record that the debriefing sessions required by this section took place.

This documentation will take approximately 30 minutes per situation, or an annual burden of 282 hours per psychiatric residential treatment facility and 141,000 hours nationally.

Section 483.372 Medical Treatment for Injuries Occurring as a Result of an Emergency Safety Situation

Paragraph (b) of this section requires the psychiatric residential treatment facility to have affiliations or written transfer agreements in effect with one or more hospitals approved for participation under the Medicaid program that reasonably ensure that—

(1) A resident will be transferred from the facility to the hospital and admitted in a timely manner when a transfer is medically necessary for medical care or acute psychiatric care;

(2) Medical and other information needed for care of the resident in light of such a transfer, will be exchanged between the institutions in accordance with State medical privacy law, including any information needed to determine whether the appropriate care can be provided in a less restrictive setting; and

(3) Services are available to each resident 24 hours a day, 7 days a week.

Paragraph (c) of this section requires that staff document in the resident's record all injuries that occur as a result of an emergency safety situation, including injuries to staff resulting from that intervention.

While these information collection requirements are subject to the PRA, we believe the burden associated with them is exempt as defined in 5 CFR 1320.3(b)(2) because the time, effort, and financial resources necessary to comply with the requirement are incurred by persons in the normal course of their activities.

Section 483.374 Facility Reporting

Paragraph (a) of this section requires each psychiatric residential treatment facility that provides inpatient psychiatric services to individuals under age 21 to attest, in writing, that the facility is in compliance with our standards governing the use of restraint and seclusion. This attestation must be signed by the facility director.

We estimate that it will take 8 hours per facility to be able to attest to compliance with the standards. This is a one-time burden. The national burden will be 500 multiplied by 8, or 4,000 hours.

Paragraph (b) of this section requires that the facility report serious occurrences involving a resident to both the State Medicaid Agency and, unless prohibited by State law, the State-designated Protection and Advocacy System. The report must include the name of the resident involved in the serious occurrence, a description of the occurrence, and the name, street address, and telephone number of the facility. In the case of a minor, the facility must also notify the parent(s) or legal guardian(s) of the resident involved in a serious occurrence.

Staff must document in the resident's record that the contacts above were made.

The burden for notifying parent(s) or legal guardian(s) is addressed under § 483.366.

We estimate that it will take an additional 15 minutes to document that these contacts were made, for an average annual burden of 141 hours per psychiatric residential treatment facility, with an annual national total of 70,500 burden hours.

In this document, we have added an amendment to § 483.374 by adding a new paragraph (c) to require that the facility report the death of any resident to the HCFA regional office. The report must include the name of the resident involved in the serious occurrence, a description of the occurrence, and the name, street address, and telephone number of the facility. (In the case of a minor, the facility must also notify the parent(s) or legal guardian(s) of the resident involved in a serious occurrence.

We estimate that these notifications will take a total of 15 minutes. This will total an estimated 141 hours per year per facility and 70,500 nationally, for the estimated 282,000 incidents per year.

Section 483.376 Education and Training

Paragraph (f) requires facilities to provide for assessments of staff education and training needs by requiring staff to demonstrate their competencies related to the use of emergency safety interventions on a semiannual basis. This section also provides for staff to demonstrate, on an annual basis, their competency in the use of cardiopulmonary resuscitation.

Paragraph (g) of this section requires the facility to document in the staff personnel records that the training required by § 483.376 was successfully completed.

While these information collection requirements are subject to the PRA, we believe the burden associated with them are exempt as defined in 5 CFR 1320.3(b)(2) because the time, effort, and financial resources necessary to comply with the requirement are incurred by persons in the normal course of their activities.

The total information collection requirements associated with this regulation will total an estimated 877,750 hours.

Comments

If you comment on these information collection and recordkeeping requirements, please mail copies directly to the following:

Health Care Financing Administration, Office of Information Services, Security and Standards Group, Attn: Julie Brown, Room N2–14–26, 7500 Security Boulevard, Baltimore, MD 21244–1850;

and

Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503, Attn: Brenda Aguilar, HCFA Desk Officer.

VII. Regulatory Impact Statement

A. Overall Impact

We have examined the impact of this interim final rule as required by Executive Order 12866 and the Regulatory Flexibility Act (RFA) (Pub. L. 96–354). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity).

The RFA requires agencies to analyze options for regulatory relief of small entities. For purposes of the RFA, small entities include small businesses, nonprofit organizations and government agencies. Most hospitals and most other providers and suppliers are small entities, either by nonprofit status or by having revenues of $5 million or less annually. For purposes of the RFA, all psychiatric residential treatment facilities are considered to be small entities. Individuals and States are not included in the definition of a small entity. Consistent with the RFA, we prepare a regulatory flexibility analysis unless we certify that a rule will not have a significant economic impact on a substantial number of small entities.

Also, section 1102(b) of the Act requires us to prepare a regulatory impact analysis if a rule may have a significant impact on the operations of a substantial number of small rural hospitals. That analysis must conform to the provisions of section 604 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a Metropolitan Statistical Area and has fewer than 50 beds. This regulation does not have an impact on small rural hospitals. However, to the extent the rule may have significant effects on psychiatric residential treatment facilities and their residents, or be viewed as controversial, we believe it is desirable to inform the public of our projections of the likely effects of the proposals.

The Unfunded Mandates Reform Act of 1995 requires (in section 202) that agencies prepare an assessment of anticipated costs and benefits for any rule that may result in a mandated expenditure in any 1 year by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more. This rule has no mandated consequential effect on State, local, or on tribal governments, or the private sector. We have described the anticipated effects of this regulation below.

We have reviewed this interim final rule with comment under the threshold criteria of Executive Order 13132, Federalism. We have determined that this interim final rule with comment does not significantly affect the rights, roles, and responsibilities of States.

This rule is the product of serious concern about improper use of restraints and seclusion in psychiatric residential treatment facilities. This led us to set forth this interim final rule with comment to ensure the protection of residents of these facilities from improper restraint and seclusion practices that could contribute to death or serious injury.

B. Anticipated Effects

Effect on Psychiatric Residential Treatment Facilities

We still maintain that some facilities will need additional staff as a result of the previous interim final rule. The January 22 interim final rule estimated this burden based on the requirement for only registered nurses. This rule does not eliminate that requirement but permits facilities to fullfill this

requirement by allowing other licensed practitioners in lieu of registered nurses.

As stated in our impact statement of January 22, 2001, we believe that it is not only reasonable but critical to resident safety that we require these facilities to provide 24-hour onsite coverage by a registered nurse or other licensed practitioner permitted by the State and the facility. We believe it is appropriate to extend the same level of protections to children and adolescents in these facilities that are provided to them in a hospital.

We are adding a requirement for facilities to report the death of any resident to the HCFA regional office. We are soliciting comments only on this additional HCFA reporting requirement. We believe this additional reporting requirement will have a minimal financial impact on facilities.

C. Summary of Estimated Costs

Psychiatric Residential Treatment Costs

Because of our modification of the rule concerning the use of registered nurses, we have revised this section of the impact statement concerning new staff costs. We recognize that some facilities will need to hire either additional registered nurses or other licensed practitioners permitted by the State and the facility to meet the requirement for 24-hour per day coverage in these facilities. As a result of our modification of the rule, each facility would have to provide for one additional FTE registered nurse or other licensed practitioner permitted by the state and the facility. We did not change the overall estimated numbers of additional FTEs to provide the necessary coverage in all facilities. Our earlier impact analysis can be found in the January, 22, 2001 interim final rule.

D. Alternatives Considered

The changes made in this document are being made after further consideration of alternatives discussed in the January 22, 2001 interim final rule.

E. Conclusion

The CoP for psychiatric residential treatment facilities sets forth a series of requirements to ensure each resident's physical and emotional health and safety. These requirements address each resident's right to be free from restraint or seclusion, of any form, used as a means of coercion, discipline, convenience, or retaliation. The CoP is a new requirement for facilities that provide inpatient psychiatric residential treatment services to Medicaid eligible individuals under age 21. In accordance with the Regulatory Flexibility Act, we have examined the burden this rule may impose on small entities and certify that this rule will not have a significant impact on a substantial number of entities.

In accordance with the provisions of Executive Order 12866, this regulation was reviewed by the Office of Management and Budget.

List of Subjects

42 CFR Part 441

Family planning, Grant programs-health, Infants and children, Medicaid, Penalties, Reporting and recordkeeping requirements.

42 CFR Part 483

Grant programs-health, Health facilities, Health professionals, Health records, Medicaid, Medicare, Nursing homes, Nutrition, Reporting and recordkeeping requirements, Safety.

For the reasons set forth in the preamble, 42 CFR chapter IV, as amended at 66 FR 7148 (January 22, 2001) and 66 FR 15800 (March 21, 2001) is further amended as follows:

PART 483—REQUIREMENTS FOR STATES AND LONG TERM CARE FACILITIES

1. The authority citation for part 483 continues to read as follows:

Authority: Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh).

2. In § 483.352, the definition of ''Personal restraint'' is revised to read as follows:

§ 483.352 Definitions.

* * * * *

Personal restraint means the application of physical force without the use of any device, for the purposes of restraining the free movement of a resident's body. The term personal restraint does not include briefly holding without undue force a resident in order to calm or comfort him or her, or holding a resident's hand to safely escort a resident from one area to another.

* * * * *

3. Section 483.358 is amended by:

A. Revising paragraphs (a), (c), and (d), (f) introductory text, (g)(1), (g)(3) and (j)

B. Amending paragraph (b) by removing the last two sentences.

§ 483.358 Orders for the use of restraint or seclusion.

(a) Orders for restraint or seclusion must be by a physician, or other licensed practitioner permitted by the State and the facility to order restraint or seclusion and trained in the use of emergency safety interventions. Federal regulations at 42 CFR 441.151 require that inpatient psychiatric services for recipients under age 21 be provided under the direction of a physician.

* * * * *

(c) A physician or other licensed practitioner permitted by the state and the facility to order restraint or seclusion must order the least restrictive emergency safety intervention that is most likely to be effective in resolving the emergency safety situation based on consultation with staff.

(d) If the order for restraint or seclusion is verbal, the verbal order must be received by a registered nurse or other licensed staff such as a licensed practical nurse, while the emergency safety intervention is being initiated by staff or immediately after the emergency safety situation ends. The physician or other licensed practitioner permitted by the state and the facility to order restraint or seclusion must verify the verbal order in a signed written form in the resident's record. The physician or other licensed practitioner permitted by the state and the facility to order restraint or seclusion must be available to staff for consultation, at least by telephone, throughout the period of the emergency safety intervention.

* * * * *

(f) Within 1 hour of the initiation of the emergency safety intervention a physician, or other licensed practitioner trained in the use of emergency safety interventions and permitted by the state and the facility to assess the physical and psychological well being of residents, must conduct a face-to-face assessment of the physical and psychological well being of the resident, including but not limited to—

* * * * *

(g) * * *

(1) The name of the ordering physician or other licensed practitioner permitted by the state and the facility to order restraint or seclusion;

* * * * *

(3) The emergency safety intervention ordered, including the length of time for which the physician or other licensed practitioner permitted by the state and the facility to order restraint or seclusion authorized its use.

* * * * *

(j) The physician or other licensed practitioner permitted by the state and the facility to order restraint or seclusion must sign the restraint or seclusion order in the resident's record as soon as possible.

* * * * *

4. Section 483.360 is amended by revising the introductory text to read as follows:

§ 483.360 Consultation with treatment team physician.

If a physician or other licensed practitioner permitted by the state and the facility to order restraint or seclusion orders the use of restraint or seclusion, that person must contact the resident's treatment team physician, unless the ordering physician is in fact the resident's treatment team physician. The person ordering the use of restraint or seclusion must—

* * * * *

5. Section 483.362 is amended by revising paragraphs (b) and (c) to read as follows:

§ 483.362 Monitoring of the resident in and immediately after restraint

* * * * *

(b) If the emergency safety situation continues beyond the time limit of the order for the use of restraint, a registered nurse or other licensed staff, such as a licensed practical nurse, must immediately contact the ordering physician or other licensed practitioner permitted by the state and the facility to order restraint or seclusion to receive further instructions.

(c) A physician, or other licensed practitioner permitted by the state and the facility to evaluate the resident's well-being and trained in the use of emergency safety interventions, must evaluate the resident's well-being immediately after the restraint is removed.

6. Amending section 483.364 by revising paragraphs (c) and (d) to read as follows:

§ 483.364 Monitoring of the resident in and immediately after seclusion

* * * * *

(c) If the emergency safety situation continues beyond the time limit of the order for the use of seclusion, a registered nurse or other licensed staff, such as a licensed practical nurse, must immediately contact the ordering physician or other licensed practitioner permitted by the state and the facility to order restraint or seclusion to receive further instructions.

(d) A physician, or other licensed practitioner permitted by the state and the facility to evaluate the resident's well-being and trained in the use of emergency safety interventions, must evaluate the resident's well-being immediately after the resident is removed from seclusion.

7. Section 483.374 is amended by adding paragraph (c) to read as follows:

§ 483.374 Facility reporting.

* * * * *

(c) *Reporting of deaths.* In addition to the reporting requirements contained in paragraph (b) of this section, facilities must report the death of any resident to the Health Care Financing Administration (HCFA) regional office.

(1) Staff must report the death of any resident to the HCFA regional office by no later than close of business the next business day after the resident's death.

(2) Staff must document in the resident's record that the death was reported to the HCFA regional office.

(Catalog of Federal Domestic Assistance Program No. 93.778, Medical Assistance Program)

Dated: May 17, 2001.

Michael McMullan,

Acting Deputy Administrator, Health Care Financing Administration.

Dated: May 17, 2001.

Tommy G. Thompson,

Secretary.

[FR Doc. 01–13041 Filed 5–21–01; 8:45 am]

BILLING CODE 4120–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CC Docket Nos. 00–257 and 94–129; FCC 01–153]

2000 Biennial Review—Review of Policies and Rules Concerning Unauthorized Changes of Consumers Long Distance Carriers

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The streamlined procedures the Commission adopts here will replace the current, burdensome waiver process. The Commission's new procedures provide for an acquiring carrier to simply self-certify to the Commission, in advance of the transfer, that the carrier will follow the required procedures. This will protect the interests of the affected subscribers by giving them adequate advance notice of the carrier change and ensuring that the change will not cause them financial harm.

DATES: This document contains information collection requirements that have not been approved by the Office of Management Budget (OMB). The Commission will publish a document in the **Federal Register** announcing the effective date of this final rule.

FOR FURTHER INFORMATION CONTACT: Michele Walters, Associate Division Chief, or Dana Walton-Bradford, Attorney, Common Carrier Bureau, Accounting Policy Division, (202) 418–7400.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's First Report and Order in CC Docket No. 00–257 and Fourth Report and Order in CC Docket No. 94–129 released on May 15, 2001. The full text of this document is available for public inspection during regular business hours in the FCC Reference Center, Room CY–A257, 445 Twelfth Street, SW., Washington, DC, 20554.

I. Introduction

1. As part of our biennial regulatory review effort, we are amending our carrier change rules to provide a streamlined process for compliance with section 258 of the Communications Act of 1934 (Act), as amended by the Telecommunications Act of 1996 (1996 Act) in situations involving the carrier-to-carrier sale or transfer of subscriber bases. The streamlined procedures we adopt in this Order will replace the current, more burdensome waiver process. Our new procedures provide for an acquiring carrier to simply self-certify to the Commission, in advance of the transfer, that the carrier will follow the required procedures. This will protect the interests of the affected subscribers, consistent with section 258 and our rules, by giving them adequate advance notice of the carrier change and ensuring that the change will not cause them financial harm.

2. The Commission adopted carrier change authorization and verification requirements to protect consumers from fraudulent changes in presubscribed carriers. It has become clear, however, that the need to obtain a waiver of these requirements imposes undue burdens on carriers seeking to buy, sell, or transfer customer accounts and on the Commission that could be avoided without sacrificing consumer protection. These burdens include the time and resources required to prepare and process the waiver petition and any supplemental filings, the regulatory uncertainty inherent in any waiver process, and, oftentimes, delay. Given the dynamic marketplace, and the likelihood that carriers will continue to buy, sell, and transfer customer lines in the future, we believe it is appropriate to streamline our carrier change rules to ensure that they do not inadvertently inhibit routine business transactions, while ensuring that consumers are protected from fraudulent carrier changes, consistent with section 258 and our rules.

II. Discussion

A. Overview

9. A telecommunications carrier currently must file a request for waiver of our carrier change authorization and verification rules in order to acquire part or all of a subscriber base from another carrier without obtaining individual subscriber consent. We received 51 such requests for waiver in 2000, and we received 12 more in the first four months of 2001. The preparation of these waiver petitions imposes burdens both on carriers and the Commission. These burdens are not limited to the initial filing. Often carriers consult with Commission staff prior to their initial waiver request, and, on occasion, carriers supplement that filing, a time-consuming process. Moreover, carriers have no way of knowing when they will receive a ruling on their waiver requests. Although some carriers have received grants of emergency petitions in as little as one week, it is more typical for carriers to wait at least a month for a ruling because of the heavy volume of these filings, and several petitioners have experienced much longer delays. Incorporating a streamlined certification and notification process into the current rules will significantly reduce the burden on carrier and Commission resources while still protecting consumers' interests. Indeed, all commenters support our proposal to amend our rules to address the sale or transfer of subscriber bases. All commenters also endorse our stated goals: to reduce regulatory burdens, and thereby produce greater certainty in the marketplace, while providing adequate consumer protection consistent with section 258 and our carrier change rules. As discussed in greater detail, the streamlined process for the sale or transfer of subscriber bases adopted in this Order achieves both of these goals.

10. We amend § 64.1120 of our rules to establish a streamlined self-certification process for the carrier-to-carrier sale or transfer of subscriber bases, thereby eliminating the need to obtain a waiver of Commission rules prior to closing a transaction. This process is designed to ensure that the affected subscribers have adequate information about the carrier change in advance, that they are not financially harmed by the change, and that they will experience a seamless transition of service from their original carrier to the acquiring carrier. This process also will provide the Commission with information it needs to fulfill its consumer protection obligations. Under the revised rules, carriers need not obtain individual authorization and verification for carrier changes associated with the carrier-to-carrier sale or transfer of a subscriber base, provided that, not later than 30 days before the planned carrier change, the acquiring carrier notifies the Commission, in writing, of its intention to acquire the subscriber base and certifies that it will comply with the required procedures, including the provision of advance written notice to all affected subscribers.

B. Notice to the Commission

11. We find that it is in the public interest to adopt a carrier self-certification process as the streamlined procedure for notifying the Commission prior to the sale or transfer of a subscriber base. The acquiring carrier must certify, at least 30 days before the intended transaction date, that it will comply with the requirements established in this Order, including the provision of reasonable advance notice to the affected subscribers. The Commission will be able to ensure that consumer interests are protected if it has advance knowledge of such transactions and certification of compliance with the requirements of this streamlined process.

12. Under the streamlined process we adopt in this Order, the acquiring carrier will simply file a letter in CC Docket No. 00–257 with the Secretary of the Commission, no later than 30 days prior to the transfer of the subscriber base to the new service provider, that includes the names of the parties to the transaction, the types of telecommunications services provided to the affected subscribers, the date of the transfer of these subscribers to the acquiring carrier, a certification of compliance with the requirements of this process, and an attached copy of the notice sent to the affected subscribers. In the rare case in which, after the filing of the certification, there is a material change to the required information, such as a change in the date of the subscriber transfer, the acquiring carrier must file written notification of the change(s) with the Commission no more than 10 days after the transfer date designated in the prior filing. While we reserve the right to require the acquiring carrier to send an additional notice to the affected subscribers regarding such material changes, we expect that we will exercise this right infrequently. We disagree with commenters who contend that a self-certification requirement is no less burdensome than the current waiver process, or that this requirement undermines our streamlining efforts. Under this streamlined approach, in contrast to the waiver process, the carrier need not obtain Commission approval in order to complete the transaction.

13. A telecommunications carrier must comply with this streamlined process whenever it acquires subscribers from another carrier through a sale or transfer. For example, if a carrier plans to acquire the subscriber base of another carrier owned by the same parent company, and if, after the transfer, the subscribers' preferred carrier will have a different name, contact number, billing address, and set of rates, terms, and conditions, the acquiring carrier must comply with the procedures adopted in this Order. However, we note that, when a carrier is simply undergoing a name change, it is not in fact acquiring customers through a sale or transfer, and therefore it need not comply with these procedures. As another example, a change in corporate structure that is invisible to the affected subscribers does not constitute a sale or transfer for purposes of section 258 that implicates this streamlined process.

14. The rule amendments we adopt in this Order expressly prohibit use of the streamlined procedure to avoid liability for slamming rule violations by transferring subscribers to another corporation. We caution carriers that the Commission will continue its vigorous slamming enforcement efforts and will not tolerate carrier attempts to avoid liability for slamming rule violations by, for example, transferring subscribers to a sham company. The Commission's Enforcement Bureau will be vigilant in monitoring subscriber transfers effected under these procedures for indications of fraud and will pursue enforcement action against carriers that violate the proscription. We believe that our streamlined process for carrier changes associated with sales or transfers, coupled with vigorous enforcement of our slamming rules, will be sufficient to protect consumers from unscrupulous carriers.

C. Notice to the Affected Subscribers

15. We conclude that carriers acquiring subscribers should provide those subscribers with reasonable advance notice of a carrier change associated with a sale or transfer. We agree with those commenters that support our proposed 30-day advance notice period. We believe that, if an affected subscriber receives notice of the transaction at least 30 days before it occurs, the subscriber will be able to make an informed decision as to whether to accept the acquiring carrier as his or her preferred carrier. We are

not persuaded that a 30-day notice requirement will be burdensome and costly to the carriers involved. Based on our extensive experience with waiver petitions related to subscriber sales or transfers, we believe that 30 days is a reasonable notice period to provide subscribers with sufficient opportunity to make an informed decision without creating a burdensome delay for the carriers involved.

16. We conclude that the carrier acquiring a subscriber base should be responsible for notifying the affected subscribers. We note that, in the absence of a waiver or the streamlined process adopted in this Order, the acquiring carrier would be required by the Commission's carrier change authorization and verification rules, and by section 258, to obtain each subscriber's express authorization and verification for the carrier change. We do not agree with SBC that the acquiring carrier will lack access to the necessary subscriber list information. We believe that, in most cases, sufficient subscriber list information will be available to the acquiring carrier and that it is unlikely that a carrier would consummate a purchase of a subscriber base without having immediate access to the subscriber list upon the closing of the purchase agreement. We are confident that carriers can, through normal business negotiations, make arrangements for the acquiring carrier to obtain the necessary information.

17. We further find that the written notice to the affected subscribers should not differ based on the types of service provided or the size of the carriers involved. Because a change in presubscribed service provider affects all subscribers similarly, regardless of the service type or the size of the original or acquiring carrier, there is no basis for varying the notice requirements.

18. We decline to require the acquiring carrier to send a second notice to the affected subscribers. We agree with commenters that argue that the affected subscribers do not need to receive a second written notice that simply reiterates the information provided in the first notice. We recognize that some affected subscribers may fail to read the notice sent prior to the change in service providers; however, as pointed out by several commenters, the affected subscribers will receive notification of the new service provider on their bills under the highlighting requirement of the Commission's truth-in-billing rules. Moreover, we expect that most acquiring carriers will contact the affected subscribers after the transfer as a matter of good business practice. We believe that a second notice may also be costly for carriers, especially smaller carriers.

19. Because section 255 and the Commission's existing rules impose disability accessibility requirements on carriers, we decline to impose additional requirements regarding advance subscriber notices sent to blind or visually-impaired consumers but will incorporate by reference the existing requirements in our amendment to § 64.1120. We believe that our existing rules are sufficient to ensure that the requirements of section 255 are met. We will monitor the situation and, if necessary, will take further action, as appropriate. We also believe that carriers should have the flexibility to meet the needs of the disabled community consistent with statutory and Commission requirements.

20. We note that several incumbent local exchange carriers have raised an issue regarding the application of our rules in situations where a competitive local exchange carrier is leaving a particular market and is required by state law to transfer its customer base to the incumbent. We disagree with these commenters that the streamlined procedures for the sale or transfer of subscriber base adopted in this Order should not be applied to incumbents that must assume the subscribers of a competitive local exchange carrier exiting the market. We believe that the affected subscribers of competitive local exchange carriers are entitled to the same protections and notice as any other subscriber whose carrier is changed due to a sale or transfer. To the extent a situation arises where it is impossible to comply precisely with the requirements set forth in this Order, we delegate authority to the Common Carrier Bureau to resolve on a case-by-case basis.

21. We have carefully evaluated the individual elements that comprise the advance subscriber notice under our streamlined process. We have determined that these requirements are necessary to ensure that the affected subscribers have adequate information about the carrier change, in advance, that they will not suffer financial harm from the involuntary change, and that they will experience a smooth transition to the new service provider. Not later than 30 days before the planned carrier change, the acquiring carrier must give each affected subscriber written notice of the date on which it will become the subscriber's new provider of telecommunications service and of other essential information. As discussed more fully, the advance subscriber notice must disclose: (1) The rates, terms, and conditions of the service(s) to be provided by the acquiring carrier; (2) the fact that the acquiring carrier will be responsible for any carrier change charges associated with the transaction; (3) the subscriber's right to select a different preferred carrier, if an alternative carrier is available; (4) a toll-free customer service telephone number for inquiries about the transfer; (5) the fact that all subscribers receiving the notice, including those who have arranged preferred carrier freezes through their local service providers, will be transferred to the new carrier if they do not select a different preferred carrier before the transfer date; and (6) whether the acquiring carrier will be responsible for resolving outstanding complaints against the selling or transferring carrier.

1. Rates, Terms, and Conditions of the New Service Provider

22. We conclude that the advance subscriber notice provided by the acquiring carrier must contain detailed information on the rates, terms, and conditions of the service(s) the acquiring carrier will provide. The notice must advise the affected subscribers that the stated rates, terms, and conditions will apply on the date that the acquiring carrier becomes their service provider, and it must also disclose the method by which the carrier will inform them of any post-transfer changes. We believe that having such information in advance will enable consumers to make an informed decision regarding the transaction and their choice of preferred carrier, consistent with the goals of section 258.

23. We do not believe it appropriate to permit carriers to simply refer the affected subscribers to the acquiring carrier's website for this information, as several commenters suggested. We recognize that, under our detariffing rules, long distance carriers will be required to provide information on their rates and service offerings on their websites. We note, however, that not all consumers have website access. Moreover, we believe that the involuntary nature of carrier changes associated with a sale or transfer entitles subscribers to receive direct initial notice of the applicable rates, terms, and conditions of the new service offerings. For similar reasons, we reject the proposals made by some commenters to require the advance subscriber notice to include only the rates of the acquiring carrier or no information at all regarding the new carrier's terms or conditions of service.

24. We decline to require the acquiring carrier to continue to charge affected subscribers the same rates as those charged by the selling or transferring carrier for a specified period after the transfer. Several commenters assert that such a requirement may prove difficult and costly, if not impossible, and may serve as a major impediment to these transactions in the marketplace. We believe that such a requirement is unnecessary because the information the affected subscribers will receive in the 30-day advance subscriber notice about the acquiring carrier's rates, terms, and conditions for the telecommunications services at issue, coupled with the reminder of their right to select a different carrier, will enable them to make an informed decision about who their carrier should be and the rates they pay for these services, consistent with the goals of section 258.

2. Notice That the Acquiring Carrier Is Responsible for Carrier Change Charges

25. We conclude that it is appropriate, and consistent with section 258, to require the acquiring carrier to be responsible for any carrier change charges associated with the transaction. We believe that, because carrier changes associated with a carrier-to-carrier sale or transfer are involuntary, subscribers should not bear the burden of the cost of changing service providers. Moreover, we believe that the acquiring carrier is in the best position to cover carrier change charges because it has the billing relationship with the customer after the transfer. We modify slightly our proposal in the *Third Further Notice,* 66 FR 8093, January 29, 2001, to require the advance subscriber notice to state that no carrier charges will be imposed as a result of the transaction because we recognize that some acquiring carriers may not be able to prevent the assessment of a carrier change charge. We recognize that acquiring carriers may need the flexibility to credit or reimburse affected subscribers for such charges, if such charges are imposed outside of the acquiring carrier's control. Our amended rules require the acquiring carrier to take responsibility for any carrier change charges associated with the transaction and to make this fact clear in the advance subscriber notice.

3. Notice of the Subscriber's Right To Select a New Preferred Carrier

26. We agree with commenters that subscribers being transferred from one carrier to the next in a transaction must know that they have the right to make another preferred carrier selection, if an alternative carrier is available. The affected subscribers did not choose the acquiring carrier and should receive reasonable notice that they have the right to select a new carrier if they do not want to be served by the acquiring carrier. Consistent with section 258, we therefore require the acquiring carrier to include such a statement in its advance notice to each of the affected subscribers. We recognize that transfers may include customers who have signed term contracts with the selling or transferring carrier, and that such term contracts may be viewed by the acquiring company as a valuable component of the transaction. While we decline to make an exception to this requirement for term contracts, we conclude that a carrier may state in its notice to an affected term contract subscriber that the subscriber may face termination penalties if the subscriber selects another carrier prior to the expiration of the term contract, if that is the case.

4. Toll-Free Customer Service Telephone Number

27. We further require the acquiring carrier to include a toll-free customer service telephone number in the advance subscriber notice, in order to address any questions or problems that the subscriber may have concerning the change in service providers. This requirement will help ensure that the affected subscribers experience a seamless transition to the new service provider. We note that this requirement does not impose a new regulatory burden on most carriers because the Commission's truth-in-billing rules already require most carriers to provide a toll-free inquiry and dispute resolution number on consumers' telephone bills. Accordingly, this aspect of the subscriber notification requirement merely provides information that most subscribers would obtain, at a minimum, upon receipt of the first bill.

5. Notice That All Affected Subscribers, Including Those With Preferred Carrier Freezes, Will Be Switched to the Acquiring Carrier Unless They Make an Alternative Selection

28. We will require the acquiring carrier to make clear in the advance subscriber notice that all subscribers receiving the notice, including those who have arranged preferred carrier freezes through their local service providers on the service(s) involved in the transfer, will be transferred to the new carrier if they do not select a different preferred carrier before the transfer date. We will also require the acquiring carrier to inform subscribers that existing preferred carrier freezes on the service(s) involved in the transfer will be lifted and that, if they would like to have freeze protection after the transfer, they must contact their local service providers to obtain this service. Section 64.1190 of our rules permits local service providers to offer their subscribers the option of requesting a preferred carrier freeze, an additional measure of protection against unauthorized carrier changes that is consistent with section 258. With such a freeze in place, the subscriber is assured that his or her preferred carrier will not be changed without the subscriber's express consent. Under the circumstances involved in the sale or transfer of a subscriber base, however, a subscriber with a freeze could be left without presubscribed service when the selling or transferring carrier ceases to provide service, if that customer failed to give consent and was not automatically switched to the acquiring carrier. We believe that, under such circumstances, it is preferable, and more consistent with section 258, to permit the transfer of such a subscriber to the acquiring carrier, after adequate advance notice, rather than risk having the subscriber lose presubscribed service altogether. In our experience, there has occasionally been some confusion regarding the status of ''frozen'' subscribers who are part of a subscriber base being acquired by another carrier pursuant to a sale or transfer. We believe that it is appropriate to ensure that subscribers with preferred carrier freezes in place do not lose presubscribed service even if they fail to respond to notice of an impending carrier change. Under the procedures adopted in this Order, ''frozen'' subscribers who prefer not to receive service from the acquiring carrier will have sufficient notice of their ability to select another provider, in a manner consistent with section 258. In addition, ''frozen'' subscribers will have notice of the need to contact their local service providers if they wish to continue to have preferred carrier freeze protection for the service(s) involved in the transfer after the transfer occurs.

6. Notice of Whether the Acquiring Carrier Will Handle Complaints Against the Selling or Transferring Carrier

29. Finally, we conclude that the acquiring carrier must include in the advance subscriber notice whether it will be assuming responsibility for handling the outstanding complaints that the affected subscribers may have against the selling or transferring carrier. As part of the transaction, an acquiring carrier may agree to assume

responsibility for outstanding complaints against the selling or transferring carrier. In order to provide maximum information to affected subscribers, we believe it is appropriate to require the acquiring carrier to provide information about complaint administration to the affected subscribers if the acquiring carrier is assuming responsibility for such complaints.

30. We decline to require the acquiring carrier to handle outstanding complaints against the selling or transferring carrier. While some commenters support requiring the acquiring carrier to commit to handling customer complaints regarding the service of the original carrier and the transfer itself to ensure that transferred subscribers are not deprived of recourse after the transfer, other commenters strongly oppose this approach, and some believe we should place the liability for handling previous complaints on the selling or transferring carrier. We recognize that carriers often factor the costs of complaint administration into their transaction agreements, and we are reluctant to interfere with this process. We believe that it is sufficient to require the acquiring carrier to disclose in the advance subscriber notice whether it has assumed responsibility for handling outstanding complaints against the selling or transferring carrier.

IV. Procedural Matters

A. Final Regulatory Flexibility Analysis

31. As required by the Regulatory Flexibility Act (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated into the *Third Further Notice* in this proceeding. The Commission sought written public comment on the proposals in the *Third Further Notice,* including comment on the IRFA. The comments received are discussed. This Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.

1. Need for and Objectives of This Action

32. Section 258 of the Act makes it unlawful for any telecommunications carrier ''to submit or execute a change in a subscriber's selection of a provider of telephone exchange services or telephone toll service except in accordance with such verification procedures as the Commission shall prescribe.'' In the *Section 258 Order,* 64 FR 7763, February 16, 1999, the Commission established a comprehensive framework of rules to implement section 258 and strengthen its existing anti-slamming rules. Since the release of the *Section 258 Order,* the Commission has received many requests for waiver of its carrier change and authorization rules as a result of carriers selling or transferring their subscriber bases to other carriers, and the carriers desire not to get authorization from each affected subscriber in order to transition in a seamless, efficient manner. The objectives of the modified rules adopted in this Order are to address these types of transactions and provide for a streamlined approach that would meet the consumer protection goals of section 258 and also permit carriers to efficiently transfer customers without the need for Commission approval of a waiver petition.

2. Summary of Significant Issues Raised by Public Comments in Response to the IRFA

33. The Commission received no comments directly in response to the IRFA.

34. *Difference in Advance Notice to Affected Subscribers Based on Types of Service Provided and/or Size of Carrier.* The Commission specifically sought comment on whether the subscriber advance notice requirement should differ in some manner based on the type of service being provided, such as local, intraLATA toll, or interLATA toll service, or upon the size of the carrier(s) involved. All commenters on this issue agree that the advance notice requirement should be the same for all carriers. The Commission determined that, because a change in presubscribed service provider affects all subscribers similarly, regardless of the service type or the size of the original or acquiring carrier, there is no basis for varying the notice requirements.

35. *Second Notice to Affected Subscribers.* The Commission invited parties to comment on whether acquiring carriers should be required to provide each affected subscriber with a second written notice after the transfer has occurred reiterating the same information provided in the pre-transfer notification. Many commenters contend that the requirement of a second notice to the affected subscribers is overly burdensome and costly for carriers with little benefit to the affected subscribers. ITAA specifically noted that a second notice requirement would be particularly burdensome for smaller and midsize carriers, which would be less able to absorb doubling the costs of the subscriber notice requirement. These comments are discussed in more detail. The Commission agrees with these commenters, and others, that affected subscribers do not need to receive a second written notice that simply reiterates the information provided in the first notice. The Commission recognized that, while some affected subscribers may fail to read the notice sent prior to the change in service providers, they will receive notification of the new service provider on their bills under the highlighting requirement of the Commission's truth-in-billing rules. The Commission also concluded that a second notice would be costly for carriers, especially smaller carriers.

3. Description and Estimate of the Number of Small Entities to Which the Rules Will Apply

36. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' is defined as a ''small business concern'' under section 3 of the Small Business Act. A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA). A small organization is generally ''any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.'' Nationwide, as of 1992, there were approximately 275,801 small organizations. ''Small governmental jurisdiction'' generally means ''governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than 50,000.'' As of 1992, there were approximately 85,006 governmental entities in the United States. This number includes 38,978 counties, cities, and towns; of these, 37,566, or 96 percent, have populations of fewer than 50,000. The Census Bureau estimates that this ratio is approximately accurate for all governmental entities. Thus, of the 85,006 governmental entities, we estimate that 81,600 (96 percent) are small entities. According to SBA reporting data, there were 4.44 million small business firms nationwide in 1992. We further describe and estimate the number of small entity licensees and regulatees that may be affected by the rules.

37. The most reliable source of information regarding the total numbers of certain common carrier and related providers nationwide, as well as the

number of commercial wireless entities, appears to be data the Commission publishes in its *Trends in Telephone Service* report. In a recent news release, the Commission indicated that there are 4,822 interstate carriers. These carriers include, *inter alia,* local exchange carriers, wireline carriers and service providers, interexchange carriers, competitive access providers, operator service providers, pay telephone operators, providers of telephone service, providers of telephone exchange service, and resellers.

38. The SBA has defined establishments engaged in providing ''Radiotelephone Communications'' and ''Telephone Communications, Except Radiotelephone'' to be small businesses when they have no more than 1,500 employees. We discuss the total estimated number of telephone companies falling within the two categories and the number of small businesses in each, and we then attempt to refine further those estimates to correspond with the categories of telephone companies that are commonly used under our rules.

39. We have included small incumbent LECs in this present RFA analysis. As noted, a ''small business'' under the RFA is one that, *inter alia,* meets the pertinent small business size standard (*e.g.,* a telephone communications business having 1,500 or fewer employees), and ''is not dominant in its field of operation.'' The SBA's Office of Advocacy contends that, for RFA purposes, small incumbent LECs are not dominant in their field of operation because any such dominance is not ''national'' in scope. We have therefore included small incumbent LECs in this RFA analysis, although we emphasize that this RFA action has no effect on FCC analyses and determinations in other, non-RFA contexts.

40. *Total Number of Telephone Companies Affected.* The U.S. Bureau of the Census (''Census Bureau'') reports that, at the end of 1992, there were 3,497 firms engaged in providing telephone services, as defined therein, for at least one year. This number contains a variety of different categories of carriers, including local exchange carriers, interexchange carriers, competitive access providers, cellular carriers, mobile service carriers, operator service providers, pay telephone operators, covered specialized mobile radio providers, and resellers. It seems certain that some of these 3,497 telephone service firms may not qualify as small entities because they are not ''independently owned and operated.'' For example, a PCS provider that is affiliated with an interexchange carrier having more than 1,500 employees would not meet the definition of a small business. It is reasonable to conclude that 3,497 or fewer telephone service firms are small entity telephone service firms that may be affected by the new rules.

41. *Wireline Carriers and Service Providers.* The SBA has developed a definition of small entities for telephone communications companies except radiotelephone (wireless) companies. The Census Bureau reports that there were 2,321 such telephone companies in operation for at least one year at the end of 1992. According to the SBA's definition, a small business telephone company other than a radiotelephone company is one employing no more than 1,500 persons. All but 26 of the 2,321 non-radiotelephone companies listed by the Census Bureau were reported to have fewer than 1,000 employees. Thus, even if all 26 of those companies had more than 1,500 employees, there would still be 2,295 non-radiotelephone companies that might qualify as small entities. We do not have data specifying the number of these carriers that are not independently owned and operated, and thus are unable at this time to estimate with greater precision the number of wireline carriers and service providers that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that 2,295 or fewer small telephone communications companies other than radiotelephone companies are small entities that may be affected by the new rules.

42. *Local Exchange Carriers.* Neither the Commission nor the SBA has developed a definition for small providers of local exchange services (LECs). The closest applicable definition under the SBA rules is for telephone communications companies other than radiotelephone (wireless) companies. According to the most recent *Telecommunications Industry Revenue* data, 1,335 incumbent carriers reported that they were engaged in the provision of local exchange services. We do not have data specifying the number of these carriers that are either dominant in their field of operations, are not independently owned and operated, or have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of LECs that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that 1,335 or fewer providers of local exchange service are small entities that may be affected by the new rules.

43. *Interexchange Carriers.* Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to providers of interexchange services (IXCs). The closest applicable definition under the SBA rules is for telephone communications companies other than radiotelephone (wireless) companies. According to the most recent *Trends in Telephone Service* data, 204 carriers reported that they were engaged in the provision of interexchange services. We do not have data specifying the number of these carriers that are not independently owned and operated or have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of IXCs that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are 204 or fewer small entity IXCs that may be affected by the new rules.

44. *Competitive Access Providers.* Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to competitive access services providers (CAPs). The closest applicable definition under the SBA rules is for telephone communications companies other than radiotelephone (wireless) companies. According to the most recent *Trends in Telephone Service* data, 349 CAP/CLECs carriers and 60 other LECs reported that they were engaged in the provision of competitive local exchange services. We do not have data specifying the number of these carriers that are not independently owned and operated, or have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of CAPs that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are 349 or fewer small entity CAPs and 60 other LECs that may be affected by the new rules.

45. *Operator Service Providers.* Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to providers of operator services. The closest applicable definition under the SBA rules is for telephone communications companies other than radiotelephone (wireless) companies. According to the most recent *Trends in Telephone Service* data, 21 carriers reported that they were engaged in the provision of operator services. We do not have data specifying the number of these carriers that are not independently owned and operated or have more than 1,500 employees, and thus are unable at

this time to estimate with greater precision the number of operator service providers that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are 21 or fewer small entity operator service providers that may be affected by the new rules.

46. *Pay Telephone Operators.* Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to pay telephone operators. The closest applicable definition under SBA rules is for telephone communications companies other than radiotelephone (wireless) companies. According to the most recent *Trends in Telephone Service* data, 758 carriers reported that they were engaged in the provision of pay telephone services. We do not have data specifying the number of these carriers that are not independently owned and operated or have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of pay telephone operators that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are 758 or fewer small entity pay telephone operators that may be affected by the new rules.

47. *Resellers (including debit card providers).* Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to resellers. The closest applicable SBA definition for a reseller is a telephone communications company other than radiotelephone (wireless) companies. According to the most recent *Trends in Telephone Service* data, 454 toll and 87 local entities reported that they were engaged in the resale of telephone service. We do not have data specifying the number of these carriers that are not independently owned and operated or have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of resellers that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are 454 or fewer small toll entity resellers and 87 small local entity resellers that may be affected by the new rules.

48. *Toll-Free 800 and 800-Like Service Subscribers.* Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to 800 and 800-like service (''toll free'') subscribers. The most reliable source of information regarding the number of these service subscribers appears to be data the Commission collects on the 800, 888, and 877 numbers in use. According to our most recent data, at the end of January 1999, the number of 800 numbers assigned was 7,692,955; the number of 888 numbers that had been assigned was 7,706,393; and the number of 877 numbers assigned was 1,946,538. We do not have data specifying the number of these subscribers that are not independently owned and operated or have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of toll free subscribers that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are 7,692,955 or fewer small entity 800 subscribers, 7,706,393 or fewer small entity 888 subscribers, and 1,946,538 or fewer small entity 877 subscribers may be affected by the new rules.

49. *Cellular Licensees.* Neither the Commission nor the SBA has developed a definition of small entities applicable to cellular licensees. Therefore, the applicable definition of small entity is the definition under the SBA rules applicable to radiotelephone (wireless) companies. This provides that a small entity is a radiotelephone company employing no more than 1,500 persons. According to the Census Bureau, only twelve radiotelephone firms from a total of 1,178 such firms which operated during 1992 had 1,000 or more employees. Therefore, even if all twelve of these firms were cellular telephone companies, nearly all cellular carriers were small businesses under the SBA's definition. In addition, we note that there are 1,758 cellular licenses; however, a cellular licensee may own several licenses. In addition, according to the most recent *Trends in Telephone Service* data, 806 carriers reported that they were engaged in the provision of either cellular service or Personal Communications Service (PCS) services, which are placed together in the data. We do not have data specifying the number of these carriers that are not independently owned and operated or have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of cellular service carriers that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are 806 or fewer small cellular service carriers that may be affected by the new rules.

4. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

50. We analyze the projected reporting, recordkeeping, and other compliance requirements that might affect small entities.

51. *Notice to the Commission.* The Commission concludes that adopting a carrier self-certification process as the streamlined procedure for notifying the Commission prior to the sale or transfer of a subscriber base is in the public interest. Accordingly, the Commission directs carriers to file a notification letter with the Secretary of the Commission, no later than 30 days prior to the actual transfer of the subscriber base to the new service provider. This notification letter shall include the names of the parties to the transaction, the types of telecommunications services provided to the affected subscribers, the date of the transfer of these subscribers to the acquiring carrier, a certification of compliance with the statutory and Commission requirements that apply to this process, and an attached copy of the notice sent to the affected subscriber. This is a minimal filing requirement for small and large carriers in comparison to the Commission waiver process requirements and, unlike the waiver process, it will not require the carriers to obtain Commission action before completing the transaction. The self-certification to the Commission will serve enforcement and consumer information purposes through providing the Commission with advance notice of these transactions. Certification of these transactions will help ensure compliance with the Commission's rules and will better inform Commission of the status of these transactions in the marketplace so that the Commission can better serve and provide information to affected consumers.

52. *Notice to the Affected Subscribers.* The Commission amends its carrier change and authorization rules to provide a streamlined procedure for all telecommunications carriers that purchase or transfer all or part of their subscriber base. This streamlined approach will benefit all carriers, small and large, by eliminating the time-consuming and resource-intensive Commission waiver process. The Commission concludes that carriers acquiring subscribers should provide those subscribers with reasonable advance notice (*i.e.,* at least 30 days) of a carrier change associated with a sale or transfer. The Commission states that, based on its extensive experience with waiver petitions related to subscriber sales or transfers, 30 days is a reasonable notice period to provide subscribers with sufficient notice and opportunity to make an informed decision without creating a burdensome delay for the carriers involved.

5. Steps Taken To Minimize the Significant Economic Impact of This Action on Small Entities, and Significant Alternatives Considered

53. *Advance Notice to the Affected Subscribers.* The Commission has considered whether the advance subscriber notice requirement adopted herein will impose significant additional costs or administrative burdens on small carriers. The Commission concludes that this requirement would not impose significant additional costs or administrative burdens on small carriers. In this regard, the Commission notes that all carriers, including small carriers, already provide these types of notices as part of the waiver process and do not object to continuing to provide them under the streamlined approach prescribed in the *Third Further Notice.* Accordingly, the Commission concludes that the advance notice requirement is not burdensome.

54. *Second Notice to Affected Subscribers.* To minimize the administrative burden on carriers, particularly small carriers, the Commission has not incorporated a second notice to the affected subscribers into the streamlined process. The Commission recognizes that such a requirement may be costly and therefore burdensome to small carriers. In addition, we note that consumers will receive a *de facto* second notice through the highlighting of new service providers on telephone bills required by the Commission's truth-in-billing rules. Our decision not to adopt the proposed alternative of a required second subscriber notice is consistent with comments filed, including those addressing small entity concerns.

55. *Rates, Terms, and Conditions of the New Service Provider.* The Commission has considered whether to require the acquiring carrier to continue to charge affected subscribers the same rates as those charged by the selling or transferring carrier for a specified period after the transfer. The Commission has determined that such a requirement is not necessary because the information the affected subscribers will receive in the 30-day advance subscriber notice about the acquiring carrier's rates, terms, and conditions for the telecommunications services at issue will enable them to make an informed decision about the rates they pay for these services.

6. Report to Congress

56. The Commission will send a copy of the Order, including this FRFA, in a report to Congress pursuant to the Congressional Review Act. In addition, the Commission will send a copy of the Order, including the FRFA, to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the Order and FRFA (or summaries thereof) also will be published in the **Federal Register**.

B. Paperwork Reduction Act

57. The action contained herein has been analyzed with respect to the Paperwork Reduction Act of 1995 and found to impose new or modified reporting and recordkeeping requirements or burdens on the public. This document contains information collection requirements that have not been approved by the Office of Management Budget (OMB). The Commission will publish a document in the **Federal Register** announcing the effective date of that section.

VI. Ordering Clauses

58. Pursuant to sections 1, 4, 201–205, 255, and 258 of the Communications Act of 1934, as amended, the policies, rules, and requirements set forth herein are adopted. Part 64 is amended as set forth.

59. This document contains information collection requirements that have not been approved by the Office of Management Budget (OMB). The Commission will publish a document in the **Federal Register** announcing the effective date of that section.

60. The Commission's Consumer Information Bureau, Reference Information Center, shall send a copy of this Order, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 64

Communications common carriers, Reporting and recordkeeping requirements, Telephone.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

Rule Amended

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR Part 64 as follows:

PART 64—MISCELLANEOUS RULES RELATING TO COMMON CARRIERS

The authority citation for part 64 continues to read as follows:

Authority: 47 U.S.C. 151, 154, 201, 202, 205, 218–220, and 332 unless otherwise noted. Interpret or apply sections 201, 218, 225, 226, 227, 229, 332, 48 Stat. 1070, as amended. 47 U.S.C. 201–204, 208, 225, 226, 227, 229, 332, 501 and 503 unless otherwise noted.

1. Section 64.1120 is amended by adding paragraph (e) to read as follows:

§ 64.1120 Verification of orders for telecommunications service.

* * * * *

(e) A telecommunications carrier may acquire, through a sale or transfer, either part or all of another telecommunications carrier's subscriber base without obtaining each subscriber's authorization and verification in accordance with § 64.1120(c), provided that the acquiring carrier complies with the following streamlined procedures. A telecommunications carrier may not use these streamlined procedures for any fraudulent purpose, including any attempt to avoid liability for violations under part 64, subpart K of the Commission rules.

(1) No later than 30 days before the planned transfer of the affected subscribers from the selling or transferring carrier to the acquiring carrier, the acquiring carrier shall file with the Commission's Office of the Secretary a letter notification in CC Docket No. 00–257 providing the names of the parties to the transaction, the types of telecommunications services to be provided to the affected subscribers, and the date of the transfer of the subscriber base to the acquiring carrier. In the letter notification, the acquiring carrier also shall certify compliance with the requirement to provide advance subscriber notice in accordance with § 64.1120(e)(3), with the obligations specified in that notice, and with other statutory and Commission requirements that apply to this streamlined process. In addition, the acquiring carrier shall attach a copy of the notice sent to the affected subscribers.

(2) If, subsequent to the filing of the letter notification with the Commission required by § 64.1120(e)(1), any material changes to the required information should develop, the acquiring carrier shall file written notification of these changes with the Commission no more than 10 days after the transfer date announced in the prior notification. The Commission reserves the right to require the acquiring carrier to send an additional notice to the affected subscribers regarding such material changes.

(3) Not later than 30 days before the transfer of the affected subscribers from the selling or transferring carrier to the acquiring carrier, the acquiring carrier shall provide written notice to each affected subscriber of the information

specified. The acquiring carrier is required to fulfill the obligations set forth in the advance subscriber notice. The advance subscriber notice shall be provided in a manner consistent with 47 U.S.C. 255 and the Commission's rules regarding accessibility to blind and visually-impaired consumers, 47 CFR 6.3, 6.5 of this chapter. The following information must be included in the advance subscriber notice:

(i) The date on which the acquiring carrier will become the subscriber's new provider of telecommunications service,

(ii) The rates, terms, and conditions of the service(s) to be provided by the acquiring carrier upon the subscriber's transfer to the acquiring carrier, and the means by which the acquiring carrier will notify the subscriber of any change(s) to these rates, terms, and conditions.

(iii) The acquiring carrier will be responsible for any carrier change charges associated with the transfer,

(iv) The subscriber's right to select a different preferred carrier for the telecommunications service(s) at issue, if an alternative carrier is available,

(v) All subscribers receiving the notice, even those who have arranged preferred carrier freezes through their local service providers on the service(s) involved in the transfer, will be transferred to the acquiring carrier, unless they have selected a different carrier before the transfer date; existing preferred carrier freezes on the service(s) involved in the transfer will be lifted; and the subscribers must contact their local service providers to arrange a new freeze.

(vi) Whether the acquiring carrier will be responsible for handling any complaints filed, or otherwise raised, prior to or during the transfer against the selling or transferring carrier, and

(vii) The toll-free customer service telephone number of the acquiring carrier.

[FR Doc. 01–12757 Filed 5–21–01; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018—AF30

Endangered and Threatened Wildlife and Plants; Final Special Regulations for the Preble's Meadow Jumping Mouse

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Preble's meadow jumping mouse (*Zapus hudsonius preblei*) was listed as a threatened species under the Endangered Species Act (Act) of 1973, as amended, on May 13, 1998 (63 FR 26517). At the time the Preble's was listed, a special rule for the conservation of the Preble's was not promulgated; therefore, virtually all of the restrictions under section 9 of the Act became applicable to the species. A proposed special rule was published in the **Federal Register** on December 3, 1998 (63 FR 66777). This special rule is finalized in a modified form that includes some but not all of the provisions previously proposed. The rule establishes protective regulations pursuant to section 9 of the Act. Its duration is 36 months, during which time more comprehensive recovery approaches will be pursued.

DATES: This rule is effective May 22, 2001 through May 22, 2004.

ADDRESSES: The complete file for this rule is available for public inspection, by appointment, during normal business hours at the U.S. Fish and Wildlife Service's Colorado Field Office, 755 Parfet Street, Suite 361, Lakewood, Colorado 80215.

FOR FURTHER INFORMATION CONTACT: In Colorado—contact LeRoy Carlson, at the above address or telephone 303/275–2370. In Wyoming—contact Mike Long, Field Supervisor, Cheyenne, Wyoming, at telephone 307/772–2374.

SUPPLEMENTARY INFORMATION:

Background

The Preble's meadow jumping mouse (*Zapus hudsonius preblei*), a subspecies of the meadow jumping mouse (*Zapus hudsonius*), occurs only along the Rocky Mountain-Great Plains Interface (the Front Range) of eastern Colorado and Southeastern Wyoming. The final rule listing the Preble's as a threatened species under the Act was published in the **Federal Register** on May 13, 1998 (63 FR 26517). Section 4(d) of the Act (16 U.S.C. 1533 (d)) provides that, whenever a species is listed as a threatened species, the Secretary of the Department of the Interior will issue regulations deemed necessary and advisable to provide for the conservation of the species. This is done in either of two ways.

First, the Act authorizes imposition of take prohibitions to endangered species. We, the Fish and Wildlife Service, have issued regulations (50 CFR 17.31) that generally apply to threatened wildlife virtually all the prohibitions that section 9 of the Act (16 U.S.C. 1538) establishes with respect to endangered wildlife. These universal prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to ''take'' any listed wildlife species, i.e., to harass, harm, pursue, hunt, shoot, wound, kill, trap, or collect any threatened or endangered species or to attempt to engage in any such conduct (16 U.S.C. 1532 (19)).

Second, our regulations for threatened wildlife also provide that a ''special rule'' under section 4(d) of the Act can be tailored for a particular threatened species. In that case the general regulations applying most section 9 prohibitions do not apply to that species, and the special rule contains the prohibitions (and exemptions) necessary and appropriate to conserve that species.

At the time the Preble's was listed, we did not promulgate a special section 4(d) rule; therefore, the section 9 prohibitions, including the take prohibitions, became applicable to the species. On December 3, 1998, a proposed special rule identifying specific circumstances under which section 9 prohibitions would not apply to the Preble's was published in the **Federal Register** (63 FR 66777). This proposal initiated a 60-day public comment period, which closed February 1, 1999. The public comment period was extended for an additional 45 days through March 5, 1999 (64 FR 4607), and was reopened from March 16 through April 30, 1999 (64 FR 12924).

Briefly, the proposed special rule provided exemptions from section 9 prohibitions for—(1) all activities outside of specified Mouse Protection Areas (areas where Preble's had been documented) and Potential Mouse Protection Areas (areas judged to have high potential to support Preble's); (2) rodent control, ongoing agriculture, maintenance and replacement of existing landscaping, and existing uses of water anywhere within the Preble's range; and (3) under specified standards, alteration of up to 4 percent of Mouse Protection Areas and Potential Mouse Protection Areas as approved by State or local government. After review of comments received, this proposed special rule has been finalized in a modified form, adopting only the second exemption listed above for rodent control, ongoing agriculture, maintenance and replacement of existing landscaping, and existing uses of water anywhere within the Preble's range.

We anticipate that this rule will prohibit actions that threaten the Preble's to the extent necessary to provide for the conservation of the

Preble's. The rule also provides flexibility to private landowners for ongoing activities that will not impede the conservation of the species. We also believe that this rule will garner support of State and local governments, private landowners, and other interested parties and contribute to a lasting, cooperative approach for the long-term conservation of the species.

This rule is best understood in the context of other regulations and actions, already in place or in development, to provide for conservation of the Preble's. First, it is important to understand that an activity prohibited under the general regulations might still be allowed under section 10 of the Act. That section provides for a person to obtain from us, in appropriate circumstances, a permit allowing the ''incidental'' taking of Preble's. One of the purposes of this rule is to make, in advance, general decisions that certain types of activities are consistent with the conservation of the Preble's, without requiring people to seek additional section 10 permits authorizing those activities. Additional activities that result in take of Preble's that are not exempted by this special rule still can be permitted by the Service under section 10 of the Act.

Currently, the State of Colorado, the Service, and various local governments in Colorado and Wyoming are working together to develop plans to conserve the Preble's and its habitat. This collaborative approach is expected to result in the development of Habitat Conservation Plans and applications to the Service for incidental take permits under section 10 of the Act. These Habitat Conservation Plans will provide an important component of a lasting, effective, and efficient conservation and recovery program for the Preble's.

We are committed to development of a recovery plan for the Preble's that achieves long-term conservation and development solutions. We believe that a recovery program that integrates both biological as well as social factors will have the highest chance of success. One of the purposes of this special rule is to foster cooperation among the Service, the States, local governments, and the private sector in pursuing recovery of the Preble's.

The second important component of the context for this special rule is that Federal agencies are required under section 7 of the Act to utilize their authorities to conserve listed species and to consult with the Service to ensure that their actions are not likely to jeopardize the Preble's. For consultations that involve the use of Federal land, we expect that those lands will be managed in furtherance of the conservation of the species to the maximum extent possible. Other types of section 7 consultations involve actions that are similar to those that are considered under the section 10 process. For example, many of the activities likely to affect Preble's undertaken outside of Federal land, but wholly or partly in wetlands, will be subject to permitting requirements of the Clean Water Act, such as section 404 permits issued by the Army Corps of Engineers.

Third, a variety of Federal, State, and local programs are available to help preserve the Preble's through the acquisition, preservation, and management of its habitat. These include the Service's Partners for Fish and Wildlife Program, the Natural Resource Conservation Service's wetland/riparian habitat protection programs, grant programs administered by Great Outdoors Colorado, city and county open space programs, and activities of local land trusts. In particular, our Partners for Fish and Wildlife Program has proven to be an especially effective approach for wildlife conservation on agricultural lands by providing funding for restoration of wetlands and riparian habitats.

Summary of Comments and Recommendations

In the December 3, 1998, proposed 4(d) rule and associated notifications, and in subsequent notices to extend or reopen the public comment period, we asked all interested parties to submit comments on the proposed rule. We held two public meetings on December 16, 1998, in Lakewood, Colorado. The proposed rule was explained, followed by a question and answer session. Attendance at the afternoon session totaled 104 individuals, while attendance at the evening session totaled 24. We received 614 comment letters in response to the proposed 4(d) rule, including comments from 23 municipal and county governments, 14 environmental organizations, and 60 development, irrigation, and ranching-related organizations. Comments also were received from a member of the Wyoming congressional delegation and from the Governors of Wyoming and Colorado. Almost half of all letters received were associated with various letter-writing campaigns that reflected the same or very similar content.

Written comments, and oral statements presented in the public meetings or received during the comment periods, that are specific to the proposed rule are addressed in the following summary. Comments of a similar nature are grouped under a number of general issues.

Issues and Discussion

Issue 1—The proposed duration of this temporary rule, 18 months, may not provide enough time to develop Habitat Conservation Plans and other long-term strategies to conserve the Preble's.

Response—Based on the progress of ongoing efforts to develop Habitat Conservation Plans, we lengthened the duration of the rule to 36 months. This should provide time not only for completion of Habitat Conservation Plans but for completion of a recovery plan and other conservation efforts for the Preble's. The level of take anticipated to occur from this rule within either an 18-month or 36-month period is not considered to be biologically significant to recovery of the Preble's.

Issue 2—Refinement is needed in mapping Mouse Protection Areas and Potential Mouse Protection Areas that were developed in support of the proposed exemption for activities outside of likely Preble's habitat. Survey data that serve as a basis for the maps are scant, especially on private lands. Preble's use of habitat across its range has not been thoroughly studied. Proposed limits of the exemption as measured outward from occupied or potentially occupied streams and wetlands may be excessive or may be inadequate to include Preble's habitat. Designation of Mouse Protection Areas and Potential Mouse Protection Areas has been characterized by some as de facto designation of critical habitat.

Response—Because of these and other issues, the proposed designation of Mouse Protection Areas and Potential Mouse Protection Areas and the proposed exemption for incidental take outside of such areas have been dropped from the final rule. We will continue to use the best science available to determine distribution, presence, and habitat requirements of the Preble's. We will make such information available through our Colorado and Wyoming Field Offices and our web page. Determinations of Preble's presence and potential for human activities to impact Preble's will continue to occur on a site-by-site basis. Detailed local information on Preble's may be further developed to support Habitat Conservation Plans.

Issue 3—The proposed exemption to allow up to 4 percent of a Mouse Protection Area to be altered under a system of local review is considered by some as arbitrary and without firm scientific support. In addition, local government may not have the funds, expertise, or enforcement authority to

take on this responsibility. Local government also may assume increased liability under this exemption.

Response—Because of these and other issues, this proposed exemption from take was dropped from the final rule.

Issue 4—The proposed exemption for rodent control may be used as a means to eliminate Preble's from an area.

Response—As with all exemptions in this rule, only incidental take of Preble's that meets the specific provisions of the rule is exempted. Purposeful take of Preble's would still be prohibited.

Issue 5—Agriculture is often beneficial to the Preble's, and farmers and ranchers are good stewards of land. Flexibility to change agricultural practices within Preble's habitat is needed by farmers and ranchers, yet the proposed exemption would cover only established, ongoing activities.

Response—The exemption for ongoing agriculture recognizes that certain agricultural practices have proven compatible with survival of Preble's. Changes in agricultural practices that are positive or neutral to the Preble's are unlikely to result in take. Recognizing that continuation of existing agricultural activities is likely to result in minimal levels of take, this rule exempts ongoing agricultural activities from take. New agricultural activities could significantly expand the area or degree of take, potentially having larger impacts to the species; therefore, take from new or expanded agricultural activities is not exempted in this rule. Under the appropriate circumstances, section 10 permits can be obtained to allow take of Preble's due to new or expanded agricultural activities.

Issue 6—Exempted agricultural practices need to be better defined. A list of what is not exempted would be useful.

Response—This rule exempts incidental take of Preble's that may result from ongoing agricultural activities. Ongoing agricultural activities would be considered those activities in place at the time of the 1998 listing of the Preble's. We provide this exemption because lands that are currently under agricultural production are believed to have minimal habitat for the Preble's, and because agricultural activities are being conducted in a manner that causes minimal take of Preble's. We are not providing exemption in situations where larger amounts of take may occur. Therefore, this exemption applies to practices customary and necessary for the continuation of existing agricultural production. It does not apply to new activities or to expansion of activities that change the existing activity footprint in size or location. New or expanded activities may remove or significantly alter habitat that is currently occupied by Preble's and, therefore, are not included in this exemption. Questions regarding application of this exemption to specific practices in Colorado may be addressed to our Colorado Field Office, and in Wyoming questions may be addressed to our Wyoming Field Office (see **ADDRESSES** and **FOR FURTHER INFORMATION CONTACT** sections).

Issue 7—Practices such as crop rotation should be covered under the exemption for ongoing agriculture.

Response—Actions that reflect regular past uses are considered ongoing. Crop rotation consistent with a past pattern would be exempted from take. The ability to document past use may be important if any changes result in take of Preble's.

Issue 8—Exemptions from take should be provided when land enrolled in conservation reserve programs, that provides habitat for the subspecies, is later returned to agricultural production.

Response—This rule does not exempt take when lands maintained for conservation under various government programs are returned to agricultural production. Returning lands to agricultural production after the period of time in which the lands were enrolled in a conservation reserve program represents a change in use. It would not be considered an ''existing'' agricultural activity and, therefore, would not qualify for the exemption for ''existing'' agricultural uses. However, take associated with the return of lands from conservation reserve programs to agricultural production may still be authorized under the Habitat Conservation Plan provisions of section 10(a)(1)(B) of the Act.

Issue 9—The exemption from take for maintenance and replacement of existing landscaping also exempts maintenance and replacement of ''related structures and improvements.'' The intent of this exemption should be explained.

Response—Walkways, retaining walls, and other nonvegetative components of landscaping may be maintained and replaced as needed under this exemption. These structures do not normally provide habitat for the Preble's, and maintenance of such structures would likely result in minimal take, if any. ''Related structures and improvements'' should be viewed in the context of landscaping and not expanded to include houses, garages, or outbuildings. While maintenance or replacement of these larger structures would generally not result in take, on occasion such activity may entail a larger area and duration of disturbance, use of heavy machinery in the surrounding area, and staging of construction materials. In some circumstances, such activity could cause more than minimal take; therefore, while most of this type of activity would not result in any take, we have chosen not to exempt such activity due to those instances where take could be substantial.

Issue 10—The rule does not specify an exemption from take for maintenance of roadsides through mowing, which may occur in or near Preble's habitat. Such activity could result in take of Preble's.

Response—We agree that maintenance of roadsides could in some situations result in take, and if occupied habitat is removed as part of such activities, then the resulting take would probably be more than minimal. For this reason we have not included an exemption from take for roadside maintenance activities. As such activities are not usually undertaken by individuals, we encourage all jurisdictions that engage in maintenance mowing to modify such practices where Preble's may be present to avoid the likelihood of take, or to seek a section 10 permit when the potential for take cannot be avoided.

Issue 11—Water utilization was identified as a factor leading to listing of the Preble's, but is being exempted under this rule.

Response—Only take resulting from existing uses of water associated with perfected water rights is being exempted. Much as with agricultural activities, some existing patterns of water use appear compatible with maintenance of Preble's populations. In some locations, such as in water conveyance ditches, the Preble's exists only because of human manipulation of water flows. The relationship of water use and maintenance of the Preble's and its habitat is complex. During the period of this rule, existing patterns of water use will be exempted.

Issue 12—Some respondents requested clarification on our interpretation of ''existing water uses'' and ''perfected water rights.''

Response—An explanation has been added to the final rule which states that existing water uses refers to historical water use practices. In general, any change in water use practices that would require a change of water right or a change in a water use permit will not be exempted in the final rule.

Issue 13—Several respondents requested a broader exemption for any water use permitted or decreed by State

governments. Many Colorado municipalities and water suppliers requested exemption for transfers of perfected water rights and exercise of conditional water rights.

Response—We are not granting a range-wide exemption for water rights transfers, conditional water rights, and other water uses that are not considered ''perfected.'' These actions have a much higher potential to take Preble's than the exercise of perfected water rights. For example, exercise of conditional water rights could result in new flooding of Preble's habitat, and transfer of a historical irrigation right may result in abandonment of a ditch that supports Preble's habitat. We anticipate that exercise of most conditional water rights and transfers will not result in take of Preble's; therefore, in these cases no exemptions from take are needed. If take is likely from such changes, a process exists for pursuing a take permit under section 10 of the Act.

Issue 14—Many commentors requested exemption from take for maintenance of water supply ditches. Ongoing agriculture and use of perfected water rights are exempted from take. Logically, ditches must be maintained to convey water to support these activities (for example, from reservoirs to the agricultural fields). If water supply ditches that currently support Preble's are not maintained, they will ultimately cease to function. If abandoned, they will not convey water or support habitat of value to Preble's.

Response—We are considering proposing an amendment to this rule that provides an exemption from take for certain maintenance practices on water supply ditches.

Issue 15—An exemption from take for the control of noxious weeds may be appropriate. Currently, weed control programs in occupied or potential Preble's habitat are being curtailed for fear that they will be in violation of the Act. Ultimately, this may result in spread of noxious weeds that will, in turn, result in degradation of Preble's habitat.

Response—We are considering proposing an amendment to this rule to provide an exemption from take for certain activities relating to control of noxious weeds.

Issue 16—We received suggestions for additional range-wide exemptions from take covering a number of activities. A partial list includes exemptions for construction of trails, actions to promote public health and safety, construction and maintenance of infrastructure including utility lines and wastewater facilities, maintenance of roads and parking lots, and maintenance activities within waterways.

Response—These activities have the potential for more than minimal amounts of take; therefore, we believe that these additional exemptions are not appropriate or consistent with the conservation of the Preble's. Under appropriate circumstances, permits could be obtained to allow take that may result from these activities. Some of these activities may be addressed through future Habitat Conservation Plans or section 7 consultations.

Issue 17—Voluntary conservation efforts are sufficient to protect the Preble's on private lands.

Response—This rule does not require any conservation measures for the Preble's nor does it prevent individuals from undertaking voluntary conservation measures. We support any parties who wish to undertake voluntary conservation measures and welcome discussions with any party who wishes to consider developing a conservation agreement for the Preble's or its riparian habitat. If the species' status can be improved and threats reduced as a result of voluntary conservation measures, then we may be able to consider removing the Preble's from the list of endangered and threatened species under the Act.

Issue 18—The Service should provide updated maps of known Preble's locations and locations of unsuccessful trapping efforts on a web site accessible to the public.

Response—We are investigating various means to make this information more readily available to the public. In the meantime, the most recent information on known Preble's distribution is available from our Colorado and Wyoming Field Offices. (See **ADDRESSES** and **FOR FURTHER INFORMATION CONTACT** sections.)

Issue 19—The relationship of this rule to a future recovery plan for the Preble's should be explained.

Response—This temporary rule contributes to the conservation of the Preble's and does not compromise the development of a recovery plan. We anticipate developing a recovery plan prior to the termination of this rule.

Issue 20—The Service should provide for an accounting of take occurring under this rule.

Response—This rule provides exemptions from take for specific activities and under limited circumstances. In our best professional judgment, the exemptions provided are consistent with the conservation of the species. The proposed exemptions are not tied to a specific threshold of what would, without the rule, be considered take. We prepared a Biological Opinion under section 7 of the Act to address the likely effects of this rule on the Preble's.

Issue 21—The relationship of this rule to future Habitat Conservation Plans should be explained.

Response—Exemptions provided by this rule are independent of any Habitat Conservation Plan that may be submitted to us. Similar activities may or may not be addressed in a Habitat Conservation Plan at the discretion of the entity developing the plan. We anticipate that comprehensive Habitat Conservation Plans will be developed for the Preble's during the 36-month duration of this rule.

Issue 22—The relationship of this rule to review of Federal activities under section 7 of the Act should be explained.

Response—This rule does not alter Federal agency responsibilities under section 7 of the Act. Federal agencies would be exempt from section 9 prohibitions on take from the activities covered by this rule; however, Federal agencies would not be relieved of any section 7 responsibilities, even for activities exempted by this rule. Any Federal agency that funds, permits, or authorizes an activity that may affect Preble's would still be required to undergo section 7 consultation, even if take from that activity is covered by the exemption in this rule.

Provisions of the Rule

Term of the Rule

This rule will be effective for a period not to exceed 36 months from May 22, 2001. We expect that, during this time period, comprehensive Habitat Conservation Plans for the Preble's will be developed. Anytime during this 36 months, we could propose to extend this rule. Any proposal to extend the rule would be published in the **Federal Register** and would be made available for public review and comment.

Take Prohibitions

Virtually all of the prohibitions under section 9(a) of the Act that apply to endangered species continue to apply to the Preble's, to the same extent that they apply to other threatened species under our general regulations, except that certain activities would be exempted. Except for the exemptions below, it is illegal for any person subject to the jurisdiction of the United States to take any Preble's (i.e., to harass, harm, pursue, hunt, shoot, wound, kill, trap, or collect a Preble's or to attempt any of those actions). It would still be illegal to import or export, ship in interstate commerce in the course of commercial

activity, or sell or offer for sale in interstate or foreign commerce any Preble's, or to possess, sell, deliver, carry, transport, or ship any Preble's that have been taken illegally.

Exempt Activities

The following activities are exempt from the general take provisions listed above, provided that the activities resulting in such take are conducted in accordance with the requirements identified in this special rule. These four exemptions apply anywhere within the Preble's range.

a. *Rodent control within 10 feet of or inside of any structure*—Preble's are generally not found in association with structures such as barns, houses, or other buildings. We believe that any Preble's mortality associated with trapping near these structures would be insignificant and that this exemption will promote public support for Preble's conservation efforts.

b. *Ongoing agricultural activities*—This exemption applies to ongoing agricultural practices but does not apply to new agricultural practices that increase impacts to, or further encroach upon, Preble's habitat. For example, a change from existing grazing practices that would adversely impact Preble's habitat, or a change in mowing practices such as mowing hay closer to a stream supporting Preble's, would not be exempted from take provisions by this rule.

Situations where Preble's populations coexist with ongoing agriculture may provide valuable insight into habitat conditions required by the Preble's and the specific types of grazing and farming practices that are compatible with the Preble's. We believe that the exemption for ongoing agricultural practices will provide a positive incentive for agricultural interests to engage in voluntary conservation activities and will remove some of the existing reluctance by private agricultural landowners to allow Preble's surveys on their lands. Surveys lead to a more complete understanding of the status and distribution of the species, especially within areas largely composed of privately owned farms and ranches. With this knowledge, our ability to develop an effective long-term recovery program will be enhanced.

c. *Maintenance and replacement of existing landscaping and related structures and improvements*—Some existing landscaping activities, such as lawn-mowing and gardening associated with residential or commercial development, golf courses, and parks, have disrupted Preble's habitat in certain areas. However, because take associated with continued landscaping of an area is expected to be minimal, exempting these activities from take provisions is not expected to adversely affect Preble's conservation and recovery efforts.

d. *Existing uses of water associated with the exercise of perfected water rights under State law and interstate compacts and decrees*—In Colorado, perfected water rights refers to uses of water that have been decreed as absolute water rights by any of the Colorado water courts. In Wyoming, perfected water rights refers to water uses that have been granted a permit and a final certificate of appropriation by the Office of the State Engineer. The cumulative effect of the development and exercise of water rights has impacted riparian communities and Preble's in some areas; however, the exercise of certain water rights and water development may benefit riparian communities and Preble's. Take associated with new water development is not exempted.

Existing uses of perfected water rights are exempt only to the extent that they do not exceed the historic amount of diversions and that they occur at the historic locations of use and at historic diversion points. For water rights or permits that have been exercised at less than the decreed or permitted diversion rate, only the historic water use practice will be considered exempt. Existing uses of water rights that are considered exempt include augmentation plans, replacement plans, and exchanges of water that have been recognized by decree or certificate of appropriation.

New actions that are not considered exempt include—any expansion of the existing use of water; changes in time, place, or amount; new exercise of conditional water rights and undecreed exchanges in Colorado; and new exercise of water use permits in Wyoming that have not yet been awarded a final certificate of appropriation. Under appropriate circumstances, permits may be obtained for take from non-exempted actions, including water uses that take Preble's.

Summary of Conservation Benefits

The standard for issuing a 4(d) rule as described in the Act is ''whenever any species is listed as a threatened species, the Secretary of the Interior will issue such regulations as he deems necessary and advisable to provide for the conservation of the species.'' This rule meets this standard, in that it is protective of the Preble's while providing flexibility in managing its conservation and recovery. The rule provides only those temporary exemptions to take provisions of the Act that neither jeopardize the Preble's nor detract from its future recovery.

The exemptions to take prohibitions under section 9 of the Act incorporated into this rule will support the development of meaningful conservation efforts for the Preble's by State and local governments, agricultural interests, and the general public. Exemptions regarding rodent control and landscaping will elicit support from landowners. Exemptions for ongoing agricultural practices and for the exercise of perfected water rights will provide a positive incentive for agricultural interests to engage in voluntary conservation activities, such as participation in the Partners for Fish and Wildlife program. In addition, such exemptions increase the likelihood that members of the agricultural community will support surveys to determine the status of the Preble's on their lands, thus advancing our understanding of the status, distribution, and ecology of this species and facilitating the development of conservation and recovery plans. Any increased access to private lands will provide opportunities to better define existing Preble's populations and to devise appropriate conservation and recovery plans for the mouse.

Prior to finalization, we have reviewed this rule pursuant to the requirements of section 7 of the Act and the National Environmental Policy Act and an Environmental Assessment has been prepared. We also have prepared a Record of Compliance with rule-making requirements, which has undergone public review. Because this rule is a Federal action that may adversely affect the Preble's, section 7 compliance is required and a biological opinion has been prepared. All documents are available from the Service's Colorado and Wyoming Field Offices.

In accordance with 5 U.S.C. 553 (d)(1), we are making this rule effective upon publication. This rule grants exemptions to the take prohibitions that went into effect upon publication of the final rule listing the Preble's meadow jumping mouse as a threatened species on May 13, 1998.

Required Determinations

1. Regulatory Planning and Review

In accordance with the criteria in Executive Order 12866, we believe that this rule is not a significant regulatory action.

(a) This rule reduces the regulatory burden of the listing of the Preble's, because it provides exemptions to the take prohibitions of section 9 of the Act

that currently apply throughout the range of the Preble's.

The exemptions to the take prohibitions of the Act provided by this rule will reduce economic costs of the listing. The economic effect of the rule is a benefit to landowners and the economy. Based on the analysis described in the Record of Compliance, the 4(d) rule, by itself, will not have an annual economic impact of more than $100 million, or significantly affect any economic sector, productivity, jobs, the environment, or other units of government. A cost-benefit and economic analysis is not required.

(b) This rule will not create inconsistencies with other Federal agencies' actions.

Other Federal agency actions are mostly unaffected by this rule, with local government taking the lead in actions relating to the Preble's. The Service is encouraged by State and local governments' efforts to develop effective conservation plans for the Preble's.

(c) This rule will not materially affect entitlements, grants, user fees, loan programs, or the rights and obligations of their recipients.

Because the special rule exempts activities from take prohibitions, effects of the rule on entitlements, grants, user fees, loan programs, or the rights and obligations of their recipients would be positive.

(d) This rule will not raise novel legal or policy issues.

The Service has previously promulgated section 4(d) rules for other threatened species.

2. Regulatory Flexibility Act

Based on the analysis described in the Record of Compliance, we have determined that this rule will not have a significant economic effect on a substantial number of small entities as defined under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). A Regulatory Flexibility Analysis is not required. Accordingly, a Small Entity Compliance Guide is not required. This rule reduces the regulatory burden of the listing of the Preble's, because without this rule all take prohibitions of section 9 of the Act would continue to apply throughout the range of the Preble's. The rule exempts four types of activities—rodent control, ongoing agricultural activities, landscaping, and ongoing use of existing water rights—from the take prohibitions, avoiding costs that may be associated with modifying or abstaining from conducting these activities in order to avoid take of Preble's.

3. Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule reduces regulatory obligations as discussed in 1 above; therefore, based on the information included in the Record of Compliance, this rule:

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

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

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

4. Unfunded Mandates Reform Act

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501, *et seq.*), this rule does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than $100 million per year. The rule does not have a significant or unique effect on State, local, or tribal governments or the private sector. A statement containing the information required by the Unfunded Mandates Reform Act is not required.

5. Takings

In accordance with Executive Order 12630, the rule does not have significant takings implications. This rule reduces the likelihood of potential takings; therefore, a takings implication assessment is not required.

6. Federalism

In accordance with Executive Order 13132, the rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. A Federalism Assessment is not required. Currently, the State of Colorado, the Service, and local governmental entities in Colorado and Wyoming are working together to develop plans to conserve the Preble's and its habitat. This collaborative approach is expected to result in the development of Habitat Conservation Plans and applications to the Service for incidental take permits under section 10 of the Act. One of the purposes of this special rule is to foster cooperation among the Service, the States, local governments, and the private sector.

7. Paperwork Reduction Act

The Service has examined this rule under the Paperwork Reduction Act of 1995 and found it contained no requests for additional information or increase in the collection requirements associated with the Preble's other than those already approved for Federal Fish and Wildlife license permits with Office of Management and Budget approval 1018–0094, which has an expiration date of February 28, 2001. For more information concerning these permits, see 50 CFR 17.32.

8. National Environmental Policy Act

The National Environmental Policy Act analysis has been conducted, and an Environmental Assessment has been prepared.

9. Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994, Government-to-Government Relations with Native American Tribal Governments (59 FR 22951) and Part 512, Chapter 2 of the Departmental Manual of the U.S. Department of the Interior, we have evaluated possible effects on federally recognized Indian tribes and have determined that there are no effects, because no Indian trust resources occur within the range of this species.

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Export, Import, Reporting and recordkeeping requirements, Transportation.

Regulation Promulgation

Accordingly, we amend 50 CFR part 17, as set forth below:

PART 17—[AMENDED]

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500, unless otherwise noted.

2. Amend § 17.40 by adding a new paragraph (l) to read as follows:

§ 17.40 Special rules-mammals.

* * * * *

(l) Preble's meadow jumping mouse (*Zapus hudsonius preblei*).

(1) *What is the definition of take?* To harass, harm, pursue, hunt, shoot, wound, trap, kill, or collect; or attempt to engage in any such conduct. Incidental take is that which occurs when it is incidental to and not the purpose of an otherwise lawful activity. Any take that is not authorized by permit provided through section 7 or section 10 of the Act or that is not covered by the exemptions described below is considered illegal take.

(2) *When is take of Preble's meadow jumping mice allowed?* Take of Preble's meadow jumping mice resulting from the following legally conducted activities, in certain circumstances as described below, is allowed:

(i) *Take under permits.* Any person with a valid permit issued by the Service under § 17.32 may take Preble's meadow jumping mice pursuant to the terms of the permit.

(ii) *Rodent control.* Preble's meadow jumping mice may be taken incidental to rodent control undertaken within 10 feet of or inside any structure. ''Rodent control'' includes control of mice and rats by trapping, capturing, or otherwise physically capturing or killing, or poisoning by any substance registered with the Environmental Protection Agency as required by the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136) and applied consistent with its labeling. ''Structure'' includes but is not limited to any building, stable, grain silo, corral, barn, shed, water or sewage treatment equipment or facility, enclosed parking structure, shelter, gazebo, bandshell, or restroom complex.

(iii) *Established, ongoing agricultural activities.* Preble's meadow jumping mice may be taken incidental to agricultural activities, including grazing, plowing, seeding, cultivating, minor drainage, burning, mowing, and harvesting, as long as these activities are established, ongoing activities and do not increase impacts to or further encroach upon the Preble's meadow jumping mouse or its habitat. New agricultural activities or those that expand the footprint or intensity of the activity are not considered to be established, ongoing activities.

(iv) *Maintenance and replacement of existing landscaping.* Preble's meadow jumping mice may be taken incidental to the maintenance and replacement of any landscaping and related structures and improvements, as long as they are currently in place and no increase in impervious surfaces would result from their maintenance and improvement. Construction of new structures or improvements or expansion of the landscaping in a manner that increases impervious surfaces would not be considered maintenance and replacement of existing landscaping.

(v) *Existing uses of water.* Preble's meadow jumping mice may be taken incidentally as a result of existing uses of water associated with the exercise of perfected water rights pursuant to State law and interstate compacts and decrees. (A ''perfected water right'' is a right that has been put to beneficial use and has been permitted, decreed, or adjudicated pursuant to State law.) Increasing the use or altering the location of use of an existing water right would not be considered an existing use of water.

(3) *When is take of Preble's not allowed?*

(i) Any manner of take not described under paragraph (l) (2) of this section.

(ii) No person may import or export, ship in interstate commerce in the course of commercial activity, or sell or offer for sale in interstate or foreign commerce any Preble's meadow jumping mice.

(iii) No person, except for an authorized person may possess, sell, deliver, carry, transport, or ship any Preble's meadow jumping mice that have been taken illegally.

(4) *How long is this rule effective?* This rule is effective for a period of 36 months from May 22, 2001.

(5) *Where does this rule apply?* The take exemptions provided by this rule are applicable within the entire range of the Preble's meadow jumping mouse.

Dated: March 27, 2001.

Joseph E. Doddridge,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 01–12792 Filed 5–21–01; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 600

[Docket No. 010119022–1113–02; I.D. 120800A]

RIN 0648–AO89

Magnuson-Stevens Fishery Conservation and Management Act; Amendment of Foreign Fishing Fee Table

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

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to amend the fee table for foreign vessels fishing in the U.S. Exclusive Economic Zone (EEZ). The intent of this action is to comply with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), which requires the establishment of a schedule of reasonable fees that apply non-discriminatorily to each foreign fishing nation.

DATES: Effective June 21, 2001.

FOR FURTHER INFORMATION CONTACT: Robert A. Dickinson, 301–713–2276

SUPPLEMENTARY INFORMATION: Regulations at 50 CFR part 600, subpart F govern foreign fishing under the Magnuson-Stevens Act (16 U.S.C. 1801 *et seq.*). The regulations provide for the application and issuance of foreign fishing permits under provisions of section 204 (b) of the Magnuson-Stevens Act. Under section 204 (b), foreign vessels may be permitted to catch, process, scout, support and transship in the EEZ.

Section 204 (b)(10) of the Magnuson-Stevens Act requires the establishment of a schedule of reasonable fees to apply non-discriminatorily to each foreign fishing nation. Regulations at 50 CFR 600.518 require, among other things, that foreign vessels authorized to directly harvest fish in the EEZ pay fees based on the number of metric tons of allocated species harvested. The species potentially available for foreign fishing and the fees associated with those species are found in the table at 50 CFR 600.518 (b)(1). In a proposed rule published on March 8, 2001, at 66 FR 13870, NMFS proposed to amend this table by removing species no longer available for allocation, clarifying listings for certain species appearing in the table, adding Atlantic herring as an allocable species, and establishing the fees to be paid for the resulting list of allocable species.

NMFS believes the fees and other changes to the table at 50 CFR 600.518 (b)(1) discussed in the proposed rule published on March 8, 2001, at 66 FR 13870, constitute, in accordance with section 204 (b)(10) of the Magnuson-Stevens Act, a schedule of reasonable fees to apply non-discriminatorily to each foreign fishing nation. The specific details of all the changes proposed for the table at 50 CFR 600.518 (b)(1) are discussed in the preamble to the proposed rule published on March 8, 2001, at 66 FR 13870, and are not repeated here. The fees and other changes are adopted as final. No comments were received regarding the proposed rule published on March 8, 2001, at 66 FR 13870.

Under NOAA Administrative Order 205–11, 7.01, dated December 17, 1990, the Under Secretary for Oceans and Atmosphere has delegated to the Assistant Administrator for Fisheries, NOAA, the authority to sign material for publication in the **Federal Register**.

Classification

This final rule has been determined to be not significant for purposes of Executive Order 12866.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration when this rule was proposed that it would not have a significant economic impact on a substantial number of small entities. No comments were received regarding the economic impacts of this action on small entities. As a result, the basis for the certification has not changed and a regulatory flexibility analysis was not prepared.

List of Subjects in 50 CFR Part 600

Fisheries, Fishing, Foreign relations, Intergovernmental relations.

Dated: May 16, 2001.

Clarence Pautzke,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR Chapter VI is amended as follows:

PART 600—MAGNUSON-STEVENS ACT PROVISIONS

1. The authority citation for part 600 continues to read as follows:

Authority: 5 U.S.C. 561 and 16 U.S.C. 1801 *et seq.*

2. In § 600.518 (b)(1), the table is revised to read as follows:

§ 600.518 Fee schedule for foreign fishing.

* * * * *

(b) * * *

(1) * * *

TABLE—SPECIES AND POUNDAGE FEES

[Dollars per metric ton]

Species	Poundage fees
Northwest Atlantic Ocean fisheries:	
1. Butterfish	277.96
2. Herring, Atlantic	25.75
3. Herring, River	49.59
4. Mackerel, Atlantic	64.76
5. Other finfish	45.48
6. Squid, *Illex*	97.56
7. Squid, *Loligo*	321.68

[FR Doc. 01–12872 Filed 5–21–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 010112013–1013–01; I.D. 051401A]

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by the Offshore Component in the Western Regulatory Area 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 Pacific cod by vessels catching Pacific cod for processing by the offshore component in the Western Regulatory Area in the Gulf of Alaska (GOA). This action is necessary to fully use the 2001 total allowable catch (TAC) of Pacific cod in the Western Regulatory Area.

DATES: Effective 1200 hrs, Alaska local time, May 18, 2001.

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 2001 A season Pacific cod TAC apportioned to vessels catching Pacific cod for processing by the offshore component in the Western Regulatory Area of the GOA is 1,098 metric tons (mt) as established by the Final 2001 Harvest Specifications and Associated Management Measures for the Groundfish Fisheries Off Alaska (66 FR 7276, January 22, 2001).

NMFS closed the directed fishery for Pacific cod to vessels catching Pacific cod for processing by the offshore component in the Western Regulatory Area under § 679.20(d)(1)(i) on April 26, 2001 (66 FR 21691, May 1, 2001).

NMFS has determined that approximately 250 mt remain in the directed fishing allowance. Therefore, NMFS is terminating the previous closure and is opening directed fishing for Pacific cod by vessels catching Pacific cod for processing by the offshore component in the Western Regulatory Area of the GOA.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, finds that the need to immediately implement this action to allow full use of the Pacific cod TAC constitutes good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(3)(B) and 50 CFR 679.20(b)(3)(iii)(A), as such procedures would be unnecessary and contrary to the public interest. Similarly, the need to implement these measures in a timely fashion to allow full use of the Pacific cod TAC constitutes good cause to find that the effective date of this action cannot be delayed for 30 days. In addition, this action relieves a restriction on the harvest of Pacific cod in the Western Regulatory Area of the Gulf of Alaska. 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: May 16, 2001.

Bruce C. Morehead,

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

[FR Doc. 01–12870 Filed 5–17–01; 4:19 pm]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 66, No. 99
Tuesday, May 22, 2001

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–SW–47–AD]

RIN 2120–AA64

Airworthiness Directives; Eurocopter France Model AS350B, B1, B2, B3, BA, D, D1 and AS355E, F, F1, F2, and N Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the supersedure of an existing airworthiness directive (AD) that applies to Eurocopter France (ECF) Model AS350B, B1, B2, B3, BA, D, and AS355E, F, F1, F2, and N helicopters. That AD currently requires inspecting certain versions of the tail rotor pitch change spider assembly (spider assembly) for the proper rotational torque, axial play, and any brinelling of the bearing. This action would require identifying the spider assembly with index marks to detect bearing spacer rotation, visually checking to ensure that the index marks are aligned before the first flight of each day, and subsequently modifying the bearing spider assembly. This action would also add the ECF Model AS350D1 helicopters to the applicability. This proposal is prompted by operator reports that the spider assembly bearing spacers are rotating. The actions specified by the proposed AD are intended to detect rotation of the spider assembly bearing spacers, prevent seizure of the bearing, loss of tail rotor control, and subsequent loss of control of the helicopter.

DATES: Comments must be received on or before July 23, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 2000–SW–47–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137. You may also send comments electronically to the Rules Docket at the following address: 9-asw-adcomments@faa.gov. Comments may be inspected at the Office of the Federal Register between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from American Eurocopter Corporation, 2701 Forum Drive, Grand Prairie, Texas 75053–4005, telephone (972) 641–3460, fax (972) 641–3527. This information may be examined at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas.

FOR FURTHER INFORMATION CONTACT: Jim Grigg, Aviation Safety Engineer, FAA, Rotorcraft Directorate, Regulations Group, Fort Worth, Texas 76193–0111, telephone (817) 222–5490, fax (817) 222–5961.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their mailed comments submitted in response to this proposal must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 2000–SW–47–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 2000–SW–47–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

Discussion

On November 19, 1999, the FAA issued AD 99–24–18, Amendment 39–11443 (64 FR 66762, November 30, 1999), to require inspecting certain versions of the tail rotor pitch change spider assembly (spider assembly) for the proper rotational torque, axial play, and any brinelling of the bearing. That action was prompted by reports of deterioration of the spider assembly bearing. The requirements of that AD are intended to detect rotation of the spider assembly bearing spacers, prevent seizure of the bearing, loss of tail rotor control, and subsequent loss of control of the helicopter.

Since the issuance of that AD, there have been reports that the spider assembly spacers are rotating. Eurocopter issued Service Bulletin (SB) No. 05.00.33 for the AS 350 series and 05.00.33 for the AS 355 series helicopters. Both these SB's are dated May 15, 2000 and specify monitoring the spacer and the bearing inner race of the spider assembly for rotation and increasing the tightening torque load of the bearing-to-spacer assembly. The Direction Generale De L'Aviation Civile (DGAC), which is the airworthiness authority for France, classified these service bulletins as mandatory and issued telegraphic AD No.'s T2000–222–079(A) and T2000–223–059(A), both dated June 2, 2000, to assure the continued airworthiness of these helicopters in France.

These helicopter models are manufactured in France and are type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, reviewed all available information, and

determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other ECF Model AS350B, B1, B2, B3, BA, D, D1, and AS355E, F, F1, F2, and N helicopters of the same type designs, the proposed AD would supersede AD 99–24–18. The proposed AD would require the following:

- Within 10 hours time-in-service (TIS), installing index marks on the spider assembly to detect any bearing spacer rotation;
- Before the first flight of each day, visually checking to ensure that the index marks are aligned; and
- Within 25 hours TIS if bearing spacer rotation is detected or at the next 500 hours inspection if no bearing spacer rotation is detected, modifying the spider assembly. Modifying the spider assembly in accordance with MOD 076554 would constitute terminating action for the requirements of the proposed AD. The visual check proposed may be performed by an owner/operator (pilot) but would need to be entered into the aircraft records showing compliance with paragraph (b) of the AD in accordance with 14 CFR 43.11 and 91.417(a)(2)(v). The AD would allow a pilot to perform this check because it involves only a visual check of the index marks on the spider assembly and can be performed equally well by a pilot or a mechanic.

The FAA estimates that this proposed AD would affect 514 helicopters of U.S. registry. It would take approximately 0.25 work hour per helicopter to identify each spider assembly with index marks and 6 work hours to modify the spider assembly. The average labor rate is $60 per work hour. Required parts would cost approximately $200 per helicopter. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $295,550, assuming that the index marks are placed installed on all helicopters and that the spider assembly is modified on all the helicopters.

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Amendment 39–11442 (64 FR 66762, November 30, 1999), and by adding a new airworthiness directive (AD), to read as follows:

Eurocopter France: Docket No. 2000–SW–47–AD. Supersedes AD 99–24–18, Amendment 39–11443, Docket No. 99–SW–41–AD.

Applicability: AS350B, B1, B2, B3, BA, D, D1 and AS355E, F, F1, F2, and N helicopters, with tail rotor pitch change spider assembly (spider assembly), part number (P/N) 350A33–2004–00, –01, –02, –03, –05, or 350A33–2009–00 or –01, installed, and which do not incorporate MOD 076554, certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To detect rotation of the spider assembly bearing spacers, prevent seizure of the bearing, loss of tail rotor control, and subsequent loss of control of the helicopter, accomplish the following:

(a) Within 10 hours time-in-service (TIS), install identifying index marks on the spider assembly in accordance with (IAW) the Accomplishment Instructions, paragraph 2.B.1, of Eurocopter France Service Bulletin (SB) No. 05.00.33 for Model AS 350 series helicopters or 05.00.33 for Model AS 355 series helicopters. Both SB's are dated May 15, 2000.

(b) Before the first flight of each day, visually check that the index marks on the rotating plate and on the spacer are aligned. The visual check required by the AD may be performed by an owner/operator (pilot) but must be entered into the aircraft records showing compliance with paragraph (b) of the this AD in accordance with 14 CFR 43.11 and 91.417(a)(2)(v).

Note 2: This AD allows a pilot to perform this check because it involves only a visual check of the index marks on the bearing spider assembly and can be performed equally well by a pilot or a mechanic.

(c) At the following intervals, modify the spider assembly:

(1) If bearing spacer rotation is detected, within 25 hours TIS, IAW paragraph 2.B.4 of the applicable SB.

(2) If no bearing spacer rotation is detected, at the next 500-hour (''T'') inspection, IAW paragraph 2.B.3 of the applicable SB.

(d) Modifying the bearing assembly with MOD 076554 constitutes terminating action for the requirements of this AD.

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

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

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

Note 4: The subject of this proposal is addressed in Direction Generale de L'Aviation Civile (France) AD No.'s T2000–222–079(A) and T2000–223–059(A), both dated June 2, 2000.

Issued in Fort Worth, Texas, on May 14, 2001.

Larry M. Kelly,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 01–12775 Filed 5–21–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 16

[Notice No. 917]

RIN 1512–AC12

Alcohol Beverage Health Warning Statement (99R–507P)

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

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Bureau of Alcohol, Tobacco and Firearms (ATF) is considering amending the regulations concerning the placement, legibility, and noticeability of the congressionally mandated health warning statement required to appear on the labels of all containers of alcohol beverages. Based on a petition we have received, we wish to gather information by inviting comments from the public and industry as to whether the existing regulations should be revised.

DATES: Comments must be received on or before August 20, 2001.

ADDRESSES: Send written comments to: Chief, Regulations Division; Bureau of Alcohol, Tobacco and Firearms; P.O. Box 50221; Washington, DC 20091–0221; ATTN: Notice No. 917. Written comments must be signed, and may be of any length.

E-mail comments may be submitted to: nprm@atfhq.atf.treas.gov. E-mail comments must contain your name, mailing address, and e-mail address. They must also reference this notice number and be legible when printed on not more than three pages 8½″ × 11″ in size. We will treat e-mail as originals and we will not acknowledge receipt of e-mail. See the Public Participation section at the end of this advance notice for requirements for submitting written comments by facsimile.

FOR FURTHER INFORMATION CONTACT: James P. Ficaretta, Regulations Division, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226 (202–927–8210).

SUPPLEMENTARY INFORMATION:

Background

Title VIII of the Anti-Drug Abuse Act of 1988, Public Law 100–690 (enacted November 18, 1988), amended the Federal Alcohol Administration Act (FAA Act) by designating the existing sections of the FAA Act as ''Title I,'' and by adding at the end a new title, ''Title II—Alcoholic Beverage Labeling.'' This title, cited as the ''Alcoholic Beverage Labeling Act of 1988'' (ABLA), requires that the following health warning statement appear on the labels of all containers of alcohol beverages for sale or distribution in the United States:

> GOVERNMENT WARNING: (1) According to the Surgeon General, women should not drink alcoholic beverages during pregnancy because of the risk of birth defects. (2) Consumption of alcoholic beverages impairs your ability to drive a car or operate machinery, and may cause health problems.

The health warning statement requirement applies to alcohol beverages bottled on or after November 18, 1989, and applies both to interstate and intrastate sale and distribution of alcohol beverages. In addition, the health warning statement must appear on containers of alcohol beverages that are sold, distributed, or shipped to members or units of the U.S. Armed Forces, including those located outside the United States. For purposes of the ABLA, the term ''alcoholic beverage'' includes any beverage in liquid form which contains not less than one-half of one percent (.5%) of alcohol by volume and is intended for human consumption.

The law specifies that the health warning statement ''shall be located in a conspicuous and prominent place on the container of such beverage, as determined by the Secretary [of the Treasury], shall be in type of a size determined by the Secretary, and shall appear on a contrasting background.''

On February 14, 1990, we issued final regulations in 27 CFR Part 16 implementing the provisions of the ABLA (T.D. ATF–294; 55 FR 5414). These regulations became effective on November 14, 1990. The final rule was preceded by a notice of proposed rulemaking (Notice No. 678, February 16, 1989; 54 FR 7164), which solicited comments on our temporary regulations (T.D. ATF–282, February 16, 1989; 54 FR 7160). The temporary regulations applied to products bottled between November 18, 1989, and November 13, 1990.

The final regulations provide that the health warning statement must appear on the brand label or separate front label, or on a back or side label, separate and apart from all other information. It must be readily legible under ordinary conditions, and must appear on a contrasting background. Furthermore, labels bearing the health warning statement must be firmly affixed to the container. In order to ensure that the consumer's attention is drawn to the health warning statement, the regulations require that the words ''GOVERNMENT WARNING'' appear in capital letters and in bold type. The remainder of the warning statement may not appear in bold type.

The regulations specify the maximum number of characters (i.e., letters, numbers, marks) permitted per inch in which the health warning statement may appear. This requirement is intended to ensure that the warning statement is more easily read by the average consumer. Additionally, the regulations prescribe minimum type size requirements for the health warning statement.

Petition

We have received a petition, dated November 17, 1999, filed on behalf of the Center for Science in the Public Interest (CSPI), four members of Congress, the National Council on Alcoholism and Drug Dependence, Inc. (NCADD), and 119 other organizations, requesting an amendment of the regulations regarding the legibility, clarity, and noticeability of the health warning statement. The petitioners included citations to research to support their proposed amendments. Specifically, the petitioners request that the regulations in Part 16 be amended to require the following:

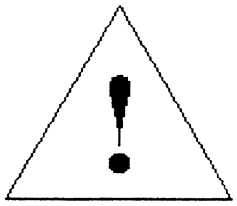
1. *The health warning statement must appear in a prominent place on the front of the container in a horizontal position.* The petitioners contend that many alcohol producers position the warning statement vertically on the margin of the label, thus making the label difficult to read when the container is placed on a shelf. The petitioners also allege that the warning statement often appears crowded and is embedded in the surrounding information, making it hard to locate and read. According to the petitioners, warnings that contain fewer characters per inch, occupy a larger area on the label, and appear less embedded in surrounding information tend to be noticed more readily. The petitioners further state that for maximum effectiveness the warning information should be easy to locate and should appear in the same relative position on all labels. Finally, the petitioners claim that label messages appearing horizontally are significantly more noticeable than warnings that are printed in a vertical position.

2. *The health warning statement must appear in red or black type on a white background, and be surrounded by a lined border.* In addition to placement on the front of the container, the petitioners claim that the research suggests two other elements that would

dramatically improve consumer awareness of the alcohol warning statement, i.e., a clear, lined border surrounding the statement and text in a highly contrasting color. The petitioners refer to one study that found that graphic devices such as boxes help consumers recognize and process a warning message. They refer to another study that found that color helps immensely to increase awareness of warning labels; in fact, the higher the contrast between text and background, the more likely consumers are to notice them.

3. *The first two words of the health warning statement, i.e., ''GOVERNMENT WARNING,'' must appear in capital letters and boldface type that is at least 15 percent larger than the remaining text of the statement. The text of the remaining portion of the warning statement must be in upper and lower-case lettering. A particular type font should be required to maximize legibility.* According to the petitioners, one researcher found that the degree to which the phrase ''GOVERNMENT WARNING'' stood out from the rest of the label was a significant predictor of the consumer response time. In this regard, the petitioners note that in both the statute and the regulations the words ''GOVERNMENT WARNING'' appear in capital letters while the text of the statement appears in upper and lower-case letters. However, the regulations do not specify that the text of the warning statement must appear in upper and lower-case letters. The petitioners maintain that it is harder to read the warning when the entire statement appears in capital letters.

4. *The warning statement must appear together with a red pictorial device or icon that is a triangle with an exclamation mark inside.* As proposed by the petitioners, the warning statement would appear as follows:



GOVERNMENT WARNING: (1) According to the Surgeon General, women should not drink alcoholic beverages during pregnancy because of the risk of birth defects. (2) Consumption of alcoholic beverages impairs your ability to drive a car or operate machinery, and may cause health problems.

According to the petitioners, several studies have shown that the inclusion of an icon or pictorial element substantially heightens consumer recognition of a warning label. In studies of the way consumer eye-movements track warning labels, the petitioners state that one researcher specifically studied a triangular icon with an exclamation mark inside it and found that this icon produced significantly faster response times than warnings without the icon.

With the above modifications, the petitioners believe that the health warning statement will be ''more noticeable, more effective, and will help insure that the labels on alcoholic-beverage containers meet the standards for the warning statement as originally set out by Congress.''

Review of Petition by Other Federal Agencies and the Surgeon General

By letters dated December 3, 1999, ATF asked the Food and Drug Administration (FDA), the National Institute on Alcohol Abuse and Alcoholism, the Surgeon General, and the Federal Trade Commission (FTC) to review the petition and provide us with their comments. We also asked for available information regarding the latest scientific studies dealing with the design of alcohol warning labels, as well as any research on warning labels in general.

In his letter of February 15, 2000, the Surgeon General (on behalf of the Food and Drug Administration, the Centers for Disease Control and Prevention, the National Institutes of Health, and the Substance Abuse and Mental Health Services Administration) noted that it has been more than a decade since the alcohol health warning statement and implementing regulations were adopted. As such, revisiting this issue would be a valuable contribution to the public health as the abuse of alcohol beverages continues to represent a serious public health problem. The Surgeon General stated the following:

> If the current mandatory health warning is to serve a public function of informing consumers, it is important that periodic efforts be made to evaluate the placement of the label, its legibility, the extent to which manufacturers are complying with current label requirements, and the level of consumer awareness of the label, particularly under expected conditions of use.

In addition, the Surgeon General indicated that over the last 10 years there has been an abundance of practical experience and science about ways to design and disseminate health information on product packaging. For example, he notes that in Canada and Australia much work has been done to assess the most effective placement of health warnings on tobacco products. He also notes that the FDA has unique and relevant experience in this area through the development and evaluation of food label and nutrient requirements.

By letter dated March 13, 2000, the FTC advised us that it has experience with respect to health warnings, including the ''Surgeon General's'' warnings required on cigarettes and the warnings required on smokeless tobacco products. In addition, the FTC recently recommended to Congress that cigar manufacturers and marketers be required to comply with a system of multiple rotating warnings, similar to those now in place for cigarettes and smokeless tobacco. The FTC also provided us with citations to some of the relevant research on warning labels with respect to size, placement, pictorials, borders, etc. If ATF decides to explore modifying the requirements with respect to the health warning statement, the FTC recommends that we conduct consumer testing of any proposed changes. Based on its experience, the FTC states that such research is often useful in assessing the prominence, noticeability, and understandability of warnings.

Discussion

ATF is requesting information from consumers, consumer groups, interest groups, associations, and industry members on the desirability of amending the regulations with regard to the legibility and noticeability of the mandated Government health warning statement. Although we are soliciting comments on the following specific questions, we are also requesting any relevant information on the subject.

1. Are consumers aware that the health warning statement must appear on the labels of all alcohol beverages sold in the U.S.?
2. Do consumers look for the warning statement on alcohol beverage containers?
3. Do consumers notice the health warning statement on alcohol beverage containers? Explain.
4. Do consumers read the warning statement on labels of alcohol beverages? Why or why not?
5. Are consumers familiar with the information contained in the alcohol health warning statement?
6. Do consumers find the warning statement on alcohol beverages difficult to read? Explain.
7. Do consumers have examples of alcohol beverages where the warning statement is legible and noticeable? What makes the warning statement legible and noticeable?
8. Do consumers believe the regulations need to be amended to make the warning statement more legible? Explain.
9. What would be the costs associated with adopting any or all of the changes recommended by the petitioners, to the industry and, ultimately, the consumer?

As indicated by the Surgeon General, over the last 10 years there has been an abundance of practical experience and science about ways to design and disseminate health information on product packaging. Accordingly, we are requesting scientific information, i.e., scientific studies, reports, consumer surveys, research literature, etc., that might be useful in assessing the changes suggested by the petitioners concerning the legibility of the health warning statement. As mentioned in the FTC's letter to us, the question of whether any particular warning is clear and prominent is an empirical one. Information submitted should not be limited to that completed within the last few years. Although we believe that such information may be more valid, we are seeking any pertinent information on the subject.

We are also interested in studies that are currently in progress and, if available, any interim findings. We would also like to be advised of any studies currently underway which may not be completed within the 90-day comment period, along with a projected target date for completion.

Executive Order 12866

It has been determined that this advance notice is not a significant regulatory action as defined by Executive Order 12866. Accordingly, this advance notice is not subject to the analysis required by this Executive Order.

Public Participation

We are requesting comments on the petition from all interested persons. We are specifically requesting comments on the clarity of this advance notice and how it may be made easier to understand.

Comments received on or before the closing date will be carefully considered. Comments received after that date will be given the same consideration if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before the closing date.

ATF will not recognize any material in comments as confidential. Comments may be disclosed to the public. Any material that the commenter considers to be confidential or inappropriate for disclosure to the public should not be included in the comment. The name of the person submitting a comment is not exempt from disclosure.

You may submit written comments by facsimile transmission to (202) 927–8602. Facsimile comments must:

- Be legible;
- Reference this notice number;
- Be 8½″ × 11″ in size;
- Contain a legible written signature; and
- Be not more than three pages long.

We will not acknowledge receipt of facsimile transmissions. We will treat facsimile transmissions as originals.

Disclosure

Copies of the petition, this notice, and the comments received will be available for public inspection during normal business hours at: ATF Public Reading Room, Room 6480, 650 Massachusetts Avenue, NW, Washington, DC.

Drafting Information

The author of this document is James P. Ficaretta, Regulations Division, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects in 27 CFR Part 16

Alcohol and alcoholic beverages, Consumer protection, Health, Labeling, Panalties.

Authority and Issuance

This notice is issued under the authority of 27 U.S.C. 205 and 215.

Dated: April 25, 2001.

Bradley A. Buckles,

Director.

Approved: April 25, 2001.

Timothy E. Skud,

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

[FR Doc. 01–12802 Filed 5–21–01; 8:45 am]

BILLING CODE 4810–31–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MD116–3067b; FRL–6979–5]

Approval and Promulgation of Air Quality Implementation Plans; State of Maryland; Repeal of Petroleum Refinery Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a State Implementation Plan (SIP) revision submitted by the State of Maryland. This action proposes to approve Maryland's repeal of its petroleum refinery regulation. EPA is approving the State's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

DATES: Comments must be received in writing by June 21, 2001.

ADDRESSES: Written comments should be addressed to David Arnold, Chief, Air Quality Planning and Information Services Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; and the Maryland Department of the Environment, 2500 Broening Highway, Baltimore, Maryland, 21224.

FOR FURTHER INFORMATION CONTACT: Ellen Wentworth, (215) 814–2034, at the EPA Region III address above, or by e-mail at *wentworth.ellen@.epa.gov.*

SUPPLEMENTARY INFORMATION: For further information, please see the information provided in the direct final action, with the same title, that is located in the ''Rules and Regulations'' section of this **Federal Register** publication.

Dated: May 1, 2001.

William C. Early,

Acting Regional Administrator, Region III.

[FR Doc. 01–12713 Filed 5–21–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MD112–3066b; FRL–6979–4]

Approval and Promulgation of Air Quality Implementation Plans; Maryland; Control of VOC Emissions from Distilled Spirits Facilities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve revisions to the Maryland State Implementation Plan (SIP). The revisions concern the control of volatile organic compound (VOC) emissions from distilled spirits facilities. EPA is proposing these revisions to regulate emissions of VOCs in accordance with the requirements of the Clean Air Act (CAA).

In the ''Rules and Regulations'' section of this **Federal Register**, EPA is approving the State's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If EPA receives no adverse comments, EPA will not take further action on this proposed rule. If EPA receives adverse comments, EPA will withdraw the direct final rule and it will not take effect.

EPA will address all public comments in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

DATES: Comments must be received in writing by June 21, 2001.

ADDRESSES: Written comments should be addressed to David L. Arnold, Chief, Air Quality Planning and Information Services Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; and the Maryland Department of the Environment, 2500 Broening Highway, Baltimore, Maryland 21224.

FOR FURTHER INFORMATION CONTACT: Rose Quinto, (215) 814–2182, at the EPA Region III address above, or by e-mail at quinto.rose@epa.gov.

SUPPLEMENTARY INFORMATION: For further information, please see the information provided in the direct final action that is located in the ''Rules and Regulations'' section of this **Federal Register** publication.

Dated: May 2, 2001.

William C. Early,

Acting Regional Administrator, Region III.

[FR Doc. 01–12715 Filed 5–21–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–6965–1]

National Oil and Hazardous Substance Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Proposed notice of intent to delete the Gulf Coast Vacuum Services Superfund Site from the National Priorities List.

SUMMARY: The Environmental Protection Agency (EPA) Region 6 is issuing a proposed notice of intent to delete the Gulf Coast Vacuum Services Superfund Site (Site) located in Vermilion Parish, Louisiana from the National Priorities List (NPL) and requests public comments on this notice of intent. The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is found at appendix B of 40 CFR part 300 of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). The EPA, with the concurrence of the State of Louisiana, through the Louisiana Department of Environmental Quality (LDEQ), has determined that all appropriate response actions under CERCLA, other than operation and maintenance and five-year reviews, have been completed. However, this deletion does not preclude future actions under Superfund.

In the ''Rules and Regulations'' section of today's **Federal Register**, we are publishing a direct final rule of deletion of the Gulf Coast Vacuum Services Superfund Site without prior notice of intent to delete because we view this as a noncontroversial revision and anticipate no adverse comment. We have explained our reasons for this deletion in the preamble to the direct final rule of deletion. If we receive no adverse comment(s) on this action, we will not take further action on this proposed notice of intent to delete. If we receive adverse comment(s), we will withdraw the direct final rule of deletion and it will not take effect. We will, as appropriate, address all public comments in a subsequent final deletion notice based on this proposed notice of intent to delete. We will not institute a second comment period on this notice of intent to delete. Any parties interested in commenting must do so at this time. For additional information, see the direct final rule of deletion which is located in the Rules section of this **Federal Register**.

DATES: Comments concerning this Site must be received by June 21, 2001.

ADDRESSES: Written comments should be addressed to: Ms. Janetta Coats, Community Involvement Coordinator, U.S. EPA (6SF–PO), 1445 Ross Avenue, Dallas, Texas 75202–2733, (214) 665–7308 or 1–800–533–3508.

FOR FURTHER INFORMATION CONTACT: Mrs. Katrina Coltrain, Remedial Project Manager, U.S. EPA (6SF–LP), 1445 Ross Avenue, Dallas, Texas 75202–2733, (214) 665–8143 or 1–800–533–3508.

SUPPLEMENTARY INFORMATION: For additional information, see the Direct Final Notice of Deletion which is

located in the Rules section of this **Federal Register.**

Information Repositiories: Repositories have been established to provide detailed information concerning this decision at the following addresses: U.S. EPA Region 6 Library, Suite 12D13, 1445 Ross Avenue, Dallas, Texas 75202–2733, (214) 665–6524, Monday through Friday 7:30 a.m. to 4:30 p.m.; Vermilion Parish Library, 200 North Magdalen Square, Abbeville, Louisiana, 75011, (318) 893–2674, Monday and Thursday 9:00 a.m. to 8:00 p.m., Tuesday, Wednesday, and Friday 9:00 a.m. to 5:30 p.m., and Saturday 9:00 a.m. to 1:00 p.m.; and Louisiana Department of Environmental Quality, 7290 Bluebonnet Road, Baton Rouge, Louisiana 70809, (225) 765–0487, Monday through Friday 8:00 a.m. to 4:00 p.m.

List of Subjects in 40 CFR Part 300

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

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

Dated: March 19, 2001.

Lynda F. Carroll,

Acting Regional Administrator, U.S. EPA, Region 6.

[FR Doc. 01–12702 Filed 5–21–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–6956–3]

National Oil and Hazardous Substance Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Notice of intent to delete Cleveland Mill Superfund Site from the National Priorities List.

SUMMARY: The Environmental Protection Agency (EPA) Region 6 is issuing a notice of intent to delete the Cleveland Mill Superfund Site (Site), located in Grant County, New Mexico, from the National Priorities List (NPL) and requests public comments on this notice of intent. The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is found at appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). The EPA and the State of New Mexico, through the New Mexico Environment Department (NMED), have determined that all appropriate response actions under CERCLA, other than operation and maintenance and five-year reviews, have been completed. However, this deletion does not preclude future actions under Superfund.

In the ''Rules and Regulations'' section of today's **Federal Register**, we are publishing a direct final deletion of the Cleveland Mill Superfund Site without prior notice of intent to delete because we view this as a noncontroversial revision and anticipate no adverse comment. We have explained our reasons for this deletion in the preamble to the direct final deletion. If we receive no adverse comment(s) on this notice of intent to delete or the direct final deletion, we will not take further action on this notice of intent to delete. If we receive adverse comment(s), we will withdraw the direct final deletion and it will not take effect. We will, as appropriate, address all public comments in a subsequent final deletion notice based on this notice of intent to delete. We will not institute a second comment period on this notice of intent to delete. Any parties interested in commenting must do so at this time. For additional information, see the direct final deletion which is located in the Rules section of this **Federal Register**.

DATES: Comments concerning this Site must be received by June 21, 2001.

ADDRESSES: Written comments should be addressed to: Ms. Beverly Negri, Community Involvement Coordinator, U.S. EPA (6SF–PO), 1445 Ross Avenue, Dallas, Texas 75202–2733, (214) 665–8157 or 1–800–533–3508.

FOR FURTHER INFORMATION CONTACT: Ms. Kathleen Aisling, Remedial Project Manager, U.S. EPA (6SF–LT), 1445 Ross Avenue, Dallas, Texas 75202–2733, (214) 665–8509 or 1–800–533–3508.

SUPPLEMENTARY INFORMATION: For additional information, see the Direct Final Notice of Deletion which is located in the Rules section of this **Federal Register.**

Information Repositories: Repositories have been established to provide detailed information concerning this decision at the following address: U.S. EPA Region 6 Library, Suite 12D13, 1445 Ross Avenue, Dallas, Texas 75202–2733, (214) 665–6424, Monday through Friday 7:30 a.m. to 4:30 p.m.; Silver City Public Library, 5151 West College Avenue, Silver City, New Mexico, 88061, (505) 538–3672, Monday and Thursday 9:00 a.m. to 8:00 p.m.; Tuesday and Wednesday 9:00 a.m. to 6:00 p.m.; Friday 9:00 a.m. to 5:00 p.m.; and Saturday 9:00 a.m. to 1:00 p.m.; New Mexico Environment Department, 1190 St. Francis Drive, Santa Fe, New Mexico 87502, (505) 827–2844, Monday through Friday 8:30 a.m. to 5:30 p.m.

List of Subjects in 40 CFR Part 300

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

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

Dated: January 22, 2001.

Jerry Clifford,

Acting Regional Administrator, Region 6.

[FR Doc. 01–12704 Filed 5–21–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–6957–7]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of intent to delete the Brodhead Creek Superfund Site from the National Priorities List.

SUMMARY: The Environmental Protection Agency (EPA) Region III is issuing a notice of intent to delete the Brodhead Creek Superfund Site (Site) located in the Borough of Stroudsburg, Monroe County, Pennsylvania, from the National Priorities List (NPL) and requests public comments on this notice of intent. The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is found at Appendix B of 40 CFR part 300 of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). The EPA and the Commonwealth of Pennsylvania, through the Pennsylvania Department of Environmental Protection (PADEP), have determined that all appropriate response actions under CERCLA, other

than operation and maintenance and five-year reviews, have been completed. However, this deletion does not preclude future actions under Superfund. In the ''Rules and Regulations'' Section of today's **Federal Register**, we are publishing a direct final notice of deletion of the Brodhead Creek Superfund Site without prior notice of intent to delete because we view this as a noncontroversial revision and anticipate no adverse comment. We have explained our reasons for this deletion in the preamble to the direct final deletion. If we receive no adverse comment(s) on this notice of intent to delete or the direct final notice of deletion, we will not take further action on this notice of intent to delete. If we receive adverse comment(s), we will withdraw the direct final notice of deletion and it will not take effect. We will, as appropriate, address all public comments in a subsequent final deletion notice based on this notice of intent to delete. We will not institute a second comment period on this notice of intent to delete. Any parties interested in commenting must do so at this time. For additional information, see the direct final notice of deletion which is located in the Rules section of this **Federal Register**.

DATES: Comments concerning this Site must be received by June 21, 2001.

ADDRESSES: Written comments should be addressed to: William Hudson, Community Involvement Coordinator, (3HS43), U.S. EPA Region III, 1650 Arch Street, Philadelphia, PA 19103, (215) 814–5532.

FOR FURTHER INFORMATION CONTACT: John Banks, Remedial Project Manager (3HS22), U.S. EPA Region III, 1650 Arch Street, Philadelphia, PA 19103, (215) 814–3214, Fax (215) 814–3002, e-mail *banks.john-d@epa.gov.*

SUPPLEMENTARY INFORMATION: For additional information, see the Direct Final Notice of Deletion which is located in the Rules section of this **Federal Register**.

Information Repositories: Comprehensive information about the Site is available for viewing and copying at the Site Information Repositories at the following locations: U.S. EPA Region III, Regional Center for Environmental Information (RCEI), 1650 Arch Street, Philadelphia, PA 19103, (215) 814–5364, Monday through Friday 8:00 a.m. to 4:30 p.m.; the Stroudsburg Borough Building, Seventh and Sarah Streets, Stroudsburg, PA 18360, (540) 421–5444, Monday through Friday 8:00 to 5:00 p.m.; and the Pennsylvania Department of Environmental Protection, Northeast Regional Office, 2 Public Square, Wilkes-Barre, PA 18711–0790, (570) 826–2511, Monday through Friday 9:00 a.m. to 3:00 p.m.

List of Subjects in 40 CFR Part 300

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

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

Dated: March 8, 2001.

Thomas C. Voltaggio,

Acting Regional Administrator, U.S. EPA Region III.

[FR Doc. 01–12706 Filed 5–21–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–6969–6]

National Oil and Hazardous Substance Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Notice of intent to delete the Salem Acres Superfund Site from the National Priorities List.

SUMMARY: The Environmental Protection Agency (EPA)—New England is issuing a notice of intent to delete the Salem Acres Superfund Site located in Salem, Massachusetts, from the National Priorities List (NPL) and requests public comments on this notice of intent. The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is found at Appendix B of 40 CFR Part 300 of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). The EPA and the Commonwealth of Massachusetts, through the Department of Environmental Protection, have determined that all appropriate response actions under have been completed. However, this deletion does not preclude future actions under Superfund.

In the ''Rules and Regulations'' Section of today's **Federal Register**, we are publishing a direct final deletion of the Salem Acres Superfund Site without prior notice of intent to delete because we view this as a noncontroversial revision and anticipate no adverse comment(s). We have explained our reasons for this deletion in the preamble to the direct final deletion. If we receive no adverse comment(s) on this notice of intent to delete or the direct final deletion, we will not take further action on this notice of intent to delete. If we receive adverse comment(s), we will withdraw the direct final deletion and it will not take effect. We will, as appropriate, address all public comments in a subsequent final deletion based on this notice of intent to delete. We will not institute a second comment period on this notice of intent to delete. Any parties interested in commenting must do so at this time. For additional information, see the direct final deletion which is located in the Rules section of this **Federal Register.**

DATES: Comments concerning this Site must be received by June 21, 2001.

ADDRESSES: Written comments should be addressed to: Stacy Greendlinger, Community Involvement Coordinator, U.S. EPA, One Congress Street, Suite 1100, (RAA), Boston, Massachusetts 02114–2023, (617) 918–1403 or 1–800–252–3402-toll-free.

FOR FURTHER INFORMATION CONTACT: Elaine Stanley, Remedial Project Manager, U.S. EPA, One Congress Street, Suite 1100, (HBO), Boston, Massachusetts 02114–2023, (617) 918–1332 or 1–800–252–3402-toll-free.

SUPPLEMENTARY INFORMATION: For additional information, see the Direct Final Deletion which is located in the Rules section of this **Federal Register.**

Information Repositories: Repositories have been established to provide detailed information concerning this decision at the following address: U.S. Environmental Protection Agency-New England Records Center, One Congress Street, Suite 1100, (HBS), Boston, Massachusetts 02114–2023, (617) 918–1440 or 1–800–252–3402-toll-free, Monday through Friday—9:00 a.m. to 5:00 p.m.; and the Salem Public Library, 370 Essex Street, Salem, Massachusetts 01970, (978) 744–0860, Monday through Thursday—9:00 a.m. to 9:00 p.m., Friday and Saturday—9:00 a.m. to 5:00 p.m. and Sunday—1 p.m. to 5:00 p.m.

List of Subjects in 40 CFR Part 300

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

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR,

1991 Comp., p. 351; E.O. 12580, 52 FR 2923; 3 CFR, 1987 Comp., p. 193.

Dated: March 23, 2001.

Ira W. Leighton,

Acting Regional Administrator, U.S. EPA—New England.

[FR Doc. 01–12708 Filed 5–21–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–6947–2]

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

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The United States Environmental Protection Agency (EPA) proposes to delete Operable Unit 2 (OU2) of the California Gulch Superfund Site, located in Leadville, Colorado, from the National Priorities List (NPL). The NPL constitutes appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Pollution and Contingency Plan (NCP), which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (CERCLA). This action is being taken because EPA, with concurrence from the State of Colorado Department of Public Health and Environment (CDPHE), has determined that all appropriate response actions have been taken and that no further response at the Site is appropriate.

A detailed rationale for this Proposal to Delete is set forth in the direct final rule which can be found in the Rules and Regulations section of this **Federal Register**. The direct final rule is being published because EPA views this deletion action as a noncontroversial revision and anticipates no significant adverse or critical comments. If no significant adverse or critical comments are received, no further activity is contemplated. If EPA receives significant adverse or critical comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting should do so at this time.

DATES: Comments concerning this action must be received by EPA by June 21, 2001.

ADDRESSES: Comments may be mailed to Rebecca Thomas, Remedial Project Manager, Environmental Protection Agency, Region 8, Mail Code 8EPR–SR, 999 18th Street, Suite 300, Denver, Colorado 80202. Telephone: (303) 312–6552.

Information Repositories: Comprehensive information on the California Gulch Site is available through the EPA, Region 8 public docket, which is located at the EPA, Region 8 Superfund Records Center. The address for the Region 8 Superfund Records Center is: U.S. Environmental Protection Agency, Region 8, Superfund Records Center, 999 18th Street, 5th Floor Denver, Colorado 80202, Telephone (303) 312–6473.

FOR FURTHER INFORMATION CONTACT: Rebecca Thomas (EPR–SR), Remedial Project Manager, Environmental Protection Agency, Region 8, Mail Code 8EPR–SR, 999 18th Street, Suite 300, Denver, Colorado 80202. Telephone: (303) 312–6552.

SUPPLEMENTARY INFORMATION: For additional information, see the direct final rule which is located in the Rules and Regulations section of this **Federal Register**.

Authority: 33 U.S.C. 1312(c)(2); 42 U.S.C. 9601–9657, E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351, E.O. 12580, 52 FR 2923; 3 CFR 1987 Comp., p.193.

Dated: February 12, 2001.

Jack W. McGraw,

Acting Regional Administrator, Region 8.

[FR Doc. 01–12711 Filed 5–21–01; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 226

[Docket No. 010501108–1108–01; I.D. 040401A]

Endangered and Threatened Species; Finding for a Petition to Designate Critical Habitat for the Bering Sea Stock of Bowhead Whales

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

ACTION: Notice of receipt of petition and petition finding.

SUMMARY: The National Marine Fisheries Service (NMFS) announces the receipt of a petition to designate critical habitat for the Western Arctic stock of bowhead whales, *Balaena mysticetus*, under the Endangered Species Act of 1973 (ESA), as amended. NMFS has determined that the petition presents substantial scientific information indicating that this action may be warranted, and is soliciting public comment and information on the petition.

DATES: NMFS is soliciting public comment on the action through August 20, 2001.

ADDRESSES: Written comments concerning this petition should be submitted to Donna Wieting, Chief, Marine Mammal Division, Office of Protected Resources, Silver Spring, MD, 20910. Comments will not be accepted if submitted via e-mail or internet.

FOR FURTHER INFORMATION CONTACT: Mr. Brad Smith, NMFS, Alaska Regional Office, 222 West 7th Avenue, Anchorage, Alaska 99517, telephone (907) 271–5006 or fax (907) 271–3030, or Mr. Michael Payne, NMFS, Alaska Regional Office, P.O. Box 21668, Juneau, Alaska 99802, telephone (907) 586–7235 or fax (907) 586–7012.

SUPPLEMENTARY INFORMATION:

Background

On February 22, 2000, the Center for Biological Diversity, Berkeley, CA, and the Marine Biodiversity Protection Center, Canyon, CA, petitioned NMFS to designate critical habitat for the Western Arctic stock of bowhead whales. The area petitioned for critical habitat includes the Beaufort Sea off Alaska's North Slope between Point Barrow and the Canadian border, from mean high tide to approximately 170 kilometers offshore. The petition was accepted under 5 U.S.C 553 (e).

The bowhead whale was listed as endangered on June 2, 1970, prior to the addition of critical habitat requirements in the ESA, on November 10, 1978. NMFS must evaluate petitions to designate critical habitat for pre-1978 listed species pursuant to 5 U.S.C. 553 (e) under the Administrative Procedure Act (APA). 5 U.S.C. 553 (e) provides that ''each agency shall give an interested person the right to petition for the issuance, amendment or repeal of a rule''.

NMFS initially responded to the petition on December 14, 2000, with a letter that, at that time, deferred determination on whether the subject action may be warranted pending completion of several on-going studies or scheduled research efforts. NMFS has now determined that the petition presents substantial information

indicating that the designation may be warranted. A copy of the petition is available upon request (see **ADDRESSES**).

NMFS will conduct a review to determine if the petitioned action to designate critical habitat is warranted. The determination will be made on the best available scientific data and the economic impacts of any such designation. A notice of finding will be published in the **Federal Register** and, if the action is warranted, a regulation to implement the action will be proposed.

Bowhead whale stocks were severely depleted by commercial whaling in previous centuries. Estimates of historic bowhead abundance vary but today the Western Arctic stock is estimated at approximately 8000 whales. Many individuals in this population migrate annually from wintering grounds in the Bering Sea north into the Beaufort Sea where the whales spend the summer. It is this summering area that the petitioners recommend for critical habitat designation.

Bowhead whales encounter potential threats from several human activities in the area including subsistence harvest, fishery interactions and industrial development. A subsistence harvest of bowhead whales continues today with Alaska and Canada Natives taking an average of 49 whales (including those struck and lost) each year between 1994 and 1996. The subsistence harvest is considered sustainable and the population of the Western Arctic stock has increased in recent years. No records of a bowhead whale mortality related to fishery interaction exist but the whales are known to occasionally become entangled in fishing gear.

The petitioners assert that action is needed to halt the degradation of bowhead habitat in the Beaufort sea. The petitioners cite the future proliferation of oil and gas development and associated industrial activity as the main threat to the bowheads' habitat. Further, they cite increases in noise, vessel traffic, seismic exploration, drilling and construction as having the potential to elevate threats to bowhead whales in the region. The petitioners assert that such activity also brings a greater risk of pollution from oil spills, waste (toxic and non-toxic) and noise proliferation.

NMFS intends to hold public meetings on this petition and will inform the petitioners and public as to their location and time in a following notice. NMFS will also keep the petitioners and public informed as to the progress of the review. At this time NMFS is soliciting information and comments concerning the petition to ensure that the review is complete and is based on the best available information. We request that the information and comments be accompanied by (1) supporting documentation such as maps, biological references or reprints of pertinent publications and (2) the name, address and associations, institution, or business that the person represents.

Authority: 16 U.S.C. 1531, *et seq.*

Dated: May 17, 2001.

William T. Hogarth,

Acting Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 01–12876 Filed 5–21–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 600

[I.D. 050901C]

Magnuson-Stevens Act Provisions; General Provisions for Domestic Fisheries; Application for Exempted Fishing Permits (EFPs)

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

ACTION: Notification of a proposal for EFPs to conduct experimental fishing; request for comments.

SUMMARY: NMFS announces that the Administrator, Northeast Region, NMFS (Regional Administrator), has made a preliminary determination that the subject exempted fishing permit (EFP) application contains all the required information and warrants further consideration. The Regional Administrator has also made a preliminary determination that the activities authorized under the EFP would be consistent with the goals and objectives of the Northeast Multispecies Fishery Management Plan (FMP) and within the scope of earlier analyses of the impacts. However, further review and consultation may be necessary before a final determination is made to issue an EFP. Therefore, NMFS announces that the Regional Administrator intends to issue an EFP that would allow one federally permitted groundfish vessel to conduct a composite mesh selectivity study with codend covers having a mesh size smaller than authorized under current regulations to target mixed-groundfish species, primarily yellowtail flounder, winter flounder (blackback), summer flounder (fluke), American plaice (dab) and Atlantic cod. The EFP may also allow access to seasonal area closures in the Gulf of Maine (GOM). The Manomet Center for Conservation Sciences (Manomet) submitted an EFP application to determine the selective efficiency of experimental codends and intends to correlate fish behavior with these findings. Regulations under the Magnuson-Stevens Fishery Conservation and Management Act require publication of this notification to provide interested parties the opportunity to comment on applications for proposed EFPs.

DATES: Comments on this document must be received on or before June 6, 2001.

ADDRESSES: Written comments should be sent to Patricia Kurkul, Regional Administrator, NMFS, Northeast Regional Office, 1 Blackburn Drive, Gloucester, MA 01930. Mark the outside of the envelope ''Comments on EFP Proposal''. Comments may also be sent via facsimile (fax) to (978) 281–9135.

FOR FURTHER INFORMATION CONTACT: Allison Ferreira, Fishery Management Specialist, 978–281–9103.

SUPPLEMENTARY INFORMATION: Manomet submitted an industry cooperative proposal on April 20, 2001, for one EFP to conduct a composite codend mesh selectivity study to address bycatch and discard of incidental catch and sublegal sized fish in the mixed-groundfish fisheries of the Northeast. The study would be conducted in that portion of the GOM/Georges Bank Regulated Mesh Area extending east from the New Hampshire shoreline at 43° N. lat./70.75° W. long. to 43° N. lat./69° W. long., then following the 69° W. long. line north to the 44° N. lat./69° W. long. point, and then extending west along the 44° N. lat. to the Maine coastline (44° N. lat./69.154° W. long). The permanent Western GOM closure would not be included in the study area.

This industry collaborative study involves Manomet, the Massachusetts Division of Marine Fisheries, and the Maine Department of Marine Resources as co-principal investigators, and proposes to field test two composite mesh combinations against two industry-standard codend mesh sizes as follows: (1) Two composite codends, one made of 6.5-inch (16.51-cm) square mesh on the top half and 6.5-inch (16.51-cm) diamond mesh on the bottom half, and the other made of 6.5-inch (16.51-cm) square mesh on the top half and 6-inch (15.24-cm) diamond mesh on the bottom half; and (2) two industry-standard codends, one made entirely of

6-inch (15.24-cm) diamond mesh and one made entirely of 6.5-inch (16.51-cm) square mesh.

The purpose of the study is to obtain information on the selective efficiency of the four codend configurations. To obtain this information, the length frequency of the population sampled, as well as that of the population retained by each codend type, need to be known. To accomplish this, a 1 7/8-inch (4.78-cm) codend would be used to cover each of the four test codends in order to retain for analysis fish that pass through the larger-mesh codends.

The catch data for each sample (tow) would be used to prepare species-specific mesh selectivity curves. That is, the research would determine the size of each fish species retained by each of the codends tested versus the fish that are excluded by the codends. Data would be pooled for each of the codends tested and the selective efficiency of each codend would be determined for each important target species. Manomet would also collect behavioral information on the reactions and escape responses of key species to fishing gear by means of underwater video recording during fishing operations.

The field trials would begin on or about June 1, 2001, and continue for up to 6 months in order to allow sufficient time to undertake the experimental work under optimum conditions (i.e., good weather or times of high fish concentration). The applicant anticipates that no more than 10 tows per codend type would be required, for a maximum of 40 tows. These commercial gear trials would operate in the designated study area outside the Western GOM Year Round Closure Area. However, the principal investigator may decide that access to the GOM seasonal closure areas is needed, if efforts to obtain the necessary fish samples outside of these areas are unsuccessful. Should access to these areas be necessary, the GOM seasonal closures that may correspond in time and location with the proposed study area are as follows: Rolling Closure Area IV (June 1 to June 30), the Cashes Ledge Closure Area (July 1 to October 31), Rolling Closure Area V (October 1 to November 30), and possibly the Cashes Ledge Conditional Closure Area (November 1 to November 30).

The experimental sampling design (use of double codend) is intended to minimize the number of tows required to yield the necessary amount of catch information. It is estimated that a minimum of 10 tows (1 hour in length) per codend are required to produce satisfactory selectivity curve results. The target species are yellowtail flounder, winter flounder (blackback), summer flounder (fluke), American plaice (dab) and Atlantic cod. The main incidental species are expected to be skates, smooth and spiny dogfish, sculpin, sea raven and sea robin. During the course of the experimental fishery, the participating vessel would be instructed to conduct normal fishing operations. Therefore, the vessel could only retain fish for commercial sale in the amount allowed under its Federal fisheries permits and Days-at-Sea allocations. The catch would be separated into those fish retained inside the codend and those captured in the codend cover. All fish would be measured and weighed by NMFS-certified observers, and all sub-legal fish would be returned to the sea immediately after processing. No undersized fish would be retained on board the vessel. All data would be entered into NMFS logbooks and submitted to NMFS at the completion of the program. In addition, videotape recordings of fish behavior would continue throughout the gear trials.

One EFP would be issued to a federally permitted Northeast multispecies vessel to exempt it from the gear restrictions and, if necessary, the GOM seasonal closure areas of the FMP..

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

Dated: May 15, 2001.

Bruce C. Morehead,

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

[FR Doc. 01–12871 Filed 5–21–01; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register

Vol. 66, No. 99

Tuesday, May 22, 2001

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Economic Research Service

Notice of Intent to Seek Approval to Collect Information

AGENCY: Economic Research Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13) and Office of Management and Budget (OMB) regulations at 5 CFR Part 1320 (60 FR 44978, August 29, 1995), this notice announces the Economic Research Service's intention to request approval for a new information collection from School Food Authorities (SFAs) and state and county welfare and food stamp agencies. The study will collect information on the National School Lunch Program (NSLP) and direct certification for free school meals from SFA directors or other key staff and administrative records data from state and county welfare and food stamp agencies.

DATES: Comments on this notice must be received by July 27, 2001 to be assured of consideration.

ADDRESSES: Address all comments concerning this notice to Joshua Winicki, Food Assistance and Rural Economy Branch, Food and Rural Economics Division, Economic Research Service, U.S. Department of Agriculture, 1800 M Street, NW., Room S–2091, Washington, DC 20036–5831, 202–694–5448. Submit electronic comments to jwinicki@ers.usda.gov.

SUPPLEMENTARY INFORMATION:

Title: Direct Certification and Its Impact on Errors in the National School Lunch Program.

OMB Number: Not yet assigned.

Expiration Date: N/A.

Type of Request: Approval for new data collection from School Food Authorities and state and county welfare and food stamp agencies.

Abstract: ERS needs to learn more about the influence of direct certification on three objectives of USDA's provision of benefits under the NSLP: (1) Providing free or reduced-price meals to intended recipients while not providing them to children who do not qualify; (2) keeping down the costs of gathering and processing data to administer the program, and (3) ensuring ease of access to program benefits for the intended recipients. Direct certification was designed to address the second and third of these objectives, by improving access to the program and streamlining the administrative process. However, emphasizing these objectives could compromise the first objective by directing benefits to some students who do not qualify for them. The Study of Direct Certification will contribute new information to USDA as it reexamines the appropriate balance among these goals.

The last study of direct certification was based on data from 1996. However, the 1996 study collected no information on the verification process, by which school districts determine the rate at which students are certified for free meals in error. Thus, the previous study could not assess the degree to which the NSLP provides meals to intended recipients while not providing them to children who do not qualify.

Furthermore, two recent trends have made the need for up-to-date information on direct certification even more pressing. First, the policy of direct certification was first introduced in the early 1990s and is believed to have expanded rapidly since that time. Thus, information on the prevalence of direct certification collected in 1996 may no longer be accurate. Second, there is evidence that the number of children certified in error has grown in recent years. Data from the Current Population Survey indicate that the number of children receiving free meals exceeds the number of children identified as income eligible to qualify for free meals, and that this ratio has been growing. In 1993, the number of children estimated to be receiving free lunches was about equal to the number estimated to be income-eligible for this benefit. By 1997, the number of certified children was 118 percent of the number of income-eligible children.

The Study of Direct Certification is being undertaken at this time for greater understanding of how direct certification works and how it affects both certification to receive free and reduced-price meals and the actual receipt of these benefits. The study will also gauge the levels of error in the program and the impacts of direct certification on these error rates. In particular, the study will have three primary objectives:

- Estimate the prevalence of direct certification and the different methods used to implement it.
- Measure the incidence of errors in certification for free and reduced-price meals.
- Estimate the impacts of direct certification on rates of certification, participation, and certification errors.

The main data source to be used to address these will be a survey of School Food Authorities operating in public school districts within the 50 states and the District of Columbia. This survey will be conducted in the winter and spring of early 2002. Supplemental administrative data will be collected from state and county welfare and food stamp agencies.

The sample frame of public school districts for the SFA survey will be the list of local education agencies (school districts) obtained from the National Center for Education Statistics (NCES) Common Core of Data (CCD): Local Education Agency Universe, 1998–1999 (or 1999–2000, if available). A sample of 1,547 public school districts will be selected to obtain approximately 1,200 SFA interviews. This sample will be nationally representative and selected with probability proportional to size, with the measure of size being the square root of the number of low-income children enrolled in the district.

Before conducting the survey, advance letters will be sent to the Chief State School Offices in the states in which sampled districts are located, as well as to the states' representatives to the Education Information Advisory Committee (EIAC) and the districts' superintendents. Next, advance letters will be sent to the SFA directors, along with a fact sheet for them to complete prior to the survey to facilitate the process of conducting the interview. The interviews with approximately

1,200 SFAs will be conducted by telephone, using computer-assisted telephone interviewing (CATI).

Respondent burden will be minimized for the SFA survey by using CATI methods to streamline the interviewing process, and by carefully training interviewing staff on survey procedures. To minimize the number of open-ended questions asked on the survey, responses to open-ended questions from the 1996 SFA questionnaire were examined and used to develop closed-ended questions on this questionnaire. Pretest interviewing results indicated that respondents wanted more survey items to be included on the fact sheet, thus minimizing the time to look up answers while on the telephone with the interviewer. Responses will be voluntary and confidential. To ensure confidentiality, data will be reported only in tabular form, with analysis cells large enough to prevent identification of individual agencies. The data will not be used to evaluate or assess the performance of individual school districts or of the districts within individual states. SFAs will be notified of these confidentiality assurances in their advance letters.

In addition to the SFA survey, administrative data will be collected from state and county welfare or food stamp agencies. First, the agency in each state that assists SFAs in determining the students eligible or potentially eligible for direct certification will be identified. Next, these agencies will be sent a letter informing them of the study and of the data request. Following this, the agencies will be contacted by phone and asked to provide administrative record data containing two key pieces of information for districts within their state selected for the SFA survey sample: (1) A list of students in the district who were determined to be eligible or potentially eligible for direct certification just prior to the 2001–2002 school year; and (2) a list of students in these districts who would have been eligible or potentially eligible for direct certification as of December 15, 2001.

To reduce burden on these agencies, they will be asked to provide this information in whatever form is most convenient for them. Either electronic files or hard copy lists of students will be accepted.

Estimate of Burden: For the SFA survey, burden on respondents will consist of two parts. First, they will have to complete the fact sheet in preparation for the interview. This will take about 90 minutes (1.5 hours) depending on district size and level of computerization. Second, they will have to take the time to complete the interview. This takes 30 minutes (.5 hours). For the administrative-records data collection from state or county welfare and food stamp agencies, a 4 hour burden for the respondent is estimated. We anticipate 75 entities will supply this information (49 states, Washington DC, and 25 California counties).

Respondents: Key staff members of SFAs representing public school districts in the 50 states and the District of Columbia; officials designated by the state or county welfare or food stamp office as the most appropriate to supply the files.

Estimated Number of Respondents: 1,275 in total; including 1,200 SFAs, and 75 state or county welfare or food stamp offices.

Estimated Total Annual Burden on Respondents: 2,700 hours total.

Comments

Comments are invited on (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and the 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 the use of appropriate automated, electronic, mechanical, or other technology. Comments should be sent to the address in the preamble. All responses to this notice will be summarized and included in the request for Office of Management and Budget (OMB) approval. All comments will also become a matter of public record.

Dated: April 17, 2001.

Susan E. Offutt,

Administrator, Economic Research Service.

[FR Doc. 01–12845 Filed 5–21–01; 8:45 am]

BILLING CODE 3410–18–P

DEPARTMENT OF AGRICULTURE

Forest Service

Southwest Washington Provincial Advisory Committee Meeting Notice

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Southwest Washington Provincial Advisory Committee will meet on Wednesday, May 30, 2001, at the Wind River Training Center, located at 1262 Hemlock Road, Carson, Washington. The meeting will begin at 10 a.m. and continue until 4 p.m. The purpose of the meeting is to: (1) Discuss fish passage and habitat restoration at Hemlock Dam, and (2) Provide for a Public Open Forum. All Southwest Washington Provincial Advisory Committee meetings are open to the public. Interested citizens are encouraged to attend. The ''open forum'' provides opportunity for the public to bring issues, concerns, and discussion topics to the Advisory Committee. The ''open forum'' is scheduled as part of agenda item (2) for this meeting. Interested speakers will need to register prior to the open forum period. The committee welcomes the public's written comments on committee business at any time.

FOR FURTHER INFORMATION CONTACT: Direct questions regarding this meeting to Linda Turner, Public Affairs Specialist, at (360) 891–5195, or write Forest Headquarters Office, Gifford Pinchot National Forest, 10600 NE. 51st Circle, Vancouver, WA 98682.

Dated: May 14, 2001.

Lynn Burditt,

Deputy Forest Supervisor.

[FR Doc. 01–12772 Filed 5–21–01; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Lower Tillamook Bay Watershed Plan and Environmental Assessment, Tillamook, Oregon

AGENCY: Natural Resources Conservation Service, USDA.

ACTION: Notice of a Finding of No Significant Impact.

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Regulations (40 CFR part 1500); and the Natural Resources Conservation Service Regulations (7 CFR part 650); the Natural Resources Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Lower Tillamook Bay Watershed Plan and Environmental Assessment, Tillamook, Oregon.

FOR FURTHER INFORMATION CONTACT: Bob Graham, State Conservationist, Natural Resources Conservation Service, 101 SW Main, Suite 1300, Portland, Oregon 97204, telephone 503–414–3200.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Bob Graham, State Conservationist, has determined that the preparation and review of an environmental impact statement is not needed for this project.

The project purpose is for watershed protection. The planned works of improvement include the development and implementation of conservation plans on approximately 60 dairies, 22 heifer replacement operations and 34 other livestock operations.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Terry Nelson, NRCS, 503–414–3014.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register**.

(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.904, Watershed Protection and Flood Prevention, and is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials.)

Dated: April 27, 2001

Bob Graham,

State Conservationist.

[FR Doc. 01–12862 Filed 5–21–01; 8:45 am]

BILLING CODE 3410–16–U

DEPARTMENT OF AGRICULTURE

Rural Housing Service

Notice of Request for Extension of a Currently Approved Information Collection

AGENCY: Rural Housing Service, USDA.

ACTION: Proposed collection; comments requested.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Rural Housing Service's intention to request an extension for a currently approved information collection in support of the program for Management and Supervision of Multiple Family Housing Borrowers and Grant Recipients.

DATES: Comments on this notice must be received by July 23, 2001 to be assured of consideration.

FOR FURTHER INFORMATION CONTACT: James E. Vollmer, Multi-Family Housing Portfolio Management Division, Rural Housing Service, Room 1229, Stop 0782, 1400 Independence Avenue, SW., Washington, DC 20250, Telephone: (202) 720–1060.

SUPPLEMENTARY INFORMATION:

Title: Management and Supervision of Multiple Family Housing Borrowers and Grant Recipients.

OMB Number: 0575–0033.

Expiration Date of Approval: August 31, 2001.

Type of Request: Extension of a currently approved information collection.

Abstract: The Rural Housing Service (RHS) is authorized under sections 514, 515, 516, and 521 of Title V of the Housing Act of 1949, as amended, to provide loans and grants to eligible recipients for the development of rental housing in rural areas. Such multi-family housing (MFH) projects are intended to meet the housing needs of persons or families having very low to moderate incomes, senior citizens, the disabled, and domestic farm laborers.

RHS has the responsibility of assuring the public that MFH projects financed are managed and operated as mandated by Congress. This regulation (7 CFR part 1930, subpart C) was issued to insure consistent and proper management and operation of projects financed with MFH loan and grant funds. Minimal requirements have been established as deemed necessary to assure that applicable laws and authorities are carried out as intended.

With the provisions of this regulation, RHS will be able to provide the necessary guidance and supervision to new and existing borrowers to assist in the economical operation of their projects. RHS must be able to assure Congress and the general public that all MFH projects will be operated as economically as possible, for the purposes for which they are intended, and for the benefit of those they are mandated to serve.

The required information is collected on a project-by-project basis and is done so in accordance with the amended Housing Act of 1949, so that RHS can provide guidance and be assured of compliance with the terms and conditions of loan, grant, and/or subsidy agreements.

RHS will use the information collected to identify financially detrimental trends, poor management practices, and potential problems before they manifest themselves in the form of loan delinquencies, unpaid operation expenses, improper discriminatory practices, or high vacancy rates. With this information, RHS can assist the borrower through consultation (supervision) to improve the efficiency of the project and its operation. RHS supervision is especially critical during the first year of operation. In addition, the information provided is intended to verify whether or not the borrower is complying with the terms and conditions of loan, grant, or subsidy agreements. After the first year of operation, the information is requested of the borrower to assure continued compliance with the loan and grant agreements.

Failure by RHS to monitor progress of borrower operation through review of collected information and consultation would reasonably lead to noncompliance with statutory intent in some instances and financial default in others. Corrective action to remove such noncompliance or default would be costly to RHS and the public in terms of program integrity, public confidence, dollars, and staff time.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average .90 hours per response.

Respondents: Individuals or households.

Estimated Number of Respondents: 18,200 borrowers, 420,000 tenants and 100,000 tenant applicant respondents.

Estimated Number of Responses per Respondent: 4.43.

Estimated Total Annual Burden on Respondents: 2,143,740 hours.

Copies of this information collection can be obtained from Tracy Gillin, RPMB analyst, Regulations and Paperwork Management Branch, at (202) 692–0039.

Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of RHS, including whether the information will have practical utility; (b) the accuracy of RHS' estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information

technology. Comments may be sent to Tracy Gillin, Regulations and Paperwork Management Branch, U.S. Department of Agriculture, Rural Development, STOP 0742, 1400 Independence Ave. SW., Washington, DC 20250. All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Dated: May 10, 2001.

James C. Alsop,

Acting Administrator, Rural Housing Service.

[FR Doc. 01–12789 Filed 5–21–01; 8:45 am]

BILLING CODE 3410–XV–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–823–810]

Solid Agricultural Grade Ammonium Nitrate from Ukraine: Postponement of Final Determination and Extension of Provisional Measures of Antidumping Duty Investigation

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

ACTION: Notice of postponement of final antidumping duty determination and extension of provisional measures: solid agricultural grade ammonium nitrate from Ukraine.

EFFECTIVE DATE: May 22, 2001.

FOR FURTHER INFORMATION CONTACT: Jarrod Goldfeder at (202) 482–0189, AD/CVD Enforcement, Office 1, DAS Group I, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW, Washington, DC 20230.

Postponement of Final Determination

The Department of Commerce (the Department) is postponing the final determination in the antidumping duty investigation of solid agricultural grade ammonium nitrate from Ukraine.

On March 5, 2001, the Department published its preliminary determination in this investigation. *See Notice of Preliminary Determination of Sales at Less Than Fair Value: Solid Agricultural Grade Ammonium Nitrate from Ukraine,* 66 FR 13286 (''Preliminary Notice''). The Preliminary Notice stated that, based on a proper request by Stock Holding Company Concern ''Stirol'' (''Stirol''), the Department was postponing the final determination by 30 days and, therefore, would issue its final determination no later than 105 days after the date of issuance of the notice (*see* Preliminary Notice, 66 FR at 13287).

Pursuant to section 735(a)(2)(A) of the Tariff Act of 1930, as amended (the Act), on May 14, 2001, Stirol, the sole participating respondent in the investigation, requested that the Department postpone its final determination by an additional 30 days. Stirol further requested that the Department extend to not more than six months the application of the provisional measures prescribed under paragraphs (1) and (2) of section 733(d) of the Act. In accordance with section 735(a) of the Act and 19 CFR 351.210(b), because (1) the preliminary determination in this case is affirmative, (2) the request for postponement was submitted in writing by an exporter who accounts for a significant proportion of exports of the subject merchandise in this investigation, and (3) no compelling reason for denial exists, we are postponing the final determination until no later than 135 days after the publication of the preliminary determination in the **Federal Register** (*i.e.,* until no later than July 18, 2001). Suspension of liquidation will be extended accordingly.

This extension is in accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2).

Dated: May 17, 2001.

Laurie Parkhill,

Acting Deputy Assistant Secretary for Import Administration, Group I.

[FR Doc. 01–12860 Filed 5–21–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–583–831]

Certain Stainless Steel Sheet and Strip in Coils from Taiwan: Extension of Time Limit for Preliminary Results of Antidumping Administrative Review

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

ACTION: Notice of Extension of Time Limit For Preliminary Results of Antidumping Administrative Review.

SUMMARY: The Department of Commerce (''the Department'') is extending the time limit for the preliminary results of the antidumping administrative review on certain stainless steel sheet and strip in coil from Taiwan.

EFFECTIVE DATE: May 22, 2001.

FOR FURTHER INFORMATION CONTACT: Stephen Bailey or Rick Johnson, AD/CVD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington DC 20230; telephone: (202) 482–1102 or (202) 482–3818, respectively.

The Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (''the Act'') by the Uruguay Round Agreements Act.

Extension of Time Limit for Preliminary Results

On January 12, 2001, we published an extension of the preliminary results by 90 days. *See* 66 FR 2884. Because of the complex issues enumerated in the Memorandum from Edward C. Yang to Joseph A. Spetrini, *Extension of Time Limit for the Preliminary Results of Administrative Review of Certain Stainless Steel Sheet and Strip in Coils from Taiwan,* on file in the Central Records Unit (CRU) of the Main Commerce Building, Room B–099, we find that it is not practicable to complete this review by the scheduled deadline of July 1, 2001. Therefore, in accordance with section 751(a)(3)(A) of the Act, the Department is extending the time period for issuing the preliminary results of review until July 31, 2001.

Dated: May 14, 2001.

Robert M. James,

Acting Deputy Assistant Secretary, AD/CVD Enforcement Group III.

[FR Doc. 01–12859 Filed 5–21–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 051701A]

Foreign Fishing Vessel Identification Requirements

AGENCY: National Oceanic and Atmospheric Administration (NOAA).

ACTION: Proposed information collection; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information

collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506 (c)(2)(A)).

DATES: Written comments must be submitted on or before July 23, 2001.

ADDRESSES: Direct all written comments to Madeleine Clayton, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6086, 14th and Constitution Avenue NW, Washington DC 20230 (or via Internet at MClayton@doc.gov).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Bob Dickinson, F/SF4, Room 13304, 1315 East-West Highway, Silver Spring, MD 20910–3282 (phone 301–713–2276, ext. 154).

SUPPLEMENTARY INFORMATION:

I. Abstract

Regulations at 50 CFR 600.503 require that foreign fishing vessels display the vessel's international radio call sign on the port and starboard sides of the deckhouse or hull, and on a weatherdeck. The numbers must be of a specific size. The display of the identifying number aids in fishery law enforcement and allows other fishermen to report suspicious activity.

II. Method of Collection

No information is collected.

III. Data

OMB Number: 0648–0356.
Form Number: None.
Type of Review: Regular submission.
Affected Public: Business or other for-profit organizations.
Estimated Number of Respondents: 5.
Estimated Time Per Response: 45 minutes (15 minutes for each of three markings).
Estimated Total Annual Burden Hours: 4.
Estimated Total Annual Cost to Public: $125.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: May 15, 2001.

Madeleine Clayton,

Departmental Paperwork Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 01–12865 Filed 5–21–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 051701B]

High Seas Fishing Permit Application Information

AGENCY: National Oceanic and Atmospheric Administration (NOAA).

ACTION: Proposed information collection; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506 (c)(2)(A)).

DATES: Written comments must be submitted on or before July 23, 2001.

ADDRESSES: Direct all written comments to Madeleine Clayton, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6086, 14th and Constitution Avenue NW, Washington DC 20230 (or via Internet at MClayton@doc.gov).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Bob Dickinson, F/SF4, Room 13304, 1315 East-West Highway, Silver Spring, MD 20910–3282 (phone 301–713–2276, ext. 154).

SUPPLEMENTARY INFORMATION:

I. Abstract

U.S. vessels that fish on the high seas (waters beyond the U.S. exclusive economic zone) are required to possess a permit issued under the High Seas Fishing Compliance Act. Applicants must submit information to identify their vessels and intended fishing areas. The application information is used to process applications and to maintain a register of vessels authorized to fish on the high seas.

II. Method of Collection

Paper forms must be mailed to NOAA.

III. Data

OMB Number: 0648–0304.
Form Number: None.
Type of Review: Regular submission.
Affected Public: Business or other for-profit organizations.
Estimated Number of Respondents: 200.
Estimated Time Per Response: 30 minutes.
Estimated Total Annual Burden Hours: 100.
Estimated Total Annual Cost to Public: $10,000.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: May 15, 2001.

Madeleine Clayton,

Departmental Paperwork Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 01–12867 Filed 5–21–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 051701C]

Foreign Fishing Vessel Permit Applications

AGENCY: National Oceanic and Atmospheric Administration (NOAA).

ACTION: Proposed information collection; comment request.

SUMMARY: The Department of Commerce, as part of its continuing

effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104-13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before July 23, 2001.

ADDRESSES: Direct all written comments to Madeleine Clayton, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6086, 14th and Constitution Avenue NW, Washington DC 20230 (or via the Internet at MClayton@doc.gov).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Bob Dickinson, F/SF4, Room 13304, 1315 East-West Highway, Silver Spring, MD 20910–3282 (phone 301–713–2276, ext. 154).

SUPPLEMENTARY INFORMATION:

I. Abstract

Section 204(b) of the Magnuson-Steven Fishery Conservation and Management Act provides that foreign nations with fishery agreements with the U.S. may apply for permits to fish, to participate in a joint-venture with U.S. vessels, or to transmit fish or fish products within the U.S. economic zone. The regulations can be found at 50 CFR 600, subpart F. The application information is used by various entities, including the National Marine Fisheries Service, U.S. Coast Guard, Regional Fishery Management councils, and Department of State, to determine whether permits should be issued to applicants.

II. Method of Collection

Paper forms are used.

III. Data

OMB Number: 0648–0089.

Form Number: None.

Type of Review: Regular submission.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 25.

Estimated Time Per Response: 1.5 hours for an application for a directed fishery, 2 hours for a joint-venture application, and 45 minutes for a transshipment permit.

Estimated Total Annual Burden Hours:

Estimated Total Annual Cost to Public: $8,800.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: May 15, 2001.

Madeleine Clayton,

Departmental Paperwork Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 01–12868 Filed 5–21–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 051701D]

Foreign Fishing Gear Identification Requirements

AGENCY: National Oceanic and Atmospheric Administration (NOAA).

ACTION: Proposed information collection; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506 (c)(2)(A)).

DATES: Written comments must be submitted on or before July 23, 2001.

ADDRESSES: Direct all written comments to Madeleine Clayton, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6086, 14th and Constitution Avenue NW, Washington DC 20230 (or via Internet at MClayton@doc.gov).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Bob Dickinson, F/SF4, Room 13304, 1315 East-West Highway, Silver Spring, MD 20910–3282 (phone 301–713–2276, ext. 154).

SUPPLEMENTARY INFORMATION:

I. Abstract

Regulations at 50 CFR 600.503 require that foreign fishing vessels that deploy gear that is not physically and continuously attached to the vessel must mark that gear with a buoy displaying the vessel identification number of the vessel and attach a light visible for 2 miles on a night with good visibility. The marking of gear aids law enforcement and enables other fishermen to report on gear placed in unauthorized areas.

There currently are no foreign vessels authorized to do fishing that would be subject to this requirement.

II. Method of Collection

No information is collected.

III. Data

OMB Number: 0648–0354.

Form Number: None.

Type of Review: Regular submission.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 0.

Estimated Time Per Response: 15 minutes per marking.

Estimated Total Annual Burden Hours: 1.

Estimated Total Annual Cost to Public: $0.

IV. Request for Comments

Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: May 15, 2001.

Madeleine Clayton,

Departmental Paperwork Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 01–12869 Filed 5–21–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 051701E]

Coastal Zone Management Program Administration Grants

AGENCY: National Oceanic and Atmospheric Administration (NOAA).

ACTION: Proposed information collection; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before July 23, 2001.

ADDRESSES: Direct all written comments to Madeleine Clayton, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6086, 14th and Constitution Avenue NW, Washington DC 20230 (or via the Internet at MClayton@doc.gov).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to John King, Acting Chief, Coastal Programs Division, NOS, 1305 East-West Highway, Room 11110, Silver Spring, MD 20910 (phone: 301–713–3121, ext. 188).

SUPPLEMENTARY INFORMATION:

I. Abstract

Coastal zone management grants provide funds to states and territories to implement federally approved Coastal Zone Management Programs and to develop assessment documents and multi-year strategies. Paperwork Reduction Act approval is being sought for performance and annual reports, requests for amendments or routine program changes to an approved program, and the submission of program management and assessment/strategy documents.

II. Method of Collection

Information is submitted to respond to requirements detailed in regulations. No forms are used.

III. Data

OMB Number: 0648–0119.

Form Number: None.

Type of Review: Regular submission.

Affected Public: State, local, or tribal government.

Estimated Number of Respondents: 34.

Estimated Time Per Response: 15 hours for a performance report on a state's Coastal Zone Management Program, 27 hours for any other performance report, 800 hours for a program management document, 6 hours for an annual report, 240 hours for an Assessment and Strategy document, 8 hours for an amendment, and 5 hours for documentation related to section 306A of the Coastal Zone Management Act.

Estimated Total Annual Burden Hours: 6,598.

Estimated Total Annual Cost to Public: $250.

IV. Request for Comments

Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: May 15, 2001.

Madeleine Clayton,

Departmental Paperwork Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 01–12875 Filed 5–21–01; 8:45 am]

BILLING CODE 3510–08–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 001214351–1124–02]

RIN: 0648–ZB02

Dr. Nancy Foster Scholarship Program; Financial Assistance for Graduate Students

AGENCY: National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce is announcing funding availability for graduate students pursuing masters or doctoral level degrees in oceanography, marine biology, or maritime archaeology through the Dr. Nancy Foster Scholarship Program and is inviting applications for such scholarships. Applicants who have submitted an application for a Dr. Nancy Foster scholarship prior to the publication of this notice should review their applications and submit any revisions or supplemental materials necessary to comply with the application requirements or in recognition of the funding priorities and selection criteria set forth in this notice.

DATES: The Dr. Nancy Foster Scholarship Program application period opened March 26, 2001, 66 FR 16445, and will close June 21, 2001. Applications must be postmarked by the closing date. Scholarship awards will be announced on or about July 19, 2001.

ADDRESSES: Applications should be sent to the Dr. Nancy Foster Scholarship Program, Attention: Office of the Assistant Administrator, 13th Floor, National Ocean Service, 1305 East-West Highway, Silver Spring, MD 20910. Copies of form CD–511 may be requested from this address or may be downloaded from the Department of Commerce Web site: http://www.doc.gov. Information on the scholarship program may be obtained from the Web site: http://fosterscholars.noaa.gov.

FOR FURTHER INFORMATION CONTACT: Dr. Nancy Foster Scholarship Program, Office of the Assistant Administrator, 13th Floor, National Ocean Service, 1305 East-West Highway, Silver Spring, MD 20910 (301–713–3074).

SUPPLEMENTARY INFORMATION: *Authority:* The Dr. Nancy Foster Scholarship Program is authorized by the National Marine Sanctuaries Amendments Act of 2000 (Pub. L. 106–513) to recognize

outstanding scholarship in oceanography, marine biology, or maritime archaeology, particularly by women and members of minority groups, and encourage independent graduate-level research through financial support of graduate studies in such fields.

Catalog of Federal Domestic Assistance: This program is listed under CFDA #11.460, titled Special Oceanic and Atmospheric Projects.

Program Description: The Dr. Nancy Foster Scholarship Program provides support for independent graduate-level studies in oceanography, marine biology, or maritime archaeology, particularly by women and members of minority groups. Gender and minority status is not considered when selecting award recipients. However, special outreach efforts are employed to solicit applications from women and minorities. Scholarships are distributed by disciplines, institutions and geography, and by the degree type and level being sought, with selections within distributions based on financial need, the potential for success in a graduate studies program, and the potential for achieving research and career goals. The program is administered through NOAA's National Ocean Service and is funded annually with 1% of the amount appropriated each fiscal year to carry out the National Marine Sanctuaries Act.

Funding Availability: For the 2001–2002 academic year, Dr. Nancy Foster Scholarships may provide support of up to $28,800 per student: a 12-month stipend of $16,800, in addition to a tuition allowance of up to $12,000. A maximum of $57,600 may be provided to masters students (up to two years of support) and up to $115,200 may be provided to doctoral students (up to four years of support). For the 2001–2002 academic year, NOAA expects to award five scholarships. The annual stipend will be paid directly to the scholar. The stipend is intended to defray cost-of-living expenses, and not to support research costs. NOAA anticipates the student and their faculty advisor will secure research funds independent of the scholarship. Tuition and academic fees will be negotiated between the academic institution and the Dr. Nancy Foster Scholarship program manager at NOAA prior to the start of studies. This negotiation is intended to levy scholarship funds and enhance opportunities for scholarship recipients. In those instances in which tuition and academic fees are not totally waived by the academic institution, the tuition allowance in an amount equal to the tuition and fees not waived (but not to exceed $12,000) will be paid directly to the scholar to remittance to the academic institution. If tuition and fees are reduced or waived by the academic institution, then that portion of the tuition allowance not needed (*i.e.,* up to $12,000 in the case of a total waiver) will be retained by NOAA for future scholarships. No money will be paid directly to the student from the tuition allowance for purposes other than the payment of tuition and fees.

Specific instructions regarding the disbursement, management, and reporting requirements for all stipend and tuition allowance payments will be provided at a later date. The awarding of funds beyond the first year will be based on availability of funds, continued eligibility of the student, periodic certification by the academic institution that adequate academic progress is being made, and compliance with applicable reporting requirements. At its discretion, each academic institution may supplement a scholar's stipend from institutional funds in accordance with the supplementation policy of the institution.

Matching Requirements: There are no matching requirements for an award.

Type of Funding Instrument: Grant.

Eligibility Criteria: Only United States citizens currently pursuing or intending to pursue a masters or doctoral level degree in oceanography, marine biology, or maritime archaeology, including the curation, preservation, and display of maritime artifacts, are eligible for an award under this scholarship program. Prospective scholars do not need to be enrolled or admitted to a graduate-level program in order to apply for this scholarship. However, funds will not be released before the applicant is accepted to an accredited institution in the United States with a program emphasis in the areas described above, and certification to that effect has been received by NOAA from that institution. Studies must be conducted on a full-time basis. Recipients of scholarship awards may be employed at the time of the award if it is a requirement of their degree program or directly related to their research effort. Other forms of employment will not be allowed and scholars will be required to submit a letter certifying that they are in compliance with this requirement. Eligibility must be maintained for each succeeding year of support and annual reporting requirements, to be specified at a later date, will apply.

Award Period: This call for applications is for studies beginning in the fall 2001. Stipends will cover a 12 month period. Masters students may be supported for up to two years, and doctoral students for up to four years.

Indirect Costs: No indirect costs will be paid on this award.

Applications: Applications for Dr. Nancy Foster Scholarships are invited. Applications were first invited by **Federal Register** notice on March 26, 2001 (66 FR 16445) with certain needed information only appearing on NOAA's website for the program, http://fosterscholars.noaa.gov. Today's notice contains all necessary information and announces a closing date of June 21, 2001 for the submission of applications. Applicants who submitted an application for a Dr. Nancy Foster scholarship in response to the March 26, 2001, notice should review their applications and submit any revisions or supplemental materials necessary to comply with the application requirements or in recognition of the funding priorities and selection criteria set forth in this notice. Applications and revisions or supplements to applications previously submitted must be postmarked by the closing date. Scholarship awards will be announced on or about July 19, 2001.

Applications: Each application must include these following items:

(I) General Information Sheet
(II) Statement of Intent
(III) Institute Certification (for those applicants who are currently enrolled in a graduate program for which support is requested, or who have received acceptance for fall 2001 enrollment in a graduate program for which support is requested)
(IV) Transcripts
(V) Three Letters of Recommendation
(VI) Declaration

Applicants who have submitted an application for a Dr. Nancy Foster scholarship prior to the publication of this notice should review their applications and submit any revisions or supplemental materials necessary (e.g., Declaration) to comply with the application requirements or in recognition of the funding priorities and selection criteria set forth in this notice.

I. General Information Sheet

Personal Data: Provide your full name, country of citizenship, current address, permanent address, and home and work telephone numbers. If you can be reached by fax or e-mail, include that information. Optional—for statistical collection purposes only: Indicate your gender and whether you are Hispanic or Latino and indicate your race by selecting one or more of the following: American Indian or Alaska Native, Asian, Black or African-American,

Native Hawaiian or Other Pacific Islander, or White.

Degree Sought: State your proposed field of study (oceanography, marine biology or maritime archaeology) and degree type you are seeking (*e.g.,* M.S., M.A., Ph.D). Include the month and year you expect the degree to be awarded. If you have selected a school, state the name and location. If you have not yet selected a school, list your proposed field of study, degree type you are seeking, and state that you have not yet selected a school.

Education: List the academic degrees you have received, or expect to receive by the start of your proposed graduate studies for this program, including the date and institution.

Funding Resources: List all resources you have available to assist you in your graduate studies (e.g., grants, student loans, scholarships).

Publications: If you have published in the technical literature, provide a bibliography. If you have not published, write ''NA.''

Experience: List relevant experience only (e.g., unpaid employment, military service, internships, residencies, special studies, volunteer work). Give dates and a short description of your duties in each position, starting with the most recent. Include the names, addresses and phone numbers of employers.

II. Statement of Intent

The Statement of Intent is a self-description of your academic, research, and career goals, and how your proposed course of study or research will help you achieve these goals. Include any background information you believe is pertinent, and provide insight into why you have chosen the goals you are pursuing. Provide a descriptive title for your research project if any, or your research area of interest if you do not have a specific research project selected. This statement should demonstrate your organizational, analytical, and written communication skills. The Statement of Intent should be typewritten, single-spaced on a blank piece of paper, and should not exceed one page in length.

III. Institute Certification

For those applicants who are currently enrolled in a graduate program for which support is requested, or who have received acceptance for fall 2001 enrollment in a graduate program for which support is requested, a letter from the institution certifying this must be submitted with your application. The letter should consist of the following information on school letterhead and be signed by a school official: Name and location of the academic institution, the school and department that you currently are attending or plan to attend, and the month and year your studies will begin if you are not currently enrolled. If you have a graduate advisor, list his/her name, address, phone, fax, and e-mail, if available, in the Institute Certification portion of your application. For students not yet accepted to an institution, if selected as an award recipient, a letter from the institution certifying this must be submitted to NOAA before funds can be released.

IV. Transcripts

Provide official transcripts for all previous university/college-level studies.

V. Three Letters of Recommendation

Each application must include three letters of recommendation from individuals who have knowledge of your academic record, research effort, work and/or life experience. Relevant unpaid work, such as internships and volunteer efforts, is applicable. If you have a sponsor or advisor in the program, one of these letters should be from that individual. Letters of recommendation sent apart from the application will not be accepted.

VI. Declaration

Applicants must certify that all statements and information in their applications are true and correct by copying the following on a plain piece of paper, signing it, and including it in their application:

I, the undersigned, declare, under penalty of perjury, that all statements and information in my application are true and correct.

Executed on [insert date]/

Print or Type Name:. _____

Signature:. _____

Funding Priorities: The priority of the program is to fund independent graduate-level studies in oceanography, marine biology, or maritime archaeology with scholarships distributed by disciplines, institutions and geography, and by the degree type and level being sought, with selections within distributions based on financial need, the potential for success in a graduate studies program, and the potential for achieving research and career goals.

Evaluation Criteria: The evaluation criteria and their weights are as follows: a) financial need (30%); b) academic record (25%); c) recommendations (25%); d) organizational, analytical, and written communication skills based on statement of intent (10%); and e) research and career goals and objectives (10%).

Selection Procedures: An advisory panel of experts will review applications based on the evaluation criteria and provide a numerical score for each one. These scores will be used by the selecting official in his/her selection of the recipients of a Dr. Nancy Foster Scholarship. In making final selections, the selecting official will consider availability of funds, distribution of awards across disciplines, institutions and geography, and the degree type and level being sought and will base selections within distributions by score. Therefore, scholarship awards will not necessarily be made to the applications receiving the highest scores.

Announcement of Awards: The names, academic institutions, degrees being sought, research plans, and biographical information of the scholarship awardees will be posted on NOAA's National Ocean Service Web site and may be published in marketing materials developed to advertise the Dr. Nancy Foster Scholarship Program.

Other Requirements:

(1) *Federal Policies and Procedures*—All scholarship recipients are subject to all Federal laws and Federal and DoC policies, regulations, and procedures applicable to Federal financial assistance awards.

(2) *Past Performance*—Unsatisfactory performance under prior Federal awards may result in an application not being considered for funding.

(3) *Preaward Activities*—If applicants incur any costs prior to an award being made, they do so solely at their own risk of not being reimbursed by the Government. Notwithstanding any verbal or written assurance that may have been received, there is no obligation on the part of DoC to cover preaward costs.

(4) *No Obligation for Future Funding*—If an application is selected for funding, DoC has no obligation to provide any additional future funding in connection with that award. Renewal of an award to increase funding or extend the period of performance is at the total discretion of DoC.

(5) *Delinquent Federal Debts*—No award of Federal funds shall be made to an applicant who has an outstanding delinquent Federal debt until either:

i. The delinquent account is paid in full,

ii. A negotiated repayment schedule is established and at least one payment is received, or

iii. Other arrangements satisfactory to DoC are made.

(6) *Name Check Review*—A name check will be conducted on the individuals selected for the scholarship. Name checks are intended to reveal if any applicants have been convicted of or are presently facing criminal charges such as fraud, theft, perjury, or other matters which significantly reflect on the applicant's management honesty or financial integrity.

(7) *Recipient Certifications*—All scholarship recipients must submit a completed Form CD–511 (See **ADDRESSES**), ''Certifications Regarding Debarment, Suspension and Other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying,'' and the following explanations are provided:

i. *Nonprocurement Debarment and Suspension.* Prospective participants (as defined at 15 CFR Part 26, Section 105) are subject to 15 CFR Part 26, ''Nonprocurement Debarment and Suspension'' and the related section of the certification form prescribed above applies;

ii. *Drug-Free Workplace.* Grantees (as defined at 15 CFR Part 26, Section 605) are subject to 15 CFR Part 26, Subpart F, ''Governmentwide Requirements for Drug-Free Workplace (Grants)'' and the related section of the certification form prescribed above applies;

iii. *Anti-Lobbying.* Persons (as defined at 15 CFR Part 28, Section 105) are subject to the lobbying provisions of 31 U.S.C. 1352, ''Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions,'' and the lobbying section of the certification form prescribed above applies to applications/bids for grants, cooperative agreements, and contracts for more than $100,000, and loans and loan guarantees for more than $150,000, or the single family maximum mortgage limit for affected programs, whichever is greater; and

iv. *Anti-Lobbying Disclosures.* Any applicant that has paid or will pay for lobbying using any funds must submit an SF–LLL, ''Disclosure of Lobbying Activities,'' as required under 15 CFR Part 28, Appendix B.

(8) *False Statements*—A false statement on an application is grounds for denial or termination of funds and grounds for possible punishment by a fine or imprisonment as provided in 18 U.S.C. 1001.

(9) *Classification*—This document contains collection-of-information requirements subject to the Paperwork Reduction Act (PRA). This application has been approved by the Office of Management and Budget (OMB) under control number 0648–0432. Public reporting burden for this collection of information is estimated to average 5 hours for an application and 45 minutes per letter of recommendation. These estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This document also requires use of a SF–LLL, which has been approved by OMB under control number 0348–0046. Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection-of-information subject to the PRA, unless that collection displays a currently valid OMB control number.

Applications under this program are not subject to Executive Order 12372, Intergovernmental Review of Federal Programs.

This action has been determined to be not significant for purposes of Executive Order 12866.

Dated: May 15, 2001.

Scott B. Gudes,

Acting Administrator, National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

[FR Doc. 01–12822 Filed 5–21–01; 8:45 am]

BILLING CODE 3510–JE–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 051601D]

New England Fishery Management Council; Public Meetings

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

ACTION: Notice of public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Groundfish Oversight Committee in June, 2001. Recommendations from the committee will be brought to the full Council for formal consideration and action, if appropriate.

DATES: The meeting will held on Monday, June 4, 2001, at 9:30 a.m.

ADDRESSES: The meeting will be held at the DoubleTree Hotel, 1230 Congress Street, Portland, ME 04102; telephone: (207) 774–5611.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council (978) 465–0492.

SUPPLEMENTARY INFORMATION: The Groundfish Oversight Committee will continue development of management alternatives for Amendment 13 to the Northeast Multispecies Fishery Management Plan. The Committee will review alternatives developed by the Groundfish Plan Development Team and incorporate measures identified over the past year into the management alternatives. While the Committee has been developing measures that fall into three broad approaches - refinements to the status quo, area management, and sector allocation - most of the effort at this meeting will be on refining the status quo option. The Committee will consider alternatives that include possible reductions in days-at-sea allocations and use. Other measures that may be discussed include the use of trip or possession limits, modifications to seasonal and year-round closed areas, changes to gear requirements, and recreational fishing measures. These efforts will lead to development of recommended management alternatives that will be taken to public hearing in the future. Proposed maximum sustainable yield control rules will be reviewed to clarify changes suggested by the Council and the Committee.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305 (c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard (see **ADDRESSES**) at least 5 days prior to the meeting dates.

Dated: May 17, 2001.

Richard W. Surdi,

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

[FR Doc. 01–12873 Filed 5–21–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 051601E]

North 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 North Pacific Fishery Management Council (Council) and its advisory committees will hold public meetings June 4–11, 2001, in Kodiak, AK.

DATES: The Council's Advisory Panel will begin at 8 a.m., Monday, June 4, and continue through Friday, June 8, 2001. The Scientific and Statistical Committee will begin at 8 a.m. on Monday, June 4, and continue through Wednesday, June 6.

The Council will begin their plenary session at 8 a.m. on Wednesday, June 6, continuing through Monday, June 11, 2001. All meetings are open to the public except executive sessions which may be held during the week at which the Council may discuss personnel issues and/or current litigation.

ADDRESSES: The Advisory Panel will meet at the Kodiak Elks Lodge, 102 Marine Way, Kodiak, AK.

The Scientific and Statistical Committee will meet at the Fishermen's Hall, 503 Marine Way, Kodiak, AK.

The North Pacific Fishery Management Council will meet at the Best Western Kodiak Inn, 236 Rezanof West, Kodiak, AK.

Council address: North Pacific Fishery Management Council, 605 W. 4th Ave., Suite 306, Anchorage, AK 99501–2252.

FOR FURTHER INFORMATION CONTACT: Council staff, telephone: 907–271–2809.

SUPPLEMENTARY INFORMATION:

Council: The agenda for the Council's plenary session will include the following issues. The Council may take appropriate action on any of the issues identified.

1. Reports:

(a) Executive Director's Report.

(b) State Fisheries Report by Alaska Dept. of Fish and Game.

(c) NMFS Management Report, including updates on halibut subsistence regulations, retention of demersal shelf rockfish, inshore/offshore regulations, and the salmon overfishing definition. (The Council may consider action or direction to staff on any of these subjects if necessary.)

(d) Enforcement and Surveillance reports by NMFS and the U.S. Coast Guard.

(e) Alaska Board of Fisheries Report on halibut local area management plans and halibut subsistence issues; direction to staff if required.

2. Steller sea lion (SSL) measures:

(a) Status reports on research funding, independent scientific review, and report from the Council committees on Reasonable and Prudent Alternatives.

(b) Finalize alternatives for analysis for 2002 fisheries management measures to mitigate fisheries impacts on Steller sea lions.

3. Bering Sea/Aleutian Islands crab rationalization: Review discussion paper on alternatives for analysis and provide direction to staff.

4. Essential Fish Habitat: Report on progress on public scoping meetings.

5. American Fisheries Act:

(a) Final action on a cooperative leasing proposal.

(b) Review and provide direction to staff on report to Congress.

(c) Provide comments on extension of emergency rule for 2001.

(d) Review industry proposal on bycatch measures.

6. Groundfish Programmatic Supplemental Environmental Impact Statement (SEIS): Review and comment to NMFS.

7. Community Purchase of Individual Fishing Quotas: Review discussion paper and industry proposal; provide direction to staff.

8. Community Development Quotas (CDQ): Receive report from CDQ Policy committee; provide direction to staff.

9. Gulf of Alaska Groundfish Rationalization: Review committee report; provide direction to staff.

10. Report on meeting of Regional Fishery Management Council chairmen and on reauthorization of the Magnuson-Stevens Fishery Management and Conservation Act.

11. Staff Tasking: Review current staff tasking and projects to be tasked; provide direction to staff.

Although other issues not contained in this agenda may come before this Council for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal Council action during this meeting. Council action will be restricted to those issues specifically identified in the agenda listed in this notice.

Advisory Meetings

Advisory Panel: The agenda for the Advisory Panel will mirror that of the Council listed above, with the exception of the reports under Item 1, and the reports under Item 10.

Scientific and Statistical Committee (SSC): The Scientific and Statistical Committee will address the following issues:

1. Steller sea lion measures listed under item 2 of the Council agenda noted above.

2. Bering Sea/Aleutian Island crab rationalization issues (item 3 on the Council agenda).

3. Essential Fish Habitat Issues (item 4 on the Council agenda).

4. American Fisheries Act Issues (item 5 on the Council agenda).

5. Groundfish Programmatic SEIS (item 6 on the Council agenda).

Other Committee and Workshop Meetings

Ecosystem Committee: The Council's Ecosystem Committee will meet Tuesday evening, June 5, beginning at 6 p.m. at the Kodiak Inn. The Committee will discuss the Groundfish Programmatic SEIS and prepare comments for Council consideration.

Finance Committee: The Council's Finance Committee is tentatively scheduled to meet during the noon hour on Sunday, June 10, to discuss budget issues.

Other committees and workgroups may hold impromptu meetings throughout the meeting week. Such meetings will be announced during regularly scheduled meetings of the Council, Advisory Panel, and SSC, and will be posted at the hotel.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Helen Allen at 907–271–2809 at least 7 working days prior to the meeting date.

Dated: May 17, 2001.

Richard W. Surdi,

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

[FR Doc. 01–12874 Filed 5–21–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF DEFENSE

Office of the Secretary

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the

following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Title and OMB Number: Request for Approval of Foreign Government Employment of Air Force Members; OMB Number 0701–0134.

Type of Request: Extension.

Number of Respondents: 144.

Responses per Respondent: 1.

Annual Responses: 144.

Average Burden per Response: 1 hour.

Annual Burden Hours: 144.

Needs and Uses: The purpose of this information collection is to obtain the information needed by the Secretary of the Air Force and the Secretary of State on which to base a decision to approve/disapprove a request to work for a foreign government. This approval is specified by 37 U.S.C., section 908. Respondents are Air Force retired members and certain Reserve members who have gained jobs with a foreign government and who must obtain approval from the Secretary of the Air Force and the Secretary of State. Information, in the form of a letter, includes a detailed description of duty, name of employer, Social Security Number, and statements specifying whether or not the employee will be compensated; declaring if employee will be required or plans to obtain foreign citizenship; declaring that the member will not be required to execute an oath of allegiance to the foreign government; verifying that the member understands that retired pay equivalent to the amount received from the foreign government may be withheld if the member accepts employment with a foreign government before receiving approval. Reserve members must include a request to Inactive Status List Reserve Section (Reserve Section Code RB).

Affected Public: Individuals or Households; Business or Other For-Profit.

Frequency On Occasion.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: Mr. Edward C. Springer.

Written comments and recommendations on the proposed information collection should be sent to Mr. Springer at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. Robert Cushing.

Written requests for copies of the information collection proposal should be sent to Mr. Cushing, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202–4302.

Dated: May 16, 2001.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 01–12828 Filed 5–21–01; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Department of the Air Force

Proposed Collection; Comment Request

AGENCY: Department of the Air Force, DoD.

ACTION: Notice.

In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Air Force Research Laboratory announces the proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms or information technology.

DATES: Consideration will be given to all comments received July 23, 2001.

ADDRESSES: Written comments and recommendations on the proposed information collection should be sent to Air Force Research Laboratory, Office of Public Affairs, AFRL/PA, 1864 4th Street, Room 004, Wright-Patterson Air Force Base, OH 45433.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the above address, or call Air Force Research Laboratory, Office of Public Affairs at 937–656–9876.

TITLE: Air Force Research Laboratory Public Awareness Survey.

Needs and Uses: Air Force Research Laboratory has taken on a major effort to educate and communicate to the public contributions the Research Laboratory plays in developing the Air Force of the future. As such, it is imperative the Research Laboratory understands the current level of information the average Air Force member has regarding the laboratory's contributions. With this information, the Air Force Research Laboratory will be better able to develop communication strategies for the Air Force Research Laboratory to employ with the public.

Affected Public: Individuals and households residents (18 years and older) of telephone-equipped households in the U.S. not including Alaska and Hawaii.

Annual Burden Hours: 36.75.

Number of Respondents: 882 Called by phone.

Responses per Respondent: 1.

Average Burden per Response: 5 Minutes.

Frequency: At 2-year intervals.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

This survey will serve multiple purposes. It will gauge the American public's awareness of, familiarity with, attitudes about and feelings toward the Air Force Research Laboratory. It will also gauge where the American public would go for information regarding the Air Force Research Laboratory. The survey asks what they currently know about the laboratory and notes some discoveries and projects the lab has worked and whether these are familiar to the American public or not. The survey also asks if they are familiar with the publications and products of the laboratory and asks how satisfied they are with these products. The survey will allow for comparisons of data to better target communication efforts to effectively communicate Air Force Research Laboratory information to the public. Findings from these surveys of the civilian population also will be compared with similar data to be gathered from the internal Air Force population at approximately the same time, providing a valuable head-to-head comparison of civilians' and Air Force people's perceptions of what the Air Force Research Laboratory does.

Janet A. Long,

Air Force Federal Register Liaison Officer.

[FR Doc. 01–12853 Filed 5–21–01; 8:45 am]

BILLING CODE 5001–05–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Information Management Group, Office

of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before July 23, 2001.

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.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: May 16, 2001.

John Tressler,

Leader, Regulatory Information Management, Office of the Chief Information Officer.

Office of Postsecondary Education

Type of Review: New.

Title: Interim Performance Report for 1st Year Title V Grantees and Interim Performance Report for Title V Grantees.

Frequency: Annually.

Affected Public: Not-for-profit institutions.

Reporting and Recordkeeping Hour Burden

Responses: 150.

Burden Hours: 900.

Abstract: Title V of the Higher Education Act (HEA), provides a discretionary grant program that makes competitive awards to Hispanic-Serving Institutions to assist these institutions of higher education to expand their capacity to serve Hispanic and low-income students. Grantees annually submit a performance report to demonstrate that substantial progress is being made towards meeting the objectives of their project. The Interim Performance Report will be the first of a series of Title V performance reports tailored to strengthen the Department of Education's program monitoring efforts, enhance customer service, and reduce the overall paperwork burden on grantees.

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, DC 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 Joseph Schubart at (202) 708–9266 or via his internet address Joe.Schubart@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 01–12797 Filed 5–21–01; 8:45 am]

BILLING CODE 4000–01–P

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 June 21, 2001.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Lauren Wittenberg, Acting Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503 or should be electronically mailed to the internet address Lauren_Wittenberg@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: May 16, 2001.

John Tressler,

Leader, Regulatory Information Management, Office of the Chief Information Officer.

Office of Special Education and Rehabilitative Services

Type of Review: Extension.

Title: Application Kit for New Grants under the Rehabilitation Services Administration (RSA).

Frequency: Annually.

Affected Public: Businesses or other for-profit; Not-for-profit institutions; State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden

Responses: 1,000.

Burden Hours: 40,000.

Abstract: Vocational rehabilitation ''Federal Assistance'' Discretionary Grant Application Forms and Instruction for Rehabilitation Programs on behalf of Individuals with

Disabilities are required so that all applications are completed in accordance with specific and unique program requirements.

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, DC 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 Sheila Carey at (202) 708–6287 or via her internet address Sheila.Carey@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 01–12798 Filed 5–21–01; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER01–1928–000]

Central Maine Power Company; Notice of Filing

May 15, 2001.

Take notice that on May 2, 2001, Central Maine Power Company (CMP), tendered for filing as an initial rate schedule pursuant to section 35.12 of the Federal Energy Regulatory Commission's (the Commission) regulations, 18 CFR 35.12, (i) an unexecuted Form of Service Agreement for Non-Firm Local Point-to-Point Transmission Service between CMP and S.D. Warren Company (S.D. Warren), and (ii) an unexecuted Form of Service Agreement for Non-Firm Local Point-to-Point Transmission Service between CMP and Engage Energy America LLC (Engage), designated as Original Service Agreements 123 and 124, respectively, to CMP's FERC Electric Tariff, Fifth Revised Volume No. 3.

CMP is requesting that these unexecuted transmission service agreements become effective March 30, 2001.

Copies of this filing have been served upon the Commission, the Maine Public Utilities Commission, S.D. Warren, and Engage.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before May 23, 2001. 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). Comments, protests and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm.*

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–12787 Filed 5–21–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–415–000]

El Paso Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

May 16, 2001.

Take notice that on May 11, 2001, El Paso Natural Gas Company (El Paso) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1–A, the following tariff sheets, with an effective date of June 1, 2001:

Fourth Revised Sheet No. 117
Third Revised Sheet No. 314

El Paso states that the tariff sheets are being filed to revise the Billing Determinant for El Paso Electric Company to 37,318 dth per day and to revise the related revenue crediting threshold.

Any person desiring to protest said 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 field 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. 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). Comments, protests and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

David P. Boergers,

Secretary.

[FR Doc. 01–12781 Filed 5–21–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER01–1738–000]

Idaho Power Company; Notice of Filing

May 16, 2001.

Take notice that on May 2, 2001, Idaho Power Company tendered for filing a Notice of Withdrawal of its rate filing of a Firm and Non-Firm Point to Point Transmission Service Agreement with Merchant Energy Group of the Americas, under Idaho Power Company's FERC Electric Tariff, First Revised Volume No. 5, Open Access Transmission Tariff.

Any person desiring to be heard or to protest such filing should file a motion of 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 and Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before May 23, 2001. 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). Comments, protests and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm.*

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–12786 Filed 5–21–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–292–001]

Mississippi River Transmission Corporation; Notice of Compliance Filing

May 16, 2001.

Take notice that on May 11, 2001, Mississippi River Transmission Corporation (MRT) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets, with an effective date of May 1, 2001.

Second Revised Sheet No. 226A
First Revised Sheet No. 258

MRT states that the purpose of this filing is to comply with the Commission's order issued April 27, 2001 in Docket No. RP01–292–000. MRT is correcting pagination errors as directed by the Commission.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such 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. 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). Comments, protests and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

David P. Boergers,

Secretary.

[FR Doc. 01–12777 Filed 5–21–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–506–005]

Northwest Pipeline Corporation; Notice of Compliance Filing

May 16, 2001.

Take notice that on May 10, 2001, Northwest Pipeline Corporation (Northwest) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets, to be effective February 25, 2001:

2nd Substitute Eighth Revised Sheet No. 24
2nd Substitute Fifth Revised Sheet No. 259
2nd Substitute First Revised Sheet No. 278–C

Northwest states that the purpose of this filing is to comply with the Commission's order dated April 25, 2001 in Docket Nos. RP00–506–003 and RP00–506–004 directing Northwest to file revised tariff sheets to remove the proposed restrictions for reductions of maximum daily quantities (MDQs) and maximum daily delivery obligations (MDDOs) at individual receipt and delivery points in the event of a partial capacity turnback.

Northwest states that a copy of this filing has been served upon each person designated on the official service list compiled by the Secretary in this proceeding.

Any person desiring to protest said 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 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. 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).

Comments, protests and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

David P. Boergers,

Secretary.

[FR Doc. 01–12782 Filed 5–21–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL01–79–000]

NSTAR Electric & Gas Corp., Complainant, v. Sithe Edgar LLC, Sithe New Boston LLC, Sithe Framingham LLC, Sithe West Medway LLC, Sithe Mystic, PG&E Energy Trading, Respondents; Notice of Complaint

May 16, 2001.

Take notice that on May 14, 2001, NSTAR Electric & Gas Corporation filed a Complaint against suppliers within the Northeastern Massachusetts Area alleging the existence of unmitigated market power during period transmission congestion.

Copies of said filing have been served upon NEPOOL Participants, the ISO New England, Inc., as well as upon the utility regulatory agencies of the six New England States.

Any person desiring to be heard or to protest this 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 must be filed on or before June 4, 2001. 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 this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222) for assistance. Answers to the complaint shall also be due on or before June 4, 2001.

Comments, protests and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions

on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

David P. Boergers,

Secretary.

[FR Doc. 01–12778 Filed 5–21–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–426–004]

Texas Gas Transmission Corporation; Notice of Negotiated Rate

May 16, 2001.

Take notice that on May 11, 2001, Texas Gas Transmission Corporation (Texas Gas) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheet to become effective May 11, 2001.

First Revised Sheet No. 40

Texas Gas states that the purpose of this filing is to reflect the new negotiated rate/non-conforming contract in its tariff as required Section 154.112(b) of the Commission's regulations and as directed by Commission Letter Order dated April 27, 2001.

Texas Gas states that copies of the revised tariff sheet is being mailed to Texas Gas's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

David P. Boergers,

Secretary.

[FR Doc. 01–12780 Filed 5–21–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

[Docket No. RP01–314–001]

Williston Basin Interstate Pipeline Company; Notice of Compliance Tariff Filing

May 16, 2001

Take notice that on May 11, 2001, Williston Basin Interstate Pipeline Company (Williston Basin) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the compliance tariff sheets listed on Appendix A to the filing, to become effective May 1, 2001.

Williston Basin states that on April 27, 2001, the Commission issued its ''Order Accepting and Suspending Tariff Sheets, Subject to Refund and Conditions and Denying Request for Waiver, (Order)'' in the above referenced docket. That Order accepted Williston Basin's proposed park and loan service subject to Williston Basin making a compliance filing to address the conditions of the Order. The instant filing is being made in compliance with the provisions of that Order.

Any person desiring to protest said 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 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. 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). Comments, protests and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

David P. Boergers,

Secretary.

[FR Doc. 01–12779 Filed 5–21–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER00–1997–001; ER97–3189–030; ER98–1569–004; ER00–1014–001]

PPL Electric Utilities Corporation; Notice of filing

May 15, 2001

Take notice that on May 10, 2001, PPL Electric Utilities Corporation (PPL) tendered for filing a letter stating that PPL will not be filing the requested effective tariff in accordance with the Commission's letter order on April 13, 2001. The April 13, 2001 letter order directed PPL to file the effective tariff language for a settlement offer filed on March 9, 2001 with Allegheny Electric Cooperative (Allegheny), in accordance with Order No. 614. The subject settlement offer does not contain effective tariff language to be filed in a PPL Electric rate schedule. Rather, the settlement contains specific commitments with regard to the disposition of disputes that were outstanding with Allegheny and with regard to future actions not affecting current jurisdictional service.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before May 31, 2001. 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). Comments, protests and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–12783 Filed 5–21–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER01–1989–001]

Southwest Power Pool, Inc.; Notice of Filing

May 15, 2001.

Take notice that on May 10, 2001, Southwest Power Pool, Inc. (SPP) tendered for filing a supplement to the tariff changes submitted on May 7, 2001, in Docket No. ER01–1989–000.

Copies of this filing have been served on all affected state commission, SPP customers, and SPP members.

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 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). Comments, protests and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm.*

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–12784 Filed 5–21–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[FERC Docket Nos. CP01–22–000 and CP01–23–000; CSLC EIR No. 703; State Clearinghouse No. SCH2001011020; BLM Reference No. CACA–42662]

North Baja Pipeline, LLC; Supplement to the Notice of Intent/Preparation to Prepare a Joint Environmental Impact Statement/Report for the Proposed North Baja Pipeline Project and Request for Comments on Environmental Issues Related to the Bureau of Land Management's Consideration of an Amendment to the Yuma Resource Management Plan

May 16, 2001.

On December 12, 2000, the Federal Energy Regulatory Commission (FERC or Commission) and the California State Lands Commission (CSLC) issued a Notice of Intent/Preparation (NOI/NOP) to jointly prepare an environmental impact statement/report (EIS/EIR) that will discuss the environmental impacts of North Baja Pipeline, LLC's (NBP) proposed North Baja Pipeline Project in La Paz County, Arizona, and Riverside and Imperial Counties, California. The FERC will be the lead Federal agency in the preparation of the EIS/EIR while the CSLC will be the State Lead Agency for California. The joint document will satisfy the requirements of both the National Environmental Policy Act (NEPA) and the California Environmental Quality Act.

The North Baja Pipeline Project would involve the construction and operating of a new 18,810-horsepower compressor station in La Paz County, Arizona, and about 80.0 miles of 36- and 30-inch-diameter pipeline extending from an interconnection with El Paso Natural Gas Company in La Paz County, Arizona, through Riverside and Imperial Counties, California, to an interconnection at the international border between the United States and Mexico. A total of 48.2 miles of the proposed pipeline and one new meter station would be on lands managed by the Bureau of Land Management (BLM) under the jurisdiction of the Palm Springs, El Centro, and Yuma Field Offices. The BLM has agreed to meet its NEPA responsibilities in considering NBP's application to cross these Federal lands by participating as a cooperating agency in the preparation of the EIS/EIR.

The December 12, 2000 NOI/NOP stated that the BLM will use the EIS/EIR to consider a plan amendment, which may be necessary for pipeline construction outside of the designated utility corridors as described in the California Desert Conservation Area Plan, 1980 (as amended). The BLM has recently informed us that it will also use the EIS/EIR to consider an amendment to the Yuma Resource Management Plan (RMP), which may be necessary for pipeline construction across the Milpitas Wash Special Management Area.

By this notice, we [1] are specifically seeking public comments on the BLM's consideration of an amendment to the Yuma RMP. This supplemental NOI/NOP does not reopen the general scoping period for the EIS/EIR. Please carefully follow the instructions below to ensure that your comments are received in time and properly recorded.

- Send an original and two copies of your letter to: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First St., N.E., Room 1A, Washington, DC 20426;
- Reference Docket No. CP01–22–000;
- Label one copy of you comments for the attention of the Gas Group 1, PJ–11.1;
- Send an additional copy of your letter to the following individual: Goodyear K. Walker, California State Lands Commission, 100 Howe Ave., Suite 100 South, Sacramento, CA 95825;
- Mail your comments so that they will be received in Washington, DC on or before June 18, 2001.

Comments, protests and interventions may also be filed electronically via the internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's website at *http://www.ferc.fed.us/efi/doorbell.htm* under the link to the User's Guide. Before you can file comments you will need to create an account by clicking on ''Login to File'' and then ''New User Account.''

Availability of Additional Information

Additional information abut the proposed project is available from the Commission's Office of External Affairs at (202)208–1088 or on the FERC website (*www.ferc.fed.us*) using the ''RIMS'' link to information in this docket number. Click on the ''RIMS'' link, select ''Docket #'' from the RIMS Menu, and follow the instructions. For assistance with access to RIMS, the RIMS helpline can be reached at (202) 208–2222.

Similarly, the ''CIPS'' link on the FERC Internet website provides access to the texts of formal documents issued by the Commission, such as orders,

[1] ''We,'' ''us,'' and ''our'' refer to the staff of the FERC's Office of Energy Projects and the CSLC.

notices, and rulemakings. From the FERC Internet website, click on the ''CIPS'' link, select ''Docket #'' from the CIPS Menu, and follow the instructions. For assistance with access to CIPS, the CIPS helpline can be reached at (202) 208–2474.

Information concerning the involvement of the CSLC in the EIS/EIR process may be obtained from Kirk Walker, EIR Project Manager, at (916) 574–1893, or on the California State Lands website at http://www.slc.ca.gov.

Information concerning the involvement of the BLM in the EIS/EIR process may be obtained from Lynda Kastoll, Project Manager at (760) 337–4421, or on the BLM website at *http://www.ca.blm.gov/elcentro.*

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–12788 Filed 5–21–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Tendered for Filing With the Commission, Soliciting Additional Study Requests, and Establishing Procedures for Relicensing and a Deadline for Submission of Final Amendments

May 16, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* New Minor License.

b. *Project No.:* 3410–009.

c. *Date Filed:* April 30, 2001.

d. *Applicant:* Woods Lake Hydro Company.

e. *Name of Project:* Woods Lake Hydro Project.

f. *Location:* On Lime Creek, a tributary of Frying Pan River, in Eagle County, Colorado. The project occupies 2.73 acres of federal lands within the White River National Forest.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791 (a)–825(r).

h. *Applicant Contact:* Kenneth M. Knight, Woods Lake Hydro Company, P.O. Box 11175, Aspen, Colorado (970) 925–8854.

i. *FERC Contact:* Gaylord W. Hoisington, (202) 219–2756 or *gaylord.hoisington@FERC.fed.us.*

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426.

Comments, protests, interventions and additional study requests may be filed electronically via the internet in lieu of papers. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm.*

The Commission's Rules of Practice require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on the resource agency.

k. This application is not ready for environmental analysis at this time.

l. The existing Woods Lake Project consists of: (1) A 37.3-foot-long, 6-foot-high overflow-type gravity dam; (2) a reservoir having a surface area of 0.018 acre and a storage capacity of 0.09 acre-foot of storage capacity; (3) a gated and screened intake structure; (4) a gated 15-inch 630-foot-long PVC pipeline penstock; (5) a powerhouse containing a generating unit having an installed capacity of 45-kilowatts; (6) a short 24-inch-diameter CMP tailrace pipe; (7) a 1.02-mile-long transmission line; and (8) a switch gear, power controls, breaker boxes switches, meters, transformers, and other appurtenant facilities. The applicant estimates that the total average annual generation would be 98,640 kilowatt-hours. All generated power is utilized within the applicant's existing electric utility system.

m. A copy of the application is available for inspection and reproduction at the address in item h above.

n. With this notice, we are initiating consultation with the *Colorado State Historic Preservation Officer (SHPO),* as required by § 106, National Historic Preservation Act, and the regulations of the Advisory Council on Historic Preservation, 36 CFR 800.4.

o. Procedural schedule and final amendments: The application will be processed according to the following milestones, some of which be combined to expedite processing:

Notice of application has been accepted for filing

Notice of NEPA Scoping (unless scoping has already occurred)

Notice of application is ready for environmental analysis

Notice of the availability of the draft NEPA document

Notice of the availability of the final NEPA document

Ordering issuing the Commission's decision on the application

Final amendments to the application must be filed with the Commission no later than 30 days from the issuance date of the notice of ready for environmental analysis.

David P. Boergers,

Secretary.

[FR Doc. 01–12785 Filed 5–2–01; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[WH–FRL–6982–3]

Meeting of the Arsenic Cost Working Group of the National Drinking Water Advisory Committee

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Under section 10(a)(2) of Public Law 92–423, ''The Federal Advisory Committee Act,'' notice is hereby given that a meeting of Arsenic Cost Working Group of the National Drinking Water Advisory Council established under the Safe Drinking Water Act, as amended (42 U.S.C. S300f *et seq.*), will be held on May 29 and May 30, 2001, from 8:30 a.m.–5:00 p.m. Eastern Time, at RESOLVE, 1255 23rd Street, NW., Suite 275, Washington, DC. The meeting is open to the public, but from past experience, seating will likely be limited.

Following the January 22, 2001 **Federal Register** promulgation of the arsenic rule, a number of concerns were raised to EPA by States, public water systems, and other stakeholders regarding the adequacy of science and the basis for national cost estimates underlying the rule. Because of the importance of the arsenic rule and the national debate surrounding it related to science and costs, EPA's Administrator publicly announced on March 20, 2001, that the Agency would take additional steps to reassess the scientific and cost issues associated with this rule and seek further public input on each of these important issues.

The purpose of this meeting is to bring nationally recognized technical experts together to review the cost of compliance estimates associated with the final arsenic in drinking water rule. The meeting is open to the public to observe. The working group members are meeting to: (1) Gather information; and (2) analyze relevant issues and facts. Statements from the public will be taken if time permits.

For more information, please contact Amit Kapadia, Acting Designated Federal Officer, Arsenic Cost Working Group, U.S. EPA, Office of Ground Water and Drinking Water, Mailcode 4607, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. Phone number: (202)–260–1688. E-mail: kapadia.amit@epa.gov.

Dated: May 14, 2001.

Cynthia C. Dougherty,

Director, Office of Ground Water and Drinking Water.

[FR Doc. 01–12879 Filed 5–21–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–00439K; FRL–6785–3]

Pesticide Program Dialogue Committee (PPDC); Inert Disclosure Stakeholder Workgroup; Notice of Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public meeting.

SUMMARY: This notice announces a conference call meeting of the Inert Disclosure Stakeholder Workgroup. The workgroup was established to advise the Pesticide Program Dialogue Committee on ways of making information on inert ingredients more available to the public while working within the mandates of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and related Confidential Business Information concerns.

DATES: The meeting will be held by conference call on Tuesday, May 22, 2001, from noon to 3 p.m. eastern standard time.

ADDRESSES: Members of the public may listen to the meeting discussions on site at: Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA; Conference Room 1123. Seating is limited and will be available on a first come first serve basis.

FOR FURTHER INFORMATION CONTACT: By mail: Cameo Smoot, Field and External Affairs Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, telephone: (703) 305–5454. Office location: 11th floor, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA; e-mail: smoot.cameo@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Does this Action Apply to Me?

This action is directed to the public in general and to persons interested in the availability of public information regarding inert or ''other'' ingredients in pesticide products regulated under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA).

The Inert Disclosure Stakeholder Workgroup was established to advise the United States Environmental Protection Agency, through the Pesticide Program Dialogue Committee (PPDC), on potential measures to increase the availability to the public of information about inert ingredients (also called ''other ingredients'') under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). Among the factors the workgroup has been asked to consider in preparing its recommendations are: Existing law regarding inert ingredients and Confidential Business Information (CBI); current Agency processes and policies for disseminating inert ingredient information to the public, including procedures for the protection of CBI; informational needs for a variety of stakeholders; and business reasons for limiting the disclosure of inert ingredient information.

The Inert Disclosure Stakeholder Workgroup is composed of participants from the following sectors: environmental/public interest and consumer groups; industry and pesticide users; Federal, State and local governments; the general public; academia and public health organizations.

The Inert Disclosure Stakeholder Workgroup meeting is open to the public. Written public statements are also welcome and should be submitted to the OPP administrative docket OPP–00439A. Any person who wishes to file a written statement can do so before or after the conference call. These statements will become part of the permanent file and will be provided to the workgroup members for their information. If you have any questions about the workgroup, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

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

1. *Electronically*. You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations,'' ''Regulations and Proposed Rules,'' and then look up the entry for this document under the ''Federal Register—Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.For general background information about the Inert Disclosure Stakeholder Workgroup, its mission and a list of its members, go to http://www.epa.gov/pesticides/ppdc/inert/.

2. *In person*. The Agency has established an administrative record for this workgroup under docket control number OPP–00439. The administrative record consists of the workgroup documents including discussion papers, meeting agenda, as well as comments submitted to the workgroup by members of the public. This administrative record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the administrative record, which includes printed, paper versions of any electronic comments that may be submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

III. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–00439A in the subject line on the first page of your correspondence.

1. *By mail*. Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

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

3. *Electronically*. You may submit your comments and/or data electronically by e-mail to: ''opp-docket@epa.gov,'' or you can submit a computer disk as described in Units III.A.1. and 2. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number OPP–00439A. Electronic comments may also be filed online at many Federal Depository Libraries.

List of Subjects

Environmental protection, Pesticides, Inerts, PPDC.

Dated: May 11, 2001.

Joseph J. Merenda,

Acting Director, Office of Pesticide Programs.

[FR Doc. 01–12881 Filed 5–17–01 5:06 pm]

BILLING CODE 6560–50–S

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank 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 office 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 June 5, 2001.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166–2034:

1. Howard Ray Sanders, Owensboro, Kentucky; to acquire additional voting shares of First Security, Inc., Owensboro, Kentucky, and thereby indirectly acquire additional voting shares of First Security Bank, Owensboro, Kentucky.

Board of Governors of the Federal Reserve System, May 16, 2001.

Robert deV. Frierson

Associate Secretary of the Board.

[FR Doc. 01–12807 Filed 5–21–01; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies; Correction

This notice corrects a notice (FR Doc.01-11464) published on pages 23255 and 23256 of the issue for Tuesday, May 8, 2001.

Under the Federal Reserve Bank of Richmond heading, the entry for BB&T Corporation, Winstom-Salem, North Carolina, is revised to read as follows:

A. Federal Reserve Bank of Richmond (A. Linwood Gill, III, Vice President) 701 East Byrd Street, Richmond, Virginia 23261–4528:

1. BB&T Corporation, Winston-Salem, North Carolina; to merge with F&M National Corporation, Winchester, Virginia, and thereby indirectly acquire F&M Bank-Maryland, Bethesda, Maryland; F&M Bank-Central Virginia, Charlottesville, Virginia; F&M Bank-Highlands, Covington, Virginia; F&M Bank-Southern Virginia, Emporia, Virginia; F&M Bank-Northern Virginia, Fairfax, Virginia; F&M Bank-Atlantic, Gloucester, Virginia; F&M Bank-Massanutten, Harrisonburg, Virginia; F&M Bank-Richmond, Richmond, Virginia; F&M Bank-Peoples, Warrenton, Virginia; F&M Bank-Winchester, Winchester, Virginia; and F&M Bank-West Virginia, Ranson, West Virginia. Applicant also has applied to acquire up to 9 percent of F&M Corporation.

In connection with this application, Applicant also has applied to acquire F&M Trust Company, Winchester, Virginia, and thereby engage in trust company activities, pursuant to § 225.28(b)(5) of Regulation Y, and Johnson Mortgage Company, LLC, Newport News, Virginia, and thereby engage in mortgage banking activities, pursuant to § 225.28(b)(1) of Regulation Y.

Comments on this application must be received by June 1, 2001.

Board of Governors of the Federal Reserve System, May 16, 2001.

Robert deV. Frierson

Associate Secretary of the Board.

[FR Doc. 01–12805 Filed 5–21–01; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 15, 2001.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166–2034:

1. Timberland Bancshares, Inc., El Dorado, Arkansas; to become a bank holding company by acquiring 100 percent of the voting shares of Timberland Bank, El Dorado, Arkansas.

B. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. Sterling Bancsharaes, Inc., Houston, Texas; to merge with Lone Star Bancorporation, Inc., Houston, Texas, and thereby indirectly acquire voting shares of Lone Star Bancorporation of Delaware, Inc., Wilmington, Delaware, and Lone Star Bank, Houston, Texas.

Board of Governors of the Federal Reserve System, May 16, 2001.

Robert deV. Frierson

Associate Secretary of the Board.

[FR Doc. 01–12806 Filed 5–21–01; 8:45 am]

BILLING CODE 6210–01–S

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 June 5, 2001.

A. Federal Reserve Bank of New York (Betsy Buttrill White, Senior Vice President) 33 Liberty Street, New York, New York 10045–0001:

1. Banco Bradesco S.A., Osasco, Brazil; to engage *de novo* through its subsidiary, Bradesco Securities, Inc., New York, New York, in financial and investment advisory activities and securities brokerage and riskless principal services, pursuant to §§ 225.28(b)(6)(ii), (iii) and (iv) and 225.28(b)(7)(i) and (ii) of Regulation Y.

B. Federal Reserve Bank of Atlanta (Cynthia C. Goodwin, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303–2713:

1. Hancock Holding Company, Gulfport, Mississippi, to acquire Lamar Data Solutions, Inc., Purvis, Mississippi, and thereby engage in data processing and transmission services for financial institutions, pursuant to section 225.28(b)(14)(i) of Regulation Y.

Board of Governors of the Federal Reserve System, May 16, 2001

Robert deV. Frierson

Associate Secretary of the Board.

[FR Doc. 01–12804 Filed 5–21–01; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: 11 a.m., Tuesday, May 29, 2001.

PLACE: Marriner S. Eccles Federal Reserve Board Building, 20th and C Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Michelle A. Smith, Assistant to the Board; 202–452–3204.

SUPPLEMENTARY INFORMATION: You may call 202–452–3206 beginning at approximately 5 p.m. two business days before the meeting for a recorded announcement of bank and bank holding company applications scheduled for the meeting; or you may contact the Board's Web site at http://www.federalreserve.gov for an electronic announcement that not only lists applications, but also indicates procedural and other information about the meeting.

Dated: May 18, 2001.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 01–13074 Filed 5–18–01; 3:59 pm]

BILLING CODE 6210–01–P

FEDERAL TRADE COMMISSION

Agency Information Collection Activities; Proposed Collection; Comment Request; Extension

AGENCY: Federal Trade Commission (''FTC'')

ACTION: Notice.

SUMMARY: The information collection requirements described below will be submitted to the Office of Management and Budget (''OMB'') for review, as required by the Paperwork Reduction Act (''PRA''). The FTC is seeking public comments on its proposal to extend through September 30, 2004 the current PRA clearance for information collection requirements contained in its Used Motor Vehicle Trade Regulation Rule (''Used Car Rule'' or ''Rule''). That clearance expires on September 30, 2001.

DATES: Comments must be submitted on or before July 23, 2001.

ADDRESSES: Send written comments to Secretary, Federal Trade Commission, Room H–159, 600 Pennsylvania Ave., NW., Washington, DC 20580. All comments should be captioned ''Used Car Rule: Paperwork comment.''

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the proposed information requirements should be addressed to John C. Hallerud, Attorney, Midwest Region, Federal Trade Commission, 55 East Monroe, Suite 1860, Chicago, Illinois 60603, (312) 906–5634.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from OMB for each collection of information they conduct or sponsor. ''Collection of information'' means agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. 44 U.S.C. 3502(3), 5 CFR 1320.3(c). As required by section 3506(c)(2)(A) of the PRA, the FTC is providing this opportunity for public comment before requesting that OMB extend the existing paperwork clearance for the Used Car Rule, 16 CFR part 455 (OMB Control Number 3084–0108).

The FTC invites comments on: (1) 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) 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 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.

The Used Car Rule facilitates informed purchasing decisions by consumers by requiring used car dealers to disclose information about warranty coverage, if any, and the mechanical condition of used cars they offer for sale. The Rule requires that used car dealers display a Buyers Guide that, among other things, discloses information about warranty coverage on each used care offered for sale.

Burden Statement

Estimated total annual hours burden: 1,925,000 hours.

The Rule has no recordkeeping requirements. The estimated burden relating solely to disclosure is 1,925,000 hours. This estimate is based on the number of used car dealers (approximately 80,000 [1]), the number of used cars sold by dealers annually (approximately 30,000,000 [2]), and the time needed to fulfill the information collection tasks required by the Rule.[3] Staff retains its prior annual burden estimate as the changes in the approximate number of dealers and used cars they sold are marginal.[4]

The Rule requires that used car dealers display a one-page, double-sided Buyers Guide in the window of each used car they offer for sale. The component tasks associated with this requirement include: (1) Ordering and stocking Buyers Guide forms; (2) entering applicable data on Buyers Guides; (3) posting the Buyers Guides on vehicles; and (4) making any necessary revisions in Buyers Guides.

Dealers should need no more than an average of one hour per year to obtain Buyers Guide forms, which are readily available form many commercial printers or can be produced by an office word-processing or desk-top publishing system. Based on a universe of 80,000 dealers, the annual hours burden for producing or obtaining and stocking Buyers Guides is 80,000 hours.

For used cars sold ''as is,'' copying vehicle-specific data from dealer inventories to the Buyers Guide forms and checking off the ''no warranty'' box may take up to two minutes per vehicle if done by hand, and only seconds for those dealers who have automated the process. Staff conservatively assumes that this task, on average, will require 1.5 minutes. For used cars sold under warranty, checking off the warranty box and adding warranty information may take an additional one minute, i.e., 2.5 minutes. Based on input from industry sources, staff estimates that approximately 60% of used cars sold by dealers are sold ''as is,'' with the remainder sold under warranty. Thus, staff estimates the time required to enter data for used cars sold without warranty is 450,000 hours (30,000,000 X 60% X 1.5 minutes ÷ 60 minutes/hour) and 500,000 hours for used cars sold under warranty (30,000,000 X 40% X 2.5 minutes ÷ 60 minutes/hour), for an overall total of 950,000 hours.

Although the time required to post the Buyers Guides on each used car may vary substantially, FTC staff estimates that, on average, dealers will spend 1.75 minutes per vehicle to match the correct Buyers Guide to the vehicle and place it in or on the vehicle. For the 30,000,000 vehicles sold, the burden associated with this task is 875,000 hours. To the extent dealers are able to integrate this process into other activities performed in their ordinary course of business, this estimate likely overstates the actual burden.

If negotiations between buyer and seller over warranty coverage produce a sale on terms other than those originally entered on the Buyers Guide, the dealer must revise the Guide to reflect the actual terms of sale. According to the rulemaking record, bargaining over warranty coverage rarely occurs. Allowing for revision in 2% of sales, at two minutes per revision, staff estimates that dealers will spend 20,000 hours annually revising Buyers Guides.

Estimated annual cost burden: $28,250,000, consisting of $19,250,000 in labor costs and $9,000,000 in non-labor costs.

Labor costs: Labor costs are derived by applying appropriate hourly cost figures to the burden hours described above. Staff has determined that all of the tasks associated with ordering forms, entering data on Buyers Guides, posting Buyers Guides on vehicles, and revising them as needed are typically done by clerical or low-level administrative personnel. Using a clerical cost rate of $10 per hour and an estimate of 1,925,000 burden hours for disclosure requirements, the total labor cost burden would be approximately $19,250,000.

Capital or other non-labor costs: The cost of the Buyers Guide form itself is estimated to be 30 cents per form, so that forms for 30 million vehicles would cost dealers $9,000,000. In making this estimate, staff conservatively assumes that all dealers will purchase preprinted forms instead of producing them internally, although dealers may produce them at minimal expense using current office automation technology. Capital and start-up costs associated with the Rule are minimal.

John D. Graubert,

Acting General Counsel.

[FR Doc. 01–12826 Filed 5–21–01; 8:45 am]

BILLING CODE 6750–01–M

[1] The Used Car Market Report 2001 (''Manheim Market Report''), p. 24, published by Manheim Auctions, 1400 Lake Hearn Drive NE, Atlanta, Georgia 30319, citing NADA, CNW Marketing Research. Prior issues of The Used Car Market Report were published by ADT Automotive. The Manheim Market Report reports the number of dealerships in 2000 as 77,750 online at: *http://www.manheimauctions:com/HTML/ucmr/dealership1.htm1#*. For rounding purposes, staff retains its prior estimate of 80,000.

[2] Manheim Market Report, p. 15. The Manheim Market Report estimates the number of used cars sold by dealers in 2000 as 29,800,000. For rounding purposes, staff retains its prior estimate of 30,000,000.

[3] A relatively small number of dealers opt to contract with outside companies to perform the various tasks associated with complying with the Rule. Staff assumes that outside contractors would require about the same amount of time and incur similar cost as dealers to perform these tasks. Accordingly, the hour and cost burden totals shown, while referring to ''dealers,'' incorporate the time and cost borne by outside companies in performing the tasks associated with the Rule.

[4] See notes 1 and 2.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Agency Information Collection Activities: Proposed Collections; Comment Request

The Department of Health and Human Services, Office of the Secretary will periodically publish summaries of proposed information collections projects and solicit public comments in compliance with the requirements of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995. To request more information on the project or to obtain a copy of the information collection plans and instruments, call the OS Reports Clearance Officer on (202) 690–6207.

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 Projects 1. National Centers of Excellence in Women's Health; supplemental Community Survey—NEW—The Office on Women's Health (OWH) is currently conducting a study

of patient satisfaction and service utilization to assess the National Centers of Excellence in Women's Health program. This proposed collection of information would survey women in three communities with a Center of Excellence in Women's Health (CoE), to compare the data with CoE patient data and national benchmark data. The information will be used to inform the analysis conducted for the CoE study. *Respondents:* Individuals; *Number of Respondents:* 600; *Frequency of Response:* one time; *Burden per Response:* 15 minutes; *Total Burden:* 150 hours.

Send comments to Cynthia Agens Bauer, OS Reports Clearance Officer, Room 503H, Humphrey Building, 200 Independence Avenue SW., Washington, DC 20201. Written comments should be received within 60 days of this notice.

Dated: May 9, 2001.

Kerry Weems,

Acting Deputy Assistant Secretary, Budget.

[FR Doc. 01–12776 Filed 5–21–01; 8:45 am]

BILLING CODE 4150–33–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

National Vaccine Injury Compensation Program: Addition of Pneumococcal Conjugate Vaccines to the Vaccine Injury Table

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Notice.

SUMMARY: Through this notice, the Secretary announces that pneumococcal conjugate vaccines are now covered vaccines under the National Vaccine Injury Compensation Program (VICP), which provides a system of no-fault compensation for certain individuals who have been injured by covered childhood vaccines. This notice serves to include pneumococcal conjugate vaccines under Category XIII (new vaccines) of the Vaccine Injury Table (Table), which lists the vaccines covered under the VICP. This notice ensures that petitioners may file petitions relating to pneumococcal conjugate vaccines with the VICP even before such vaccines are added as a separate and distinct category to the Table through rulemaking.

DATES: This Notice is effective on May 22, 2001.

FOR FURTHER INFORMATION CONTACT: Geoffrey Evans, Medical Director, Division of Vaccine Injury Compensation, BHPr, HRSA, Parklawn Building, Room 8A–46, 5600 Fishers Lane, Rockville, Maryland 20857; telephone number (301) 443–4198.

SUPPLEMENTARY INFORMATION: The statute authorizing the VICP provides for the inclusion of additional vaccines in the VICP when they are recommended by the CDC to the Secretary for routine administration to children. (See section 2114(e)(2) of the Public Health Service (PHS) Act, 42 U.S.C. 300aa–14(e)(2).) Consistent with section 13632(a)(3) of Pub. L. 103–66, the regulations governing the VICP provide that such vaccines will be included in the Table as of the effective date of an excise tax to provide funds for the payment of compensation with respect to such vaccines. (42 CFR 100.3(c)(4)).

The two prerequisites for adding pneumococcal conjugate vaccines to the VICP as covered vaccines as well as to the Table have been satisfied. First, on December 17, 1999, the excise tax for pneumococcal conjugate vaccines was enacted by Pub. L. 106–170, the Ticket to Work and Work Incentives Improvement Act of 1999, with an effective date of December 18, 1999. Section 523 of this Act provides that all conjugate vaccines against streptococcus pneumoniae (pneumococcus) are added to section 4132(a)(1) of the Internal Revenue Code of 1986, which defines all taxable vaccines. Second, the CDC published its recommendation that pneumococcal conjugate vaccines be routinely administered to children up to 23 months of age in the October 6, 2000, issue of the Morbidity and Mortality Weekly Report.

Under the regulations governing the VICP, Item XIII of the Table specifies that ''[a]ny new vaccine recommended by the [CDC] for routine administration to children, after publication by the Secretary of a notice of coverage'' is a covered vaccine under the Table. (42 CFR 100.3(a), Item XIII.) As explained above, CDC's recommendation has been made. This Notice serves to satisfy the regulation's publication requirement. Through this notice, pneumococcal conjugate vaccines are now included as covered vaccines under Category XIII of the Table. Because the CDC only recommended pneumococcal conjugate vaccines to the Secretary for routine administration to children, polysaccharide-type pneumococcal vaccines are not covered under the VICP or included on the Table.

Under section 2114(e) of the PHS Act, as amended by section 13632(a) of the Omnibus Budget Reconciliation Act of 1993, a revision to the Table adding a vaccine recommended by the CDC for routine administration to children shall take effect upon the effective date of the tax enacted to provide funds for compensation with respect to the vaccine added to the Table. Thus, pneumococcal conjugate vaccines are included in the Table under Category XIII with an effective date of December 18, 1999. Petitioners may file petitions related to pneumococcal conjugate vaccines as of May 22, 2001.

The Secretary plans to amend the Table through the rulemaking process by including pneumococcal conjugate vaccines as a separate category of vaccines in the Table. December 18, 1999, will remain the applicable effective date when the Secretary makes a corresponding amendment to add pneumococcal conjugate vaccines as a separate category on the Table through rulemaking.

Dated: May 15, 2001.

Elizabeth James Duke,

Acting Administrator.

[FR Doc. 01–12808 Filed 5–21–01; 8:45 am]

BILLING CODE 4160–15–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30 DAY–31–01]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 639–7090. Send written comments to CDC, Desk Officer; Human Resources and Housing Branch, New Executive Office Building, Room 10235; Washington, DC 20503. Written comments should be received within 30 days of this notice.

Proposed Project

Alaska Air Carrier Operator and Pilot Survey—NEW—National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention (CDC). The mission of the National Institute for Occupational Safety and Health is to promote safety and health at work for all people through research and prevention.

There is evidence that a disproportionate number of all U.S.

aircraft crashes occur in Alaska. Between 1990–1998 there were 823 commuter and air taxi crashes in the U.S., of which 229 (28 percent) were fatal, resulting in 653 deaths. Alaska accounted for 304 (37 percent) of the total crashes, 49 of which were fatal (21 percent of the U.S. fatal crashes), resulting in 131 deaths (20 percent of all U.S. deaths) (NTSB Aviation Accident Database, 1999). Aviation crashes are now the leading cause of occupational fatalities in Alaska.

To address this compelling occupational issue in Alaska, Congress supported implementation of a federal initiative to reduce aviation-related injuries and fatalities. The initiative is a three-year commitment led by a partnership of four federal agencies who share an interest in promoting aviation safety and preventing aircraft crashes—the Federal Aviation Administration (FAA), the National Transportation Safety Board (NTSB), National Weather Service (NWS), and the National Institute for Occupational Safety and Health (NIOSH). The purpose of this joint initiative is to reduce the number of aircraft crashes and deaths, and promote aviation safety within the air transportation industry in Alaska.

This initiative complements another federal/industry initiative to reduce aviation fatalities—the Capstone Program. The Capstone Program, currently implemented in the Bethel, Alaska area includes installation of improved avionics in aircraft used in FAR part 135 operations, an improved ground infrastructure for weather information, data link communications and Flight Information Services, and the development of new GIS-based non-precision instruction approaches at remote airports.

As part of these initiatives, air carrier operators and pilots will be surveyed to obtain information on what they perceive are the risks and hazards contributing to aircraft accidents in Alaska, their opinion about current safety programs, and what they think could be done to improve aviation safety. This information will be analyzed to identify common risk factors, compare them to risk factors identified from analysis of accident reports and published literature, and assess the effectiveness of current and new potential safety interventions. These findings will be useful to Alaska's air transportation industry for trend information to evaluate interventions.

To reduce the total respondent burden and increase efficiency in data collection, we are coordinating and combining the information gathering process for both the joint initiative and a safety study of the Capstone initiative into one effort. The joint initiative will conduct two statewide surveys: Approximately 400 participants in the air carrier operator survey and 500 participants in the pilot survey. The Capstone safety study will add questions to both surveys for respondents in the implementation area, and in addition will continue to survey pilots using Capstone equipment for the duration of that program (through fall 2002). Follow up surveys to assess the effectiveness of the implementation measures would re-survey approximately half of the original statewide sample: about 200 air carrier operators and 250 pilots.

We will use the results of the initial statewide surveys to (1) recommend ways to improve air transportation safety; (2) identify measures to put the recommendations into effect; and (3) guide the ongoing research. Follow up surveys will assess the effectiveness of the program and identify potential improvements. We will use the results of the Capstone study surveys to assess the effectiveness of that program and to recommend improvements. The information can be obtained only from the respondents, as it requests information on skills, knowledge, attitudes, and business practices for which no other source is available. The total annual burden for this collection is 670 hours.

Respondents	Number of respondents	Number of responses per respondent	Avg. burden per response (in hrs.)
Operators Survey	200	1	30/60
Capstone Questions for Capstone area Operators	30 (subset of 200)	1	15/60
Pilot Survey	400	1	30/60
Capstone Questions for Capstone area Pilots	50 (subset of 400)	1	15/60
Capstone Pilots not in AIASI Survey	100	1	30/60
Follow-up survey of Operators	200	1	30/60
Follow-up survey of Pilots	400	1	60

Dated: May 10, 2001.

Nancy E. Cheal,

Acting Associate Direct for Policy Planning, and Evaluation, Centers for Disease Control and Prevention (CDC).

[FR Doc. 01–12773 Filed 5–21–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30 DAY–35–01]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 639–7090. Send written comments to CDC, Desk Officer; Human Resources and Housing Branch, New Executive Office Building, Room 10235; Washington, DC 20503. Written comments should be received within 30 days of this notice.

Proposed Project

National Disease Surveillance Program—I. Case Reports (0920–0009)—Extension—National Center for Infectious Diseases (NCID), Centers for Disease Control and Prevention (CDC). Formal surveillance of 22 separate reportable diseases has been ongoing to meet the public demand and scientific interest for accurate, consistent, epidemiologic data. These ongoing diseases include: Bacterial meningitis,

dengue, hantavirus, HIV/AIDS, Idiopathic CD4+T-lymphocytopenia, Kawasaki syndrome, Legionellosis, lyme disease, malaria, Mycobacterium avium Complex Disease, plague, Reye Syndrome, tick-borne Rickettsial Disease, toxic shock syndrome, toxocariasis, trichinosis, typhoid fever, and viral hepatitis. Case report forms enable CDC to collect demographic, clinical, and laboratory characteristics of cases of these diseases. This information is used to direct epidemiologic investigations, to identify and monitor trends in reemerging infectious diseases or emerging modes of transmission, to search for possible causes or sources of the diseases, and to develop guidelines for the prevention of treatment. It is also used to recommend target areas in most need of vaccinations for certain diseases and to determine development of drug resistance.

Because of the distinct nature of each of the diseases, the number of cases reported annually is different for each. The total annualized burden is 34,038 hours (131,307 × .259225).

Respondents	Number of respondents	Number of responses per respondent	Average burden respondent (in hours)
Health care workers	55	131,307	0.259225

Dated: May 10, 2001.

Nancy Cheal,

Acting Associate Director for Policy, Planning, and Evaluation Centers for Disease Control and Prevention.

[FR Doc. 01–12774 Filed 5–21–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 01132]

American Indian/Alaska Native Core Capacity Building Programs; Notice of Availability of Funds

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 2001 funds for a cooperative agreement program for American Indian/Alaska Native (AI/AN) Core Capacity Building Programs. This program addresses the ''Healthy People 2010'' focus areas of Maternal, Infant, and Child Health, Cancer, Heart Disease and Stroke, Diabetes, Human Immunodeficiency Virus (HIV), and Immunization and Infectious Diseases.

The purpose of the program is for AI/AN Communities to build core capacity and augment existing programs to reduce disparities in health outcomes for one or more of the designated health priority areas. In addition, the funding will be provided to AI/AN communities that demonstrate need based on high prevalence and related morbidity and mortality and have limited infrastructure and resources to address health disparities.

''Core capacity'' is defined as the development of infrastructure and support strategies, including networking, partnership formation, and coalition building to raise and maintain community awareness and support, as well as national awareness of the health priority area needs of AI/AN populations. Core capacity programs include basic health promotion, disease prevention and control functions, ability to capture data, program coordination related to primary and secondary prevention, scientific capacity, training and technical assistance, and culturally competent intervention strategies for addressing the health priority area needs of AI/AN populations.

Background

In 1997, President Clinton committed the nation to an ambitious goal by the year 2010 to eliminate disparities in health status experienced by racial and ethnic minority populations in key areas, while continuing the progress we have achieved in improving the overall health of the American people. In support of this effort, the Department of Health and Human Services (DHHS) identified six health priority areas in which racial and ethnic minorities experience serious health disparities: Infant Mortality, Deficits in Breast and Cervical Cancer Screening and Management, Cardiovascular Diseases, Diabetes, Human Immunodeficiency Virus (HIV) Infections/Acquired Immunodeficiency Syndrome (AIDS), and Deficits in Child and/or Adult Immunizations. On behalf of the DHHS-wide collaborative effort, the Centers for Disease Control and Prevention (CDC) is coordinating and managing a major component of activities to support this initiative.

B. Eligible Applicants

Eligible applicants are federally recognized AI/AN tribal governments and corporations, non-federally recognized tribes and other organizations that qualify under the Indian Civil Rights Act, State Charter Tribes, Urban Indian Health Programs, Indian Health Boards, Inter-Tribal Councils, and other tribal organizations, including urban and eligible inter-tribal consortia.

Tribal organizations, inter-tribal consortia, and urban organizations are eligible if incorporated for the primary purpose of improving AI/AN health and represent such interests for the tribes, Alaska Native Villages and corporations, or urban Indian communities located in its region. AI/AN tribes or urban communities represented may be located in one state or in multiple states. An urban organization is defined as a non-profit corporate body situated in an urban center eligible for services under Title V of the Indian Health Care Improvement Act, PL 94–437, as amended.

Minimal Requirements

1. Application

The application must target American Indian or Alaska Native communities and must address one or more of the following six health priority area(s): Infant Mortality, Deficits in Breast and Cervical Cancer Screening and Management, Cardiovascular Diseases, Diabetes, Human Immunodeficiency Virus (HIV) Infections/Acquired Immunodeficiency Syndrome (AIDS), and Deficits in Child and/or Adult Immunizations. Activities for health priority areas that are not under these categories will not be considered.

2. Tax-exempt Status

For those applicants applying as a private, non-profit organization, proof of tax-exempt status must be provided with the application. Tax-exempt status is determined by the Internal Revenue Service (IRS) Code, Section 501(c)(3). Any of the following is acceptable evidence:

a. A reference to the organization's listing in the IRS's most recent list of

tax-exempt organizations described in section 501(c)(3) of the IRS Code.

b. A copy of a currently valid IRS tax-exemption certificate.

c. A statement from a state taxing body, State Attorney General, or other appropriate state official certifying that the applicant organization has a non-profit status and that none of the net earnings accrue to any private shareholders or individuals.

d. A certified copy of the organizations's certificate of incorporation or similar document if it clearly establishes the non-profit status of the organization.

Competition is limited to those identified under ''Eligible Applicants'', because of the problems posed by high prevalence, morbidity and mortality for Infant Mortality, Deficits in Breast and Cervical Cancer Screening and Management, Cardiovascular Diseases, Diabetes, Human Immunodeficiency Virus (HIV) Infections/Acquired Immunodeficiency Syndrome (AIDS), Deficits in Child and/or Adult Immunizations, and the unique challenges faced by this population.

Note: Title 2 of the United States code, Chapter 26 Section 1611 states that an organization described in section 501 (c)(4) of the Internal Revenue Code of 1986 that engages in lobbying activities is not eligible to receive Federal funds constituting an award, grant, cooperative agreement, contract, loan, or any other form.

C. Availability of Funds

Approximately $1,500,000 is available in FY 2001 to fund approximately five to seven awards. It is expected that the average award will be $250,000, ranging from $200,000 to $300,000. It is expected that the awards will begin on or about September 30, 2001, and will be made for a 12-month budget period within a project period of up to three years. Funding estimates may change.

Continuation awards within an approved project period will be made on the basis of satisfactory progress as evidenced by required reports and the availability of funds.

1. Use of Funds

Assistance under this award may consist of developing culturally competent health promotion and disease intervention strategies, building scientific capacity, providing training and technical assistance, and facilitating networking and partnership development, including promoting collaboration with other tribes, national/regional organizations (*e.g.*, Indian Health Boards, Inter-Tribal Councils, etc.), other health organizations (*e.g.*, hospitals, Indian Health Service and Tribal Health Clinics, foundations, National Diabetes Association, etc.), state/local health departments, the Indian Health Service and other Federal government agencies, and other appropriate partners (*e.g.*, business associations, faith-based organizations, etc.).

Applicants will not be eligible for multiple awards for different health priority areas. However, applications addressing related health priority areas (*e.g.*, cardiovascular diseases and diabetes, HIV infection/AIDS and infant mortality, etc.) that have a logical relationship due to common risk factors will be considered.

Funds may not be used to support direct patient medical care, facilities construction, to supplant or duplicate existing funding, or to fund activities for human subjects research.

Although applicants may contract with other organizations under these cooperative agreements, applicants must perform a substantial portion of the activities (including program management and operations) for which funds are requested.

Pre-Application Telephone Conference

Applicants are invited by CDC to participate in a pre-application technical assistance telephone conference May 24, 2001, from 1 p.m. to 3 p.m., Eastern Standard Time to discuss: programmatic issues regarding this program, how to apply, and questions regarding the content of the Program Announcement. This telephone conference is expected to last two hours. The conference name is American Indian/Alaska Native. The telephone bridge number for Federal participants is 404 639–3277; for non-Federal participants call 1–800–311–3437. Participants will need to enter the following conference code when prompted to be connected: code 112686.

2. Funding Preference

Each applicant may submit only one application. Geographic distribution among applicants and diversity in health priority areas may be funding considerations. Applicants should describe the geographic boundaries and make-up of the area for which it is applying. Applicants from the same geographic area are encouraged to collaborate. In addition, a community will not be eligible for multiple awards for different health priority areas. However, applications addressing related health priority areas (*e.g.*, cardiovascular diseases and diabetes; HIV infection/AIDS and infant mortality) will be considered.

Should both a tribal organization and an individual tribe that is currently a member of that organization become award recipients, CDC may choose to ensure that no duplication of effort within the scope of work authorized in this Program Announcement will be conducted within the same target community.

D. Program Requirements

In conducting activities to achieve the purpose of this program, the recipient will be responsible for the activities under 1. (Recipient Activities), and CDC will be responsible for the activities listed under 2. (CDC activities). All Recipient and CDC Activities authorized under this Program Announcement are expected to be completed by the end of the three-year project period.

1. Recipient Activities for Core Capacity Building Programs During the Three-Year Project Period

a. Develop/enhance scientific capacity in epidemiology, statistics, surveillance, and data analysis from new or existing data systems (*e.g.*, vital statistics, hospital discharges, Indian Health Service (IHS) data sets, National Health and Examination Survey (NHANES), Survey of American Indians/Alaska Natives, Behavioral Risk Factor Surveillance System (BRFSS), etc.) to correctly identify the AI/AN population(s) and existing health disparity and to monitor the effectiveness of public health interventions targeting these groups. Scientific capacity should include, but not be limited to, efforts to determine:

(1) Disease trends, including age of onset of disease, age at death, etc.;

(2) Geographic distribution of related health priority area disparities;

(3) Behavioral, social, or ecological risk factors related to the occurrence of disease;

(4) Ways to integrate systems to provide comprehensive data needed for assessing and monitoring the health of populations and program outcomes. Monitoring and program evaluation are considered essential components of building scientific capacity. Scientific capacity may also extend to developing access to outside databases, such as medical care and access to laboratory capacity consistent with the overall direction of the program.

b. *Develop a Community Capacity Plan (CCP).* Develop and implement a Community Capacity Plan, which includes specific objectives for building capacity to reduce disparities in health outcomes for selected health priority area(s)and related risk factors.

The plan should consider culturally appropriate behavioral, policy, and community approaches to reducing morbidity and mortality for the selected health priority area(s).

The CCP should include, but not be limited to, understanding the context, causes, and solutions for the health disparity; community needs assessment to identify and develop training and technical assistance; forming partnerships and engaging in community planning; accumulating resources; plans to develop and implement a culturally appropriate intervention(s) believed to bring about desired effects; planning community and systems changes that alter the environmental context within which individuals and groups behave; and documenting changes in knowledge, attitudes, beliefs, or behaviors among influential individuals or groups, with an intent of diffusing similar changes to a broader community population. For additional information regarding the CCP, please refer to Appendix I.

c. *Evaluation Plan.* Design and implement an evaluation plan to track and measure process and progress in developing a core capacity program. The plan should address measures considered critical to determine the readiness or ability of the AI/AN Community and its members to take action aimed at protective behaviors or changing risk, transforming community conditions and systems so that a supportive context exists to sustain behavior changes over time. In addition, the plan should include time-specific objectives which account for the major activities of the Community Capacity Plan, the means of tracking and measuring the collaborative work with partners, and any other relevant process measures. Time lines, objectives, and other supporting documentation should be included in the evaluation plan.

2. CDC Activities for the Three-Year Project

a. In collaboration with the recipient, provide appropriate training on developing prevention strategies (*e.g.*, building scientific capacity, collaboration and partnerships, implementing guidelines and model programs on disease prevention, etc.), which prepare tribes to mobilize and engage in prevention initiatives for the health priority area(s) selected.

b. Provide technical assistance through conference calls, resource material, training, and updated information, as needed. Facilitate communications locally, regionally, and nationally regarding resources and other opportunities involving capacity building activities. In addition, provide technical assistance through site visits.

c. Participate in the evaluation of activities and initiatives, including annual site visits.

E. Content

Applications

Use the information in the Program Requirements, Other Requirements, and Evaluation Criteria sections to develop the application content. Your application will be evaluated on the criteria listed, so it is important to follow them in laying out your program plan. Submit an original and five copies of the application, unstapled, and unbound. The narrative should be no more than 30 double-spaced pages, printed on one side, with one-inch margins, and unreduced font. The thirty pages do not include budget, appended pages or items placed within appended pages such as resumes, tribal letters of commitment, other letters of support, etc.

The application should include the following:

1. Introduction—Applicant Description

a. Describe the applicant's tribe, organization or consortia, including purpose or mission (if applicable), years of existence (if applicable), and experience in representing the health-related interests of the represented tribe(s).

b. Describe the represented tribe(s), including:

(1) The total population size of the tribe(s) represented.

(2) The represented tribe(s) geographical locations, their proximity to you and how you plan to reach the tribe(s).

c. Applicants should describe experience in community development, including, but not limited to:

(1) Current and past experience in providing leadership in the development of health-related programs, training programs or health promotion campaigns.

(2) Current and past experience related to one or more of the health priority area(s) or public health disease prevention and control programs, including descriptions of activities and initiatives developed and implemented.

(3) Current and past experience in networking and in building partnerships and alliances with other organizations.

(4) Ability to provide support, outreach, and technical assistance on health-related matters to the represented tribes.

d. Submit a letter of commitment from the represented tribe(s) leadership, which indicates the tribe's willingness to participate in the program, including a copy of the signed original in the Appendix.

2. Need to Address Health Priority Area(s)

Describe the specific community's health problem(s) and need for building capacity to address the selected health priority area(s) among the represented tribe(s). Discuss data needs and how the applicant will assist the tribe(s) in addressing these identified needs. The information provided should describe the following:

a. The extent to which the tribe(s) is impacted by the health priority area(s), including discussion of prevalence rates and any variations in prevalence among represented tribe(s), morbidity and/or mortality, and other evidence of the health disparity.

b. The need to strengthen existing data and add new data.

c. The need for disease prevention and control strategies that are culturally appropriate for their populations, including discussion of the challenges, limitations and/or opportunities for implementing effective prevention programs.

d. The need to develop a comprehensive and sustainable CCP among the represented tribe(s).

3. Community Capacity Plan

Submit a comprehensive and detailed Community Capacity Plan (CCP) that is realistic and achievable over the three-year project period with objectives that are specific, measurable, achievable, and time-phased. The CCP should clearly address the following:

a. A description of how the applicant will conduct and use results of a community needs assessment to develop local or regional, culturally competent training and technical assistance programs to increase the skill-level of tribes and partners in areas such as epidemiologic investigative methods, surveillance, public health policy, and other relevant topics as identified through the needs assessment process (see Appendix for additional information and examples.

b. A description of how the applicant will identify and develop culturally-competent intervention strategies, designed to enhance program efforts to reduce the selected health disparity. Strategies should focus on public policy and community approaches but may include interventions that alter the context within which individuals and groups behave, increase awareness of the disease burden and risk factors, and

promote healthy behaviors to reduce the selected disparity.

c. A description of who will be the target of selected activities and how each proposed activity will be achieved.

d. A description of proposed linkages with appropriate partners (*e.g.*, tribal, state, local health departments, and other public or private organizations) in carrying out the proposed activities in the CCP.

e. A description of how the applicant will include affected community members in the development and implementation of the CCP.

f. A description of how the applicant will communicate and disseminate information and guidance to the represented tribes and their memberships (*e.g.*, newsletters, conferences, and meeting minutes).

g. A time line detailing initiation and completion of all activities in the CCP for the three-year project period.

4. Management Plan

a. Provide a description of how the applicant will manage the project to accomplish all proposed activities.

b. Provide a description of how the applicant proposes to staff the project. Provide job descriptions and indicate if they are existing or proposed positions. Staffing should include the commitment of at least one full-time staff member to provide direction for the proposed activities. Demonstrate that the staff member(s) have the professional background, experience, and organizational support needed to fulfill the proposed responsibilities. Where possible, identify staff responsible for completing each activity.

c. Describe the letters of commitment from the represented tribe(s) leadership which indicates the tribe's willingness to participate in the program. Be sure to include the signed original in the Appendix.

d. Submit a copy of the applicant's organizational chart and describe the existing structure and how it supports the development of the proposed CCP for the health priority area(s) selected.

5. Evaluation

a. Applicants should describe how they plan to measure the implementation and progression of various capacity building activities in achieving the objectives during the three-year project period (*e.g.*, understanding the context, causes, and solutions for health disparities, transforming community conditions and systems so that a supportive context exists to form and maintain an effective infrastructure, accumulating resources needed to implement the Community Capacity Plan, etc.).

b. Describe how the applicant will document success in building capacity for the tribe(s) (*e.g.*, surveys conducted, group(s) formed, number of trainings conducted, level of difficulty of the training and their rationale, evidence of acquired skills through application, and the impact on program objectives).

c. Describe how the applicant will assess the quantity and quality of networking efforts (*e.g.*, number of planning meetings or meeting with leadership, the degree of collaboration with leadership and other disease prevention and control programs, and the degree of collaboration with other organizations).

6. Budget and Accompanying Justification

(a) Provide a detailed budget and line-item justification that is consistent with the stated objectives and planned activities. To the extent possible, applicants are encouraged to include budget items for the following:

(1) Travel for a minimum of one or two persons to attend up to one national conference on health promotion and disease prevention related to the selected health priority area(s).

(2) Up to two trips to Atlanta, GA, for a minimum of one or two persons, to attend training and technical assistance workshops.

F. Submission and Deadline

Application

Submit the original and two copies of PHS 5161–1 (OMB Number 0348–0043). Forms are available in the application kit and at the following Internet address: http://forms.psc.gov

On or before July 13, 2001, submit the application to the Grants Management Specialist identified in the ''Where to Obtain Additional Information'' section of this announcement.

Deadline: Applications shall be considered as meeting the deadline if they are either:

1. Received on or before the deadline date; or

2. Sent on or before the deadline date and received in time for submission to the independent review group. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

Late Applications: Applications which do not meet the criteria in 1. or 2. above, are considered late applications, will not be considered, and will be returned to the applicant.

G. Evaluation Criteria (100 points)

Each application will be evaluated individually against the following criteria by an independent review group appointed by CDC.

1. Introduction—Applicant Description (15 points)

a. The extent to which the applicant clearly describes the tribe, organization or consortia, including purpose or mission (if applicable), years of existence (if applicable), and experience in representing the health-related interests of the represented tribe(s).

b. The extent to which the applicant describes the population size of the total tribe(s) represented, geographic location(s) and proximity to the applicant (if applicable).

c. The extent of the applicant's capacity and ability to conduct the activities as evidenced by the:

(1) Current and past experience in providing leadership in the development of health-related programs, training programs or health promotion campaigns.

(2) Current and past experience related to one or more of the health priority area(s) or public health disease prevention and control programs, including descriptions of activities and initiatives developed and implemented.

(3) Current and past experience in networking and in building partnerships and alliances with other organizations.

(4) Ability to provide support, outreach, and technical assistance on health-related matters to the represented tribes.

2. Need to Address Health Priority Area(s) (20 points)

The extent to which the applicant documents the need for building capacity to address the selected health priority area(s) for an AI/AN population, including:

(a) The extent to which the tribe(s) is impacted by the health priority area(s), including discussion of prevalence rates and any variations in prevalence among represented tribe(s), morbidity and/or mortality, and other evidence of the health disparity;

(b) The need to strengthen existing data and add new data;

(c) The need for disease prevention and control strategies that are culturally appropriate for their populations, including discussion of the challenges, limitations and/or other opportunities for implementing effective prevention programs;

(d) The need to develop a comprehensive and sustainable CCP among the represented tribe(s).

3. Community Capacity Plan (25 points)

a. The extent to which CCP is realistic and the extent to which the objectives in the Community Capacity Plan are specific, measurable, achievable, relevant and time-phased and likely to be accomplished during the three-year budget period.

b. Extent to which a community needs assessment will be conducted and used to develop culturally-competent training and technical assistance programs to increase the skill-level of tribes and partners in areas such as epidemiologic investigative methods, surveillance, public health policy, and other relevant topics as identified through the needs assessment process, and organizational involvement in program activities;

c. Extent to which the applicant identifies culturally competent intervention strategies designed to enhance program efforts to reduce the selected health disparity;

d. Extent to which the applicant describes who will be the targeted and how each proposed activity will be achieved;

e. Extent to which the applicant describes proposed linkages with appropriate partners (*e.g.*, tribal, state, local health departments, and other public or private organizations) in carrying out the Community Capacity Plan;

f. Extent to which the applicant describes how affected community members will be included in the development and implementation of the CCP.

g. Extent to which the applicant describes how communication and dissemination of information and guidance will be conducted with the represented tribe(s) and their memberships (e.g., newsletters, conferences, and meeting minutes) and

h. Extent to which the applicant provides time lines for initiation and completion of all proposed activities for the three-year period.

4. Management Plan (25 points)

a. Extent to which the applicant describes how the project will be managed to accomplish all proposed activities.

b. Extent to which the applicant provides a description of proposed staffing for the project, including providing job descriptions and indicating if they are existing or proposed positions. Staffing should include the commitment of at least one full-time staff member to provide direction for the proposed activities. Demonstrate that the staff member(s) have the professional background, experience, and organizational support needed to fulfill the proposed responsibilities. Where possible, identifying staff responsible for completing each activity.

c. Extent to which the applicant describes the letters of commitment from the represented tribe(s') leadership which indicates the tribe's willingness to participate in the program. Inclusion of signed originals should be provided in the Appendix.

d. Extent to which the applicant submits a copy of the applicant's organizational chart, and describes the existing structure and how it supports the development of the proposed CCP for the health priority area(s) selected.

5. Evaluation (15 points)

a. The extent to which the applicant describes how they plan to measure the implementation and progression of various capacity building activities in achieving the objectives during the three-year project period (e.g., understanding the context, causes, and solutions for health disparities; transforming community conditions and systems so that a supportive context exists to form and maintain an effective infrastructure; accumulating resources needed to implement the Community Capacity Plan, etc.).

b. Extent to which the applicant documents success in building capacity for the tribe(s) (e.g., number of trainings conducted, level of difficulty of the training and their rationale, evidence of acquired skills through application, and the impact on program objectives).

c. Extent to which the applicant describes the quantity and quality of networking efforts (e.g., number of planning meetings or meeting with leadership, the degree of collaboration with leadership and other disease prevention and control programs, and the degree of collaboration with other organizations).

6. Budget and Accompanying Justification (Not Scored)

The extent to which the applicant provides a detailed and clear budget consistent with the stated objectives and work plan.

H. Other Requirements

Technical Reporting Requirements Provide CDC With an Original Plus Two Copies of:

1. A progress report on a semi-annual basis. Progress reports are required no later than 30 days after the end of the first six months of the budget period, and 30 days after the end of the twelve-month budget period. The progress reports must include the following for each goal and objective.

a. Comparison of actual accomplishments to the objectives established for the period;

b. Reasons for not meeting any established objectives;

c. Other pertinent information, including explanations of any unexpected events or costs.

2. A financial Status Report (FSR) is required no later than 90 days after the end of each budget period.

3. A final FSR and progress report is required no later than 90 days after the end of the project period.

Send all reports to the Grants Management Specialist identified in the ''Where to Obtain Additional Information'' section of this announcement. All reports must be submitted to the Grants Management Branch, Procurement and Grants Office, CDC.

The following additional requirements are applicable to this program. For a complete description of each, see Attachment II in the application package.

AR–7 Executive Order 12372 Review
AR–9 Paperwork Reduction Act
AR–10 Smokefree Workplace Requirements
AR–11 Healthy People 2010
AR–12 Lobbying Restrictions
AR–15 Proof of Non-Profit Status

I. Authority and Catalog of Federal Domestic Assistance Number

This program is authorized under sections 301(a) and 317(k)(2) [42 U.S.C., section 241(a), and 247b(k)(2)] of the Public Health Service Act, as amended. The catalog of Federal Domestic Assistance number 93.283.

J. Where to Obtain Additional Information

This and other CDC announcements can be found on the CDC home page, Internet address—http://www.cdc.gov click on ''funding'' then ''Grants and Cooperative Agreements.''

If you have questions after reviewing the contents of all documents, business management technical assistance may be obtained from: Robert Hancock, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention, 2920 Brandywine Road, Room 3000, Atlanta, Georgia 30341–4146, Telephone: (770) 488–2746, FAX: (770) 488–2820, Email address: rnh2@cdc.gov.

Program technical assistance may be obtained from: Chris Tullier, Project

Consultant, Centers for Disease Control and Prevention, 4770 Buford Highway, NE, Mailstop K–30, Atlanta, Georgia 30341, Telephone: (770) 488–5482, Email Address: cjt4@cdc.gov.

Dated: May 16, 2001.

Henry S. Cassell, III,

Acting Director, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 01–12810 Filed 5–21–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 01084]

Improving Environmental Health Programs; Notice of Availability of Funds

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 2001 funds for a cooperative agreement program for improving environmental health programs. This program addresses the ''Healthy People 2010'' focus areas of Environmental Health and Public Health Infrastructure. The purpose of the program is to identify methods that can be employed to strengthen collaborative linkages and better coordinate and integrate programs between environmental regulatory, environmental public health, and related environmental functions and programs in State, local, and Tribal governments as well as the private sector, academia, volunteer and advocacy groups, and others; to strengthen existing post-employment training and professional credentialing programs for the nation's environmental health workforce; and to develop a model plan for implementing these methods within the recipient's organization and that can be used as a model for similar organizations.

B. Eligible Applicants

Applications may be submitted by public and private nonprofit organizations and by governments and their agencies; that is, universities, colleges, research institutions, hospitals, other public and private nonprofit organizations, State and local governments or their bona fide agents, including the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau, and federally recognized Indian tribal governments, Indian tribes, or Indian tribal organizations.

C. Availability of Funds

Approximately $125,000 is available in FY 2001 to fund one award. It is expected that the award will begin about September 1, 2001, and will be made for a 12-month budget period within a one year project period. Funding estimates may change.

D. Program Requirements

In conducting activities to achieve the purpose of this program, the recipient will be responsible for the activities under 1. (Recipient Activities), and CDC will be responsible for the activities listed under 2. (CDC Activities).

1. Recipient Activities

a. Identify a representative sample of a cross section of environmental health practitioners representing both regulatory and public health perspectives that are employed by the private sector; academia; State and local government; Indian Tribes or Nations; and professional, volunteer, and advocacy organizations.

b. Develop a series of focus group questions that can serve to elicit information about: strengthening linkages among environmental health, environmental regulatory, and private sector professionals; and strengthening post-employment training and professional credentialing programs for environmental professionals in these sectors.

c. Organize and conduct up to four focus group discussions made up of the environmental health professionals referenced in D.1.a. above in up to four geographically representative locations in the United States.

d. Disseminate focus group findings in a report that defines methods to be employed by the recipient organization to improve coordination among the multiple disciplines, missions, and regulatory and public health perspectives represented within the environmental health field and that can be employed to strengthen existing programs that train, credential, and enhance the professional status of the environmental health workforce.

e. Develop and implement a system to evaluate the effectiveness of this project.

2. CDC Activities

a. Provide technical assistance as needed regarding sampling and other methodologic issues associated with the conduct of this project.

b. Provide the recipient with source documents as needed to develop focus group questions.

c. Assist in developing and disseminating the report of focus group findings and related strategies and recommendations.

d. Assist in conducting the project evaluation.

E. Application Content

Use the information in the Program Requirements, Other Requirements, and Evaluation Criteria sections to develop the application content. Your application will be evaluated on the criteria listed, so it is important to follow them in laying out your program plan. The narrative should be no more than 15 double-spaced pages, printed on one side, with one inch margins, and unreduced font. The narrative should consist of, at a minimum, a Plan, Objectives, Methods, Evaluation, and Budget.

F. Submission and Deadline

Application

Submit the original and two copies of PHS 5161–1 (OMB Number 0937–0189). Forms are available at the following Internet address: www.cdc.gov/od/pgo/forminfo.htm, or in the application kit.

On or before July 27, 2001, submit the application to the Grants Management Specialist identified in the ''Where to Obtain Additional Information'' section of this announcement. Deadline: Applications shall be considered as meeting the deadline if they are either:

(1) Received on or before the deadline date; or

(2) Sent on or before the deadline date and received in time for submission to the independent review group. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

Late Applications

Applications which do not meet the criteria in (1) or (2) above are considered late applications, will not be considered, and will be returned to the applicant.

G. Evaluation Criteria

Each application will be evaluated individually against the following criteria by an independent review group appointed by CDC.

1. Project Plan (30 points)

The extent to which the applicant demonstrates an understanding of the nature of the problem to be addressed. This specifically includes profile of the recipient's employees or members by professional discipline (e.g., sanitarian, environmental engineer) and employer category (e.g., State regulatory agency, local health department) from which focus group samples will be drawn; a description of the barriers that currently affect coordination and collaboration between environmental regulatory, environmental public health, and other related agencies and organizations; a description of the applicant's current credentialing and training programs for environmental health professionals and the need for such programs to be expanded and strengthened; and a plan for incorporating project findings into the recipient's current programmatic, credentialing, and training activities.

2. Project Objectives and Activities (30 points)

The specificity, measurability, and feasibility of objectives and proposed activities, including a schedule for implementing proposed activities, and a description of the responsibilities and time allocations of proposed staff in accomplishing those activities.

3. Organizational Qualifications and Experience (30 points)

Evidence of the applicant's ability to provide staff, space, equipment, and other resources required to accomplish the goals and objectives of the project, including descriptions of the names and qualifications of professional staff to be assigned to the project and the facilities, space, and equipment available for this project.

4. Evaluation (10 points)

Appropriateness of the methods to be used to monitor the implementation of proposed project activities.

5. Budget Justification (not scored)

Extent to which the budget is reasonable, clearly justified, and consistent with the intended use of cooperative agreement funds.

H. Other Requirements

Technical Reporting Requirements

Provide CDC with original plus two copies of:

1. Semi-annual progress reports, no more than 30 days after the end of the report period;
2. Final financial and performance reports, no more than 90 days after the end of the project period.

Send all reports to the Grants Management Specialist identified in the ''Where to Obtain Additional Information'' section of this announcement.

The following additional requirements are applicable to this program. For a complete description of each, see Attachment I in the application kit.

AR–9 Paperwork Reduction Act Requirements

AR–10 Smoke-Free Workplace Requirements

AR–11 Healthy People 2010

AR–12 Lobbying Restrictions

AR–14 Accounting System Requirements

AR–15 Proof of Non-Profit Status

I. Authority and Catalog of Federal Domestic Assistance Number

This program is authorized under section 317(k)(2) of the Public Health Service Act, [42 U.S.C. section 247b(k)(2)], as amended. The Catalog of Federal Domestic Assistance number is 93.283.

J. Where to Obtain Additional Information

This and other CDC announcements can be found on the CDC home page Internet address—http://www.cdc.gov Click on ''Funding'' then ''Grants and Cooperative Agreements.''

To receive additional written information and to request an application kit, call 1–888–GRANTS4 (1–888 472–6874). You will be asked to leave your name and address and will be instructed to identify the Announcement number of interest.

If you have questions after reviewing the contents of all the documents, business management technical assistance may be obtained from: Nancy Pillar, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention, 2920 Brandywine Road, Room 3000, Atlanta, GA 30341–4146, Telephone number: (770) 488–2721, Email address: nfp6@cdc.gov.

For program technical assistance, contact: Mr. Kent Taylor, Office of Planning Evaluation, and Legislation, National Center for Environmental Health, Centers for Disease Control and Prevention, 4770 Buford Highway, NE, Atlanta, GA 30341–3717, Telephone: (770) 488–7250, Email address: kxt1@cdc.gov.

Dated: May 16, 2001.

Henry S. Cassell, III,

Acting Director, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC).

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 01094]

Professional Education on Prostate Cancer: Primary Health Care Providers; Notice of Availability of Funds

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of funds for fiscal year (FY) 2001 for competing cooperative agreements for ''Professional Education on Prostate Cancer: Primary Health Care Providers.'' This program addresses the ''Healthy People 2010'' focus area of Cancer.

The purpose of this program is to provide Primary Health Care Professional education on prostate cancer screening including potential benefits and harms, fundamentals of effective patient counsel, and informed decision making.

B. Eligible Applicants

Eligible applicants are private and public nonprofit medical organizations or associations that have established and conducted nationwide professional medical education programs and activities related to health promotion, cancer awareness, mortality and morbidity prevention. Organizations and associations that represent primary health care physicians, including but not limited to family practice physicians and internal medicine specialists, are examples of eligible applicants.

The recommendations developed by the United States Preventive Services Task Force (USPSTF) currently guide programmatic activities at CDC. Therefore, the prostate screening recommendations of eligible organizations should be evidence-based, utilizing current research data and information published in Peer Reviewed medical journals.

Note: Title 2 of the United States Code, Chapter 26, Section 1611 states that an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 that engages in lobbying activities is not eligible to receive Federal funds constituting an

award, grant, cooperative agreement, contract, loan, or any other form.

C. Availability of Funds

Approximately $600,000 is available in FY 2001 to fund approximately two awards. It is expected that the average award will be $300,000 ranging from $200,000 to $400,000. It is expected that the awards will begin on or about September 1, 2001, and will be made for a 12-month budget period within a project period of up to two years. Funding estimates may vary and are subject to change.

Continuation awards within the approved project period will be made on the basis of satisfactory progress and the availability of funds.

Use of Funds

Funds may not be expended for the purchase or lease of land or buildings, construction of facilities, renovation of existing space, or the delivery of clinical and therapeutic services. The purchase of equipment is discouraged but will be considered for approval if justified on the basis of being essential to the project and not available from any other source.

D. Program Requirements

In conducting activities to achieve the purpose of this program announcement, the recipient will be responsible for the activities under 1. (Recipient Activities), and CDC will be responsible for conducting activities under 2. (CDC Activities).

1. Recipient Activities

a. Develop strategies to increase the knowledge base of Primary Health Care Providers about issues related to prostate cancer screening, determinants of outcomes, and informed decision making.

b. Educational materials may be designed to satisfy requirements for awarding American Medical Association (AMA) Category I continuing medical education credits. As a condition for maintaining a licence to practice medicine in most states, the educational materials developed under this program can provide an appropriate incentive and opportunity for medical providers to satisfy this requirement when attending professional conferences, or as provided through other mechanisms and offerings by medical organizations, associations, and institutions for continuing medical education credits.

c. Establish measurable objectives that can be used to assess accomplishment of project activities.

d. The expertise required to develop the quality of educational materials that are desired is not likely to be found in a single institution or organization because of the scope and complexity of concepts related to prostate cancer screening and patient management. Project objectives will greatly be assisted by establishing partnerships with other appropriate medical organizations that have specific expertise in areas of prostate cancer diagnosis, patient management, and informed decision making, all of which are necessary to increase primary care provider knowledge and reduce inconsistencies in patterns of medical practice.

e. Opportunities for review and comment on the recommended educational materials arising from this program announcement are encouraged and may be provided to other stakeholders and representative organizations with prostate cancer expertise, such as the U.S. Preventive Services Task Force, American Urological Association, American Cancer Society, National Medical Association, AMA, National Cancer Institute, etc.

f. Evaluate project achievements through a well-designed evaluation plan that assesses each objective.

g. Publish and disseminate educational materials to organization members at national, State, and local venues conducive for earning and awarding Continuing Medical Education Credits for primary care providers who master and demonstrate competency in prescribed learning objectives as supplements to existing primary care provider continuing medical education opportunities and improve prostate cancer patient management and practice patterns.

h. Demonstrate ability to engage racial/ethnically diverse health care providers and affiliated organizations by providing documentation of collaboration with racially and ethnically diverse institutions and medical organizations to develop and disseminate educational materials.

2. CDC Activities

a. Provide technical assistance.

b. Collaborate with recipients in the development, evaluation, and dissemination of educational materials designed to improve Primary Health Care Professionals' knowledge and awareness of prostate cancer screening issues.

c. Provide periodic updates about public knowledge, attitudes, and practices regarding early detection and control of prostate cancer.

d. Collaborate with recipients to develop meeting agendas.

e. Collaborate with recipients to develop and publish recommended educational material to this program announcement.

E. Content

Use the information in the Program Requirements, Other Requirements, and Evaluation Criteria sections to develop the application content. Your application will be evaluated on the criteria listed, so it is important to follow them in laying out your program plan. The narrative should be no more than 30 double-spaced pages, printed on one side, with one inch margins, and unreduced font. The original and each copy of the application must be submitted unstapled and unbound. Print all material, single-spaced, in a 12-point or larger font on 8½″ by 11″ paper, with at least 1-inch margins and printed on one side only.

Applicant activities should focus on increasing the knowledge base of primary health care providers on prostate cancer screening and related issues, henceforth referred to in this announcement as Target Physician Population.

1. Background and Need

a. Describe the population of primary care providers as it relates to the purpose of this program announcement, barriers to or gaps in prostate cancer screening knowledge, and strategies to overcome barriers, reduce knowledge gaps, and inconsistencies in patient management.

b. Describe the organization's past and present education activities related to prostate cancer screening and disease control.

c. Describe the applicant's experience related to services provided by primary care practitioners, and the rationale for use of previously conducted or newly developed strategies to enhance prostate cancer screening knowledge and improve patient counseling skills in ways that result in informed decision making.

d. Describe the presence of explicit recommendations regarding prostate cancer screening and demonstrate that data and information used to develop recommendations are consistent with that used by the U.S. Preventive Services Task Force. Additional information can be obtained at the website below: http://hstat.nlm.nih.gov/ftrs/directBrowse.pl?dbNa me=cps&href=CH10&t=982852733

2. Goals and Objectives

a. *Objectives:* Identify time-framed, measurable objectives consistent with

the purpose of this program announcement.

b. Activities: Clearly identify specific activities and strategies that will be undertaken to achieve each project objective during the budget period.

c. Milestone Chart: Submit a milestone-to-completion chart consistent with the time-frame of the project period.

3. Capabilities

a. Describe the nature and extent of constituent support for past and present organizational activities related to prostate cancer screening, patient counseling, and follow-up.

b. Describe the nature and extent of health care provider education activity, especially those related to prostate cancer screening, patient counseling, follow-up, and informed decision making.

c. Provide a comprehensive plan for national dissemination of educational material and information recommended in connection with this program announcement.

4. Project Management

a. Submit a copy of the organization's mission statement.

b. Describe the organization's structure and function, size, membership, substructure, professional education activities on a regional, State, or local level, and methods of routine communication with members (newsletters, journals, meetings, etc.).

c. Describe each current or proposed position for this project by job title, function, general duties, and activities with which that position will be involved. Include the level of effort and allocation of time for each project activity by staff position. Minimal staffing should include a full-time project coordinator. Accountability and guidance for all activities under this program announcement should have direct oversight provided by senior staff of the funded organization who are knowledgeable about prostate cancer screening, patient management, as well as other related issues.

5. Collaborative Activities

Describe past and proposed collaborative working partnerships with primary health care providers, medical organizations or associations that represent primary health care providers or that have established linkages with that group of providers. Include evidence of formal collaborations and partnerships such as Memorandums Of Agreement.

6. Program Evaluation Plan

Identify methods for measuring progress toward attaining project objectives and monitoring activities. The evaluation plan should include qualitative and quantitative data collection and assessment mechanisms. The plan should include baseline data or mechanisms that will be used to establish baseline data, expected outcomes, minimum data to be collected, systems for collecting and analyzing the data. Examples of the type and scope of data necessary for evaluation purposes may include the following:

a. Describe the access strategy that will be used to reach primary care providers, the number expected to be reached, and a plan for determining how well providers satisfactorily master the information and concepts embodied in the educational materials recommended.

b. Demographic information such as age, sex, race, practice setting, etc.

c. Recommendations for when, where, and how often educational activities should be conducted.

7. Budget and Narrative Justification

Provide a detailed line-item budget and narrative justification of all operating expenses consistent with the proposed objectives and planned activities. Provide precise information about the project purpose for each budget item and itemize calculations when appropriate.

Applicants should budget for the following costs:

Travel

a. A minimum of three persons to Atlanta, Georgia to attend the Annual National Cancer Prevention and Control Conference (3 days).

b. A minimum of three persons to Atlanta, Georgia to report program implementation progress (reverse site visit) and for consultation and technical assistance (2 days) (1 trip per year).

c. Up to 2 additional 2-person trips to Atlanta, or other specified destination to attend national training center educational programs on national work groups, task forces or committees (1–3 days).

F. Submission and Deadline

Submit the original and two copies of PHS–5161 (OMB Number 0925–0001) (adhere to the instructions on the Errata Instruction Sheet for PHS 398). Forms are available in the application kit and at the following Internet address: http://forms.psc.gov

On or before June 20, 2001, submit the application to the Grants Management Specialist identified in the ''Where to Obtain Additional Information'' section of this announcement.

Deadline: Applications shall be considered as meeting the deadline if they are either:

Received on or before the deadline date; or Sent on or before the deadline date and received in time for submission to the independent review group. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

Late: Applications which do not meet the criteria in 1. or 2. above will be returned to the applicant.

G. Evaluation Criteria (100 Points)

Each application will be evaluated individually against the following criteria by an independent review group appointed by CDC.

1. Background and Need (10 Points)

a. The extent to which the applicant demonstrates understanding of the project's purpose, objectives, and special challenges created by the wide disparity in prostate cancer experienced by high risk and low risk groups. Evidence of efforts to address these special challenges may be demonstrated by the assembly and inclusion of prostate cancer experts throughout all project activities who can articulate concerns unique to certain racial and ethnic groups in the United States.

b. The extent to which the applicant identifies the population of primary care providers population and assess the need for the proposed activities.

c. The extent to which the applicant demonstrates possession of evidence-based recommendations regarding prostate cancer screening.

2. Goals and Objectives (20 Points)

The degree to which specific, time-framed, and measurable objectives, process, and outcome measures are consistent with the stated purpose of the program announcement.

3. Capabilities (25 Points)

a. The extent to which the applicant demonstrates the availability of staff who have participated in professional education activities similar to those described in the proposed project. The staff should possess appropriate qualifications and experience to accomplish project activities (10 points).

b. The quality of the available organizational infrastructure including: office space, administrative and

organizational support, and a demonstrated history of effective independent programs, and partnerships with other physician organizations, that have successfully educated large numbers of primary health care providers regarding preventive measures such as cancer screening (10 points).

c. The extent to which applicant demonstrates an ability to engage racial/ethnically diverse health care providers and affiliated organizations by providing documentation of collaboration with racially and ethnically diverse institutions and medical organizations to develop and disseminate educational materials. (5 points).

4. Project Management (15 Points)

The quality and feasibility of the proposed activities for achieving project objectives, including the adequacy of proposed personnel time allocations and the extent to which proposed staff exhibit appropriate qualifications and experience to accomplish project activities. Personnel assigned to complete tasks under this program announcement should hold senior positions within the funded organization as well as in any other organization that may collaborate to complete assigned tasks under this agreement.

5. Collaborative Activities (15 Points)

The appropriateness and relevance of collaborative linkages with Primary Care Physicians or affiliated professional organizations, and the extent to which the applicant demonstrates its ability to access the targeted physician group and disseminate recommended educational materials on a national basis.

6. Program Evaluation Plan (15 Points)

The quality of the evaluation plan for monitoring progress that relates to intervention activities and objectives that are described in the announcement.

7. Budget and Justification (Not scored)

The extent to which the budget is reasonable and consistent with the purpose and objectives of the cooperative agreement.

H. Other Requirements

Technical Reporting Requirements

Provide CDC with original plus two copies of:

1. Annual progress reports;

2. Financial status report, no more than 90 days after the end of the budget period; and

3. Final financial and performance reports, no more than 90 days after the end of the project period.

Send all reports to the Grants Management Specialist identified in the ''Where to Obtain Additional Information'' section of this announcement.

The following additional requirements are applicable to this program. For a complete description of each, see Attachment I of the announcement.

AR–7 Executive Order 12372 Review

AR–9 Paperwork Reduction Act Requirements

AR–10 Smoke-Free Workplace Requirements

AR–11 Healthy People 2010

AR–12 Lobbying Restrictions

AR–14 Accounting System Requirements

AR–15 Proof of Non-Profit Status

I. Catalog of Federal Domestic Assistance Number

This program is authorized by sections 317(k)(2) [42 U.S.C. 247b(k)(2)] of the Public Health Service Act, as amended. The Catalog of Federal Domestic Assistance number is 93.283.

J. Where To Obtain Additional Information

This and other CDC announcements can be found on the CDC home page Internet address http://www.cdc.gov Click on ''Funding'' then ''Grants and Cooperative Agreements.''

Should you have questions after reviewing the contents of all the documents, business management technical assistance may be obtained from: Jesse Robertson, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention, Program Announcement 01094, 2920 Brandywine Road, Room 3000, Atlanta, GA 30341–4146, Telephone number: (770) 488–2747, E-Mail address: jrobertson@cdc.gov.

Programmatic technical assistance may be obtained from: Fred L. Stallings, Division of Cancer Prevention and Control, National Center for Chronic Disease Prevention and Health Promotion, Centers for Disease Control and Prevention (CDC), 4770 Buford Highway NE., Mail Stop K–55, Atlanta, GA 30341–3724, Telephone number: (770) 488–4293, E-mail address: fls2@cdc.gov.

Dated: May 16, 2001.

Henry S. Cassell, III,

Acting Director, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 01–12812 Filed 5–21–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 01121]

Redesigning Cities and Suburbs for Public Health; Notice of Availability of Funds

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 2001 funds for a cooperative agreement program for ''Redesigning Cities and Suburbs for Public Health.'' This program addresses the ''Healthy People 2010'' focus areas of Physical Activity and Fitness; Public Health Infrastructure, Environmental Health and Respiratory Diseases.

The purpose of the program is to create healthier communities by better design and use of our built and natural environment and develop policies and practices surrounding urbanization, transportation, business location, employment, education, recreation, and other related factors that increase physical activity and are conducive to improved health through prevention and promotion.

B. Eligible Applicants

Assistance will be provided only to an organization that is a private nonprofit, non-governmental health, environmental or transportation entity. The organization must have local/state/or regional membership constituencies; and have the capacity and experience to work on major current public policy regarding metropolitan area urban design.

Limited competition is justified because only private nonprofit, non-governmental, health, environmental or transportation entities have conducted research, analysis, and provided regional recommendations in this area from a public health prospective. To determine gaps in public health related to land and water use and its impact on healthier communities, applicants should propose activities that address both metropolitan and rural areas within a region to address partnership building, integration of public concerns,

development of evaluation measures, and for case study comparison and evaluation.

Note: Title 2 of the United States Code, Chapter 26, section 1611 states that an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 that engages in lobbying activities is not eligible to receive Federal funds constituting an award, grant, cooperative agreement, contract, loan, or any other form.

C. Availability of Funds

Approximately $100,000 is available in FY 2001 to fund one award. The award is expected to begin on or about August 15, 2001, and will be made for a 12-month budget period within a project period of up to five years. Funding estimates may change.

A. Program Requirements

In conducting activities to achieve the purposes of this program, the recipient will be responsible for the activities under 1. Recipient Activities and CDC will be responsible for the activities under 2. CDC Activities.

1. Recipient Activities

a. Facilitate partnerships between public health practitioners and planning agencies and groups.

b. Develop materials that describe the process (who, what, how, etc.) of integrating public

c. Health concerns (suitable for local or state level efforts), including physical activity for transportation and recreation, childhood obesity, and asthma into (a) planning documents and (b) handbooks, guidelines, codes of professional organizations and academic training materials. Serve as workshop presenters and/or discussion leaders.

d. Develop process evaluation measures that can be used to assess progress toward these goals.

e. Develop materials and curriculum, organize and be carry out training workshops and professional presentations for city planners, developers, educators, state and local policymakers, health officials, and other interested parties.

f. Identify state and local policies that promote or restrict physical activity. This activity may focus on specific subsets of the population.

g. Identify or develop case studies of model community plans that include designs to promote walking and bicycling for transportation and recreation.

h. Research, identify examples, and develop materials promoting the understanding and use of law (including statutes, ordinances, regulations, and administrative rules) as a tool for redesigning cities and suburbs for the public's health.

2. CDC Activities

a. Provide consultation and technical assistance in the planning and evaluation of program activities.

b. Collaborate in development of training materials and curriculum for training workshops. May provide experts with subject matter and scientific expertise to serve as workshop presenters and/or discussion leaders.

E. Content

Use the information in the Program Requirements, Other Requirements, and Evaluation Criteria sections to develop the application content. Your application will be evaluated on the criteria listed, so it is important to follow them in laying out your program plan. The narrative, excluding budget and appendices, should not exceed 35 pages. Pages should be clearly numbered and a complete index to the application and any appendices should be included. The original and each copy of the application must be submitted unstapled and unbound. All materials must be typewritten, double-spaced, with unreduced font on 8½″ by 11″ paper, with at least 1″ margins, headers and footers, and printed on one side only. Application should be organized in the following sections.

1. Executive Summary

Provide a clear, concise, and objectively written statement of the major objectives and components of proposed activities, proposed time frame, and evaluation plan.

2. Existing Resources and Needs Assessment

Describe the documented need for the proposed activities and current activities that provide relevant experience and expertise to perform the proposed activities.

3. Collaborative Relationships

Describe collaborative relationships with other agencies and organizations that will be involved in the proposed activities.

4. Operational and Evaluation Plan

Describe the specific outcome and process objectives for each proposed project with deliverables clearly identified, the major steps required to achieve the objectives, and a projected timetable for completion that displays dates for the accomplishment of specific proposed activities. Describe how achievement of outcome and process objectives, and program effectiveness will be evaluated.

5. Management and Staffing Plan

Describe how the program will be effectively managed including:

a. Management structure including the lines of authority and plans for fiscal control.

b. The staff positions responsible for implementation of the program.

c. Qualifications and experience of the designated staff.

6. Budget and Justification

Provide a detailed budget request and line item justification of all proposed operating expenses.

F. Submission and Deadline

Submit the original and two copies of PHS 5161–1 (OMB Number 0937–0189). Forms are in the application kit and at the following Internet address: http://forms.psc.gov/

On or before July 14, 2001 submit the application to the Grants Management Specialist identified in the ''Where to Obtain Additional Information'' section of this announcement.

Deadline: Applications shall be considered as meeting the deadline if they are either:

1. Received on or before the deadline date; or

2. Sent on or before the deadline date and received in time for submission to the independent review group. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing).

Late: Applications which do not meet the criteria in 1. or 2. above will be returned to the applicant.

G. Evaluation Criteria

An independent review group appointed by CDC will evaluate the application according to the following criteria.

1. Resources and Needs Assessment: (25 points)

The relevance of the needs assessment and extent to which the applicant demonstrates that current activities provide regional experience and expertise in community and transportation design (such as land and water use, pedestrian activity and the built environment) that incorporate public health measures in the planning process. The proposed projects.

2. Collaboration: (15 points)

The extent to which the applicant provides evidence of collaborative relationships with prevention research centers, state and local health agencies, local and state government and planning agencies relevant to successful completion of the proposed project(s).

3. Proposed Operational and Evaluation Plan: (35 points)

The extent to which the applicant clearly identifies the specific outcome and process objectives for the proposed projects, deliverables, and the major steps required to meet the objectives; and proposes an evaluation plan that is likely to provide meaningful information about the achievement of the projects.

4. Proposed Implementation Schedule: (10 points)

The extent to which the projected timetable for completion of tasks and for meeting objectives is reasonable and realistic.

5. Project Management and Staffing Plan: (15 points)

The extent to which the applicant demonstrates management structure and staff positions with clear lines of authority and plans for fiscal control, and that designated staff have appropriate qualifications and experience.

6. Budget: (Not Scored)

The extent to which the applicant provides a detailed budget and justification consistent with the proposed program objectives and activities.

H. Other Requirements

Provide CDC with original plus two copies of

1. annual progress reports;
2. financial status report, no more than 90 days after the end of the budget period; and
3. final financial and performance reports, no more than 90 days after the end of the project period.

Send all reports to the Grants Management Specialist identified in the ''Where to Obtain Additional Information'' section of this announcement.

The following additional requirements are applicable to this program. For a complete description of each, see Attachment I in the application kit.

AR–9 Paperwork Reduction Act Requirements
AR–10 Smoke Free Workplace Requirements
AR–11 Healthy People 2000
AR–12 Lobbying Restrictions
AR–14 Accounting System
AR–15 Proof of Non-Profit Status

I. Authority and Catalog of Federal Domestic

This program is authorized under section 301 (a), 311(b) and (C) and 317(k)(2) of the Public Health Service Act, [42 U.S.C. section 241(a), 243(b) and (c) and 247(k)(2)], as amended. The Catalog of Federal Domestic Assistance number is 93.283.

J. Where To Obtain Additional Information

This and other CDC announcements can be found on the CDC home page Internet address: www.cdc.gov Click on ''Funding'' then ''Grants and Cooperative Agreements''. To obtain business management technical assistance, contact: Jesse Robertson, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Announcement 01121, Centers for Disease Control and Prevention (CDC), 2920 Brandywine Road, Room 3000, Atlanta, Georgia 30341–4146, Telephone Number (770) 488–2747, Email address: jrobertson@cdc.gov.

For program technical assistance, contact Thomas Schmid, PhD, CDC/National Center for Chronic Disease, Prevention and Health Promotion, Division of Nutrition and Physical Activity, 4770 Buford Highway NE, Mailstop K46, Atlanta, GA 30341–3717, Telephone Number (770) 488–5471, Email address: TSchmid@cdc.gov.

Dated: May 16, 2001.

Henry S. Cassell, III,

Acting Director, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 01–12811 Filed 5–21–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 01125]

United Nations Foundation: Measles Control and Related Childhood Morbidity Reduction Program; Notice of Availability of Funds

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 2001 funds for a cooperative agreement program for control of vaccine preventable diseases with an emphasis on reducing morbidity and mortality caused by measles. This program addresses the ''Healthy People 2010'' focus area of Immunization and Infectious Diseases. The purpose of the program is to support global measles control and morbidity reduction by facilitating the provision of bundled measles vaccine*, technical, laboratory, programmatic consultants, and other services, as needed, to the governments of measles endemic countries.

Note: The term ''bundled'' refers to vaccine and supplies required to ensure safe injection and safe disposal of vaccine vials and injection materials. Additionally, measles vaccine procurement may include the purchase of vaccine containing antigens for measles (M), measles and rubella (MR), or measles, mumps and rubella (MMR) as per requirements set forth under specific national immunization policies of countries supported under this agreement.

B. Eligible Applicant

Assistance will be provided only to the United Nations Foundation. No other applications are solicited.

Eligibility is limited to the United Nations Foundation (UNF) because it is the most appropriate and qualified agency to conduct the activities under this cooperative agreement:

1. UNF is the only organization whose mission is to serve as the global advocate for United Nations Programmes. The UNF seeks to support the goals and objectives of the United Nations and its Charter in order to promote a more peaceful, prosperous, and just world—with special emphasis on the UN's work, especially on behalf of economic, social, environmental and humanitarian causes. The UNF lists children's health as one of its top four program priorities. Within this priority lies the support of programs seeking to reduce childhood mortality.

2. The proposed program is strongly supportive of, and directly related to, the achievement of United Nations Programmes and CDC/National Immunization Program objectives for the control and prevention of vaccine preventable diseases and coincident reduction in childhood mortality [approximately 900,000 children die per year due to measles related complications].

The UNF's role as a supporter of United Nations Programmes concerned with children's health issues and programs, together with the United States Agency for International Development (USAID), the Canadian International Development Agency, the American Red Cross, CDC, and others,

are partners in an international effort to increase support and visibility for measles control and mortality reduction.

Note: Title 2 of the United States Code, Chapter 26, section 1611 states that an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 that engages in lobbying activities is not eligible to receive Federal funds constituting an award, grant, cooperative agreement, contract, loan, or any other form.

C. Availability of Funds

Approximately $5 million is available in FY 2001 to fund this award. It is expected that this award will begin on or about September 1, 2001 and will be made for a 12-month budget period within a project period of up to five years. Funding estimates may change.

Continuation awards within an approved project period will be made on the basis of satisfactory progress as evidenced by required reports and the availability of funds.

D. Where To Obtain Additional Information

To obtain business management technical assistance, contact: Mike Smiley, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention, 2920 Brandywine Road, Room 3000, Atlanta, GA 30341–4146, Telephone number: (770) 488–2718, E-mail address: znr6@cdc.gov.

For program technical assistance, contact: Leo Weakland, Deputy Chief, Global Measles Branch, Centers for Disease Control and Prevention, MS–E05, 1600 Clifton Rd., Atlanta, GA 30333, Telephone number: (404) 639–8404, E-mail address: lfw0@cdc.gov.

Dated: May 16, 2001.

Henry S. Cassell III,

Acting Director, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 01–12814 Filed 5–21–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): PA# 01036: Grants for Education Programs in Occupational Safety and Health, Occupational Injury Prevention Research Training Programs

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following meeting:

Name: Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): PA 01036: Grants for Education Programs in Occupational Safety and Health, Occupational Injury Prevention Research Training Programs.

Times and Dates: 8 a.m.—8:30 a.m., June 13, 2001. (Open) 8:30 a.m.—3 p.m., June 13, 2001. (Closed)

Place: Centers for Disease Control and Prevention, 1600 Clifton Rd, NE., Building 16, Room 1111, Atlanta, Georgia 30333.

Status: Portions of the meeting will be closed to the public in accordance with provisions set forth in section 552b(c)(4) and (6), Title 5 U.S.C., and the Determination of the Deputy Director for Program Management, CDC, pursuant to Public Law 92–463.

Matters to be Discussed: The meeting will include the review, discussion, and evaluation of applications received in response to Program Announcement: PA# 01036.

Contact Person for More Information: Bernadine Kuchinski, Occupational Health Consultant, Office of Extramural Coordination and Special Projects, National Institute for Occupational Safety and Health, CDC, 1600 Clifton Rd, NE., M/S D40, Atlanta, Georgia 30333, telephone 404–639–3342. The Director, Management Analysis and Services Office has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: April 30, 2001.

John C. Burckhardt,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 01–12816 Filed 5–21–01; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): PA# 01035: Grants for Education Programs in Occupational Safety and Health, Training Project Grant for Cross-Cultural Training in the Pacific Rim Basin Region

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following meeting:

Name: Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): PA 01035: Grants for Education Programs in Occupational Safety and Health, Training Project Grant for Cross-Cultural Training in the Pacific Rim Basin Region.

Times and Dates: 3:30 p.m.–3:45 p.m., June 13, 2001. (Open); 3:45 p.m.–4:30 p.m., June 13, 2001. (Closed)

Place: Centers for Disease Control and Prevention, 1600 Clifton Rd, NE., Building 16, Room 1111, Atlanta, Georgia 30333.

Status: Portions of the meeting will be closed to the public in accordance with provisions set forth in section 552b(c)(4) and (6), Title 5 U.S.C., and the Determination of the Deputy Director for Program Management, CDC, pursuant to Public Law 92–463.

Matters To Be Discussed: The meeting will include the review, discussion, and evaluation of applications received in response to Program Announcement: PA# 01035.

Contact Person for more Information: Bernadine Kuchinski, Occupational Health Consultant, Office of Extramural Coordination and Special Projects, National Institute for Occupational Safety and Health, CDC, 1600 Clifton Rd, NE, M/S D40, Atlanta, Georgia 30333, telephone 404–639–3342.

The Director, Management Analysis and Services Office has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: April 30, 2001.

John C. Burckhardt,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 01–12817 Filed 5–21–01; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Citizens Advisory Committee on Public Health Service Activities and Research at Department of Energy (DOE) Sites: Savannah River Site Health Effects Subcommittee (SRSHES): Conference Call Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Agency for Toxic Substances and Disease Registry (ATSDR) and the Centers for Disease Control and Prevention (CDC) announce the following meeting.

Name: Citizens Advisory Committee on Public Health Service Activities and Research at Department of Energy (DOE) Sites: Savannah River Site Health Effects Subcommittee.

Time and Date: 10:30 a.m.—11:30 a.m., May 31, 2001.

Place: The conference call will originate at the National Center for Environmental Health (NCEH), CDC, in Atlanta, Georgia. Please see ''Supplementary Information'' for details on accessing the call.

Status: Open to the public, limited only by the availability of telephone ports.

Background: Under a Memorandum of Understanding (MOU) signed in December 1990 with DOE, and replaced by MOUs signed in 1996 and 2000, the Department of Health and Human Services (HHS) was given the responsibility and resources for conducting analytic epidemiologic investigations of residents of communities in the vicinity of DOE facilities, workers at DOE facilities, and other persons potentially exposed to radiation or to potential hazards from non-nuclear energy production use. HHS delegated program responsibility to CDC.

In addition, a memo was signed in October 1990 and renewed in November 1992, 1996, and in 2000, between ATSDR and DOE. The MOU delineates the responsibilities and procedures for ATSDR's public health activities at DOE sites required under sections 104, 105, 107, and 120 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or ''Superfund''). These activities include health consultations and public health assessments at DOE sites listed on, or proposed for, the Superfund National Priorities List and at sites that are the subject of petitions from the public; and other health-related activities such as epidemiologic studies, health surveillance, exposure and disease registries, health education, substance-specific applied research, emergency response, and preparation of toxicological profiles.

Purpose: This subcommittee is charged with providing advice and recommendations to the Director, CDC, and the Administrator, ATSDR, regarding community concerns pertaining to CDC's and ATSDR's public health activities and research at this DOE site.

Matters to be Discussed: The conference call agenda is to reach consensus on membership issues. Agenda items are subject to change as priorities dictate.

Supplementary Information: This conference call is scheduled to begin at 10:30 a.m., Eastern Time. To participate in the conference call, please dial 800/311–3437 and enter conference code 375443. You will then be automatically connected to the call.

This notice is being published less than 15 days prior to the meeting due to the scheduling conflicts of the members.

Contact Person for More Information: Paul Renard, Executive Secretary, SRSHES, and Chief, Extramural Activities Section, Radiation Studies Branch, Division of Environmental Hazards and Health Effects, NCEH, CDC, 1600 Clifton Road, N.E. (E–39), Atlanta, GA 30333, telephone 404/639–2550, fax 404/639–2575.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities for both CDC and ATSDR.

Dated: May 16, 2001.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 01–12815 Filed 5–21–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability and Injury Prevention and Control Special Emphasis Panel: Grant Program for Strategies for Improving Health Risk Communication Related to Military Deployments Among Military Personnel, Veterans, Their Family Members, and Their Health Care Providers, PA# 01021; Correction

SUMMARY: This notice was published in the **Federal Register** on April 30, 2001, Volume 66, Number 83, Pages 21388–21389. The meeting times and dates have been revised.

DATES: The meeting times and dates have been revised as follows:

9 a.m.–9:30 a.m., June 4, 2001 (Open)
9:30 a.m.–Noon, June 4, 2001 (Closed)

FOR FURTHER INFORMATION CONTACT: Drue Barrett, Ph.D., Chief, Veterans' Health Activity Working Group, National Center for Environmental Health, CDC, 1600 Clifton Rd, NE, MS E–19, Atlanta, Ga. 30333. Telephone 404/639–4862, e-mail dhb1@cdc.gov.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** Notices pertaining to announcements of meetings and other committee management activities, for the both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: May 16, 2001.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 01–12818 Filed 5–21–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99N–1168]

Relative Risk to Public Health From Foodborne Listeria Monocytogenes Among Selected Categories of Ready-to-Eat Foods; Draft Risk Assessment Document and Risk Management Action Plan; Availability; Extension of Comment Period

AGENCY: Food and Drug Administration, HHS, and Food Safety and Inspection Service, USDA.

ACTION: Notice; extension of comment period.

SUMMARY: The Food and Drug Administration (FDA), in cooperation with the Food Safety and Inspection Service (FSIS) of the U.S. Department of Agriculture (USDA), and the Centers for Disease Control and Prevention, published a notice of availability of a draft risk assessment on the relationship between foodborne *Listeria monocytogenes* and human health and a proposed risk management action plan for *L. monocytogenes* in the **Federal Register** of January 19, 2001 (66 FR 5515). Interested persons were given until March 20, 2001, with an extension to May 21, 2001 (66 FR 13545), to comment on these documents. The LM Working Group has requested a second extension of the comment period in part to collect and review new data and to evaluate the model and the appropriateness of the new data to improve the assessment. In response, FDA and USDA/FSIS are extending the comment period to July 18, 2001; however, the agencies do not anticipate further extensions of the comment period for these draft documents.

DATES: Submit written comments by July 18, 2001.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Docket No. 99N–1168, Food

and Drug Administration, 5630 Fishers Lane, rm. 1060, Rockville, MD 20852. Two copies of any comments are to be submitted, except that individuals may submit one copy. Received comments may be reviewed at the FDA Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

Submit one original and two copies of written comments to FSIS Docket Clerk, Docket No. 00–048N, U.S. Department of Agriculture, Food Safety and Inspection Service, rm. 102, Cotton Annex, 300 12th St, SW., Washington, DC 20250–3700. All comments submitted in response to this notice will be available for public inspection in the Docket Clerk's office between 8:30 a.m. and 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT:

For information concerning the draft risk assessment document: Sherri B. Dennis, Risk Assessment Coordinator, Center for Food Safety and Applied Nutrition (HFS–032), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–260–3984, FAX 202–260–9653, e-mail: sdennis@cfsan.fda.gov.

For information concerning the risk management action plan: Kathy Gombas, Center for Food Safety and Applied Nutrition (HFS–615), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–205–4231, FAX 202–260–0136, e-mail: kgombas@cfsan.fda.gov or Charles Edwards, Food Safety and Inspection Service, U.S. Department of Agriculture, rm. 405, Cotton Annex, 300 12th St. SW., Washington, DC 20250–3700, 202–205–0675, FAX 202–205–0080.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of January 19, 2001 (66 FR 5515), the Department of Health and Human Services and USDA announced the availability of two documents: A draft risk assessment on the relationship between foodborne *L. monocytogenes* and human health and a draft risk management action plan. Comments were sought on the technical aspects of the draft risk assessment in the following areas: (1) The assumptions made, (2) the modeling technique, (3) the data used, and (4) the transparency of the draft risk assessment document. The agencies also invited comments on the risk management strategies as presented in the draft action plan. Interested persons were given until March 20, 2001, to comment on the draft risk assessment and draft action plan. FDA and USDA/FSIS extended the comment period to May 21, 2001 (66 FR 13545, March 6, 2001), in response to the requests of the National Food Processors Association and the LM Working Group and because a public meeting to receive comments on these documents was scheduled on March 19, 2001, only 1 day before the close of the comment period. The LM Working Group has requested a second extension of the comment period in part to allow time to: (1) Collect and review new data, and (2) evaluate the model and the appropriateness of the new data to improve the assessment. In response, FDA and USDA/FSIS are extending the comment period to July 18, 2001; however, the agencies do not anticipate further extensions of the comment period for these draft documents.

To be considered, submit written comments to FDA Dockets Management Branch or the FSIS Dockets Clerk (addresses above) by July 18, 2001.

Printed copies of the draft risk assessment and the risk management action plan and/or a CD–ROM of the risk assessment model may be requested by faxing your name and mailing address with the names of the documents you are requesting to the CFSAN Outreach and Information Center at 1–877–366–3322. The documents may be reviewed at the FDA Dockets Management Branch or the FSIS Docket Clerk's Office at the addresses and hours noted above. The draft risk assessment and action plan documents are also available electronically as follows: www.cfsan.fda.gov, www.fsis.usda.gov, www.foodsafety.gov.

Dated: May 18, 2001.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 01–13055 Filed 5–18–01; 2:59 pm]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99D–4071]

International Cooperation on Harmonisation of Technical Requirements for Registration of Veterinary Medicinal Products (VICH); Final Guidance for Industry on ''Impurities: Residual Solvents in New Veterinary Medicinal Products, Active Substances and Excipients'' (VICH GL18); Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a final guidance for industry (#100) entitled ''Impurities: Residual Solvents in New Veterinary Medicinal Products, Active Substances and Excipients'' (VICH GL18). This guidance has been adapted for veterinary use by the International Cooperation on Harmonisation of Technical Requirements for Registration of Veterinary Medicinal Products (VICH) from a similarly titled guidance regarding pharmaceuticals for human use, which was adopted by the International Conference on Harmonisation of Technical Requirements for Registration of Pharmaceuticals for Human Use (ICH). The guidance is intended to recommend acceptable amounts of residual solvents in new animal drugs (referred to as pharmaceuticals or veterinary medicinal products in the final guidance) for the safety of the target animal as well as for the safety of human consumers of products derived from treated food producing animals. It is intended to assist in developing new animal drug applications (referred to as marketing applications in the final guidance) submitted to the European Union, Japan, and the United States.

DATES: You may submit written comments at any time.

ADDRESSES: You may submit written requests for a single copy of the final guidance entitled ''Impurities: Residual Solvents in New Veterinary Medicinal Products, Active Substances and Excipients'' (VICH GL18) to the Communications Staff (HFV–12), Center for Veterinary Medicine, Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

You may submit written comments on the guidance to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Kevin J. Greenlees (HFV–150), Center for Veterinary Medicine, Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–6977, e-mail, kgreenle@cvm.fda.gov.

SUPPLEMENTARY INFORMATION:

I. Background

In recent years, many important initiatives have been undertaken by regulatory authorities and industry associations to promote the international harmonization of regulatory requirements. FDA has

participated in efforts to enhance harmonization and has expressed its commitment to seek scientifically based harmonized technical requirements for the development of pharmaceutical products. One of the goals of harmonization is to identify and then reduce the differences in technical requirements for drug development among regulatory agencies in different countries.

FDA has actively participated in the ICH for several years to develop harmonized technical requirements for the approval of human pharmaceutical and biological products among the European Union, Japan, and the United States. The VICH is a parallel initiative for veterinary medicinal products. The VICH is concerned with developing harmonized technical requirements for the approval of veterinary medicinal products in the European Union, Japan, and the United States, and includes input from both regulatory and industry representatives.

The VICH Steering Committee is composed of member representatives from the: European Commission; European Medicines Evaluation Agency; European Federation of Animal Health; the U.S. FDA; the U.S. Department of Agriculture; the Animal Health Institute; the Japanese Veterinary Pharmaceutical Association; the Japanese Association of Veterinary Biologics; and the Japanese Ministry of Agriculture, Forestry and Fisheries.

Two observers are eligible to participate in the VICH Steering Committee: One representative from the Government of Australia/New Zealand, and one representative from the industry in Australia/New Zealand. The VICH Secretariat, which coordinates the preparation of documentation, is provided by the Confédération Mondiale de L'Industrie de la Santé Animale (COMISA). A COMISA representative also participates in the VICH Steering Committee meetings.

II. Guidance on Impurities: Residual Solvents

In the **Federal Register** of October 12, 1999 (64 FR 55296), FDA published the notice of availability of the draft guidance entitled ''Impurities: Residual Solvents'' (VICH GL18) giving interested persons until November 12, 1999, to submit comments. FDA received no comments. The final guidance was submitted to the VICH Steering Committee. At a meeting held on June 14 through 16, 2000, the VICH Steering Committee endorsed the final guidance for industry, VICH GL18.

This guidance is intended to recommend acceptable amounts of residual solvents in new animal drugs (referred to as pharmaceuticals or veterinary medicinal products in the final guidance) for the safety of the target animal as well as for the safety of human consumers of products derived from treated food-producing animals. The guidance is intended to assist in developing new animal drug applications (referred to as marketing applications in the final guidance) submitted to the European Union, Japan, and the United States.

This final level 1 guidance is being issued consistent with FDA's good guidance practices regulation (65 FR 56468, September 19, 2000). It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of applicable statutes and regulations. Information collected is covered under OMB control number 0910–0032.

III. Electronic Access

Persons with access to the Internet may obtain the document at http://www.fda.gov/cvm.

IV. Comments

As with all of FDA's guidances, the public is encouraged to submit written comments with new data or other new information pertinent to this guidance. FDA will periodically review the comments in the docket and, where appropriate, will amend the guidance. The agency will notify the public of any such amendments through a notice in the **Federal Register**.

Interested persons may, at any time, submit written or electronic comments regarding this guidance. Written comments should be submitted to the Dockets Management Branch (address above). Two copies of any comments are to be submitted, except individuals may submit one copy. Comments should be identified with the docket number found in the brackets in the heading of this document. A copy of the document and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday. Comments may also be submitted electronically on the Internet at http://www.fda.gov/dockets/ecomments. Once on this Internet site, select ''99D–4071 Impurities: Residual Solvents in New Veterinary Medicinal Products'' and follow the directions.

Dated: May 11, 2001.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 01–12770 Filed 5–21–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[HCFA–2125–N]

Medicaid Program; Infrastructure Grant Program To Support the Design and Delivery of Long Term Services and Supports That Permit People of Any Age Who Have a Disability or Long-Term Illness To Live in the Community

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice of funding availability.

SUMMARY: This notice announces the availability of approximately $70 million in grant funding through ''Systems Change Grants for Community Living''. The ''Systems Change'' grants include four distinct competitive grant opportunities: (1) ''Nursing Facility Transitions''; (2) ''Community-Integrated Personal Assistance Services and Supports''; (3) ''Real Choice Systems Change''; and (4) ''National Technical Assistance Exchange for Community Living''. The four grants are designed to assist States to develop enduring infrastructures that support people of any age who have a disability or long-term illness to live and participate in their communities. Applicants include States, State instrumentalities, and other eligible entities as further described in the notice. This notice also contains information about the application process.

DATES: *Deadline for Letter of Intent To Apply:* Applicants should submit a letter of intent to apply for a grant no later than June 8, 2001. Although it is not mandatory for an applicant to submit a letter of intent, we would appreciate receiving a letter of intent from each applicant because it will help us to plan our review panels.

Deadlines for Submission of Grant Applications: To be considered under the Fiscal Year 2001 funding cycle, grant applications must be submitted by the deadlines listed below:

Grants	Application deadline
• Nursing Facility Transitions	July 20, 2001.
• Independent Living Partnerships	
• State Program Grants	
• Community-integrated Personal Assistance Services and Supports	July 20, 2001.
• Real Choice Systems Change	July 20, 2001.
• National Technical Assistance Exchange for Community Living	July 16, 2001.

ADDRESSES: *Letter of Intent to Apply:* The letter of intent to apply is included in the solicitation as Appendix Seven ''Letter of Intent to Apply''; the solicitation may be found on the HCFA web site at: *http://www.hcfa.gov/medicaid/systemschange.* All letters of intent to apply must be submitted to: Jeremy Silanskis, Health Care Financing Administration, Center for Medicaid and State Operations, DEHPG/DASI, Mail Stop: S2–14–26, 7500 Security Boulevard, Baltimore, MD 21244–1850. Letters of intent to apply may be submitted by facsimile to Jeremy Silanskis at (410) 786–9004. For those unable to access the HCFA web site containing the full solicitation (including Appendices), copies of the solicitation are available through Susan Hill. (See **FOR FURTHER INFORMATION CONTACT.**)

Application Materials: Standard application forms and related instructions are available through either: (1) Judith Norris, Health Care Financing Administration, Office of Internal Customer Support, AGG, Grants Management Staff, Mail Stop: C2–21–15, 7500 Security Boulevard, Baltimore, Maryland 21244–1850, (410) 786–5130, Internet:Jnorris1@hcfa.gov, or (2) the HCFA web site at: http://www.hcfa.gov/ord/grantop.htm.

Submission of Application: Applicants are required to submit (1) an original and two copies of the application and (2) a 3¼″ floppy disk containing at least the narrative and the budget. Although it is not mandatory and does not impact on the scoring of an application, we would appreciate receiving an original and 14 copies of the application. For further information regarding the provisions of the grants, application format and requirements, review criteria and procedures, explanation of timely submission, and other relevant information, applicants must refer to the grant solicitation available on the HCFA web site at: *http://www.hcfa.gov/medicaid/systemschange.*

All application forms and related materials must be submitted to: Judith Norris, Health Care Financing Administration, Office of Internal Customer Support, AGG, Grants Management Staff, Mail Stop: C2–21–15, 7500 Security Boulevard, Baltimore, Maryland 21244–1850, (410) 786–5130, Internet:Jnorris1@hcfa.gov.

Each type of grant has a specific closing date. (See **DATES** section above.) Applications mailed through the U.S. Postal Service or a commercial delivery service will be considered ''on time'' if received by close of business on the closing date, or postmarked (first class mail) by the date specified and received within five business days. If express, certified, or registered mail is used, the applicant should obtain a legible dated mailing receipt from the U.S. Postal Service. Private metered postmarks are not acceptable as proof of timely mailings. Applications that do not meet the above criteria will be considered late applications. Applicants who submit late applications will be notified that their applications were not considered in the competition. Late applications will not be reviewed and will be returned to the applicant.

Web Site: To obtain up-to-date information about the ''Systems Change'' grants and a complete grant solicitation, please check our web site at: *http://www.hcfa.gov/medicaid/systemschange.* For those unable to access the HCFA web site containing the full solicitation (including Appendices), copies of the solicitation are available through Susan Hill. (See **FOR FURTHER INFORMATION CONTACT.**)

FOR FURTHER INFORMATION CONTACT: Questions about the grant program may be directed to: Susan Hill, Health Care Financing Administration, Center for Medicaid and State Operations, DEHPG/DASI, Mail Stop: S2–14–26, 7500 Security Boulevard, Baltimore, MD 21244–1850, (410) 786–2754, Internet:shill@hcfa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

People of all ages who have a disability or long-term illness generally express the same desire to live in the community as do most other Americans. They express a desire to live in their own homes, make their own decisions about daily activities, work, learn, and maintain important social relationships. They express a desire to contribute and participate in their communities and family life.

In 1990, the Congress enacted the Americans with Disabilities Act (ADA) (Pub. L. 101–336). The ADA recognized that ''society has tended to isolate and segregate individuals with disabilities, and, despite some improvements, such forms of discrimination against individuals with disabilities continue to be a serious and pervasive social problem'' (42 U.S.C. section 12101(a)(2)). The ADA gave legal expression to the desires and rights of Americans to lead lives as valued members of their own communities despite the presence of disability.

Over the past few years, a consensus for assertive new steps to improve the capacity of our long-term support systems to respond to the desires of our citizenry has been building. Federal, State, and local governments have begun to take actions to renew and reaffirm a commitment to improving the systems that will support people of all ages with disabilities or long-term illnesses who wish to live in their communities.

Several Federal and State initiatives are underway to make community living a reality for more people. We adopted a number of Medicaid policy reforms and issued grants to facilitate State efforts to improve their community services systems. Numerous States have implemented home and community-based waivers through the Medicaid program. As States learn more from these experiences, waivers will continue to evolve. States are interested in building in more consumer choice and consumer-directed services. In addition, the Substance Abuse and Mental Health Services Administration (SAMHSA) announced planning grants to assist States in their planning efforts. The U.S. Department of Housing and Urban Development (HUD) entered into a memorandum of understanding with HHS to coordinate community housing subsidies with human service funds in a manner that will make transition from nursing facilities to the community more feasible. The Administration on Aging (AoA) inaugurated a nationwide caregiver support program.

The Congress also recognized that States face formidable challenges in their efforts to fulfill their legal responsibilities under the ADA. The Congress appropriated funds for these ''Systems Change'' grants specifically to improve community-integrated services.

In February 2001, President George W. Bush announced a broad ''New Freedom Initiative'' to ''tear down barriers to equality'' and grant a ''New Freedom'' to children and adults of all ages who have a disability or long term illness so that they may live and prosper in their communities. For more information on the President's ''New Freedom Initiative'', please visit the web site at: http://www.whitehouse.gov.

The ''Systems Change Grants for Community Living'' described in this document represent an expression of support for States' efforts to provide additional or improved support for community living. In addition, these grants support: the President's ''New Freedom Initiative''; the States'' efforts to fulfill the ADA; and the long-standing desire of people of all ages who have a disability or long-term illness to live and participate in their communities with dignity and value.

II. Overview and General Requirements for All ''Systems Change'' Grants

Attached is a chart summarizing the Systems Change Grants. The following four distinct competitive grant solicitations comprise the ''Systems Change'' grants:

• *''Nursing Facility Transitions (TRANSITIONS)'' grants:* The purpose of the ''TRANSITIONS'' grants is to help eligible individuals make the transition from nursing facilities to the community. Between $10 to $14 million in two types of grants are available from HCFA: State Program grants and Independent Living Partnership grants. State Program grants can be used for a wide range of activities, for example, a State may wish to use State Program grant funds to develop strategies for linking individuals with disabilities to Section 8 rental housing vouchers or developing other coordinated housing strategies. The Independent Living Partnership grants are designed to promote partnerships between States and selected Independent Living Centers (ILCs) [1] to support the transition of individuals from nursing facilities to their communities.

• *''Community-Integrated Personal Assistance Services and Supports (Community PASS)'' grants:* Personal assistance is the most frequently used service that enables people with a disability or long-term illness to live in the community. Many States have taken a leadership role in designing systems that not only offer the basic personal assistance service, but also make that service available in a manner that affords consumers maximum control over the selection of individuals working on their behalf and the manner in which services are provided. These grant funds will be used by States to improve personal assistance services that are consumer-directed or offer maximum individual control. Grants totaling $5 to $8 million are available to support States' efforts to improve community-integrated personal assistance services for children and adults of any age who have a disability or long-term illness.

• *''Real Choice Systems Change (Real Choice)'' grants:* The goal of these grants is to help design and implement effective and enduring improvements in community long-term support systems to enable children and adults of any age who have a disability or long-term illness to live and participate in their communities. Direct grants totaling $41 to $43 million are available to assist States and their disability and aging communities to work together to find viable ways to expand or improve the design and delivery of community-integrated services. The funds will also support the public-private partnerships and broad public participation (including a consumer task force) that are generally needed to accomplish such an ambitious undertaking.

• *''National Technical Assistance Exchange for Community Living (The Exchange)'' grant:* This national technical assistance grant will support the ''Real Choice Systems Change'' grants, the ''Nursing Facility Transitions,'' and the ''Community-Integrated Personal Assistance Services and Supports'' efforts. The purpose of this national technical assistance initiative will be to provide technical assistance, training, and information to States, Grantees, consumers, families, and other agencies and organizations. Funding for technical assistance will range from $4 to $5 million.

A. Timing and Duration of Awards

We expect all grant awards to be made before to October 1, 2001. Grantees may expend grant funds over a 36-month period from the date of the award.

B. Match Requirements

Grantees of the Nursing Facility Transitions, Community PASS, and ''Real Choice'' grants are required to make a nonfinancial recipient contribution of 5 percent of the total grant award. Nonfinancial recipient contributions may include the value of goods and/or services contributed by the Grantee, for example, salary and fringe benefits of staff devoting a percentage of their time to the grant not otherwise included in the budget or derived from Federal funds. Recipient contributions must be included in the Applicant's Budget on Standard Form 424A. The nonfinancial match requirement may also be satisfied if a third party participating in the grant makes an ''in-kind contribution,'' provided that the Grantee's contribution and/or the third-party in-kind contribution equals 5 percent of the total grant award. Third-party ''in-kind contributions'' may include the value of the time spent by consumer task force members (using appropriate cost allocation methods to the extent that non-Federal funds are involved) who specifically contribute to the design, development, and implementation of the grant.

Grantees applying for the National Technical Assistance Exchange for Community Living grant will be required to make a nonfinancial recipient contribution of 1 percent of the total grant award. Applicants must specify these required recipient contributions in their Budget on Standard Form 424A.

C. Indirect Costs

Reimbursement of indirect costs under each of the four grant solicitations is governed by the provisions of the U.S. Department of Health and Human Services, Grants Policy Directive (GPD) Part 3.01: Post-Award—Indirect Costs and Other Cost Policies. We recommend that applicants review the provisions of this policy directive and applicable Office of Management and Budget (OMB) circulars in preparing budget information. This information is available in the solicitation and online at: http://www.hhs.gov/grantsnet/adminis/gpd/gpd301.htm.

D. Who May Apply

States may apply for *any* grant, except the Independent Living Partnership portion of the ''TRANSITIONS'' grant. By ''State'' we refer to the definition provided under 45 CFR 74.2 as ''any of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or any agency or instrumentality of a State exclusive of local governments.'' By ''territory or possession'' we mean Guam, the U.S. Virgin Islands, American Samoa, and

[1] Independent Living Centers (ILCs) refer to those ILCs recognized under State or Federal Law.

the Commonwealth of the Northern Mariana Islands.

For the ''Real Choice Systems Change'' grants and the State Program portion of the ''Nursing Facility Transitions'' grant, only State agencies or instrumentalities may apply. These agencies must have the support and active participation of one of the following: the Governor, the State Medicaid agency, or the State agency administering a relevant section of the 1915(c) home and community-based waiver.

For the Independent Living Partnership portion of the ''Nursing Facility Transitions'' grant, only Independent Living Centers may apply. Each Applicant must have (1) the support and active participation from the State Medicaid agency or the State agency administering a relevant section of the 1915(c) home and community-based waiver, and (2) the support and active participation of at least two other consumer-governed organizations.

For the ''Community PASS'' grants, any State agency or any other organization may apply if it has the support and active participation of one of the following: the Governor, the State Medicaid agency, or the State agency administering a relevant section of the 1915(c) home and community-based waiver.

For the ''National Technical Assistance Exchange for Community Living'' grant, any organization may apply. However, according to 45 CFR 74.81, no funds may be paid as profit to any recipient organization.

States may and are encouraged to apply for more than one type of grant. For example, a State may apply for a ''Real Choice Systems Change'' grant and also apply for a ''Nursing Facility Transitions'' grant. Also, different State agencies may apply for different *types* of grants. For example, the Medicaid agency might apply for a ''Community PASS'' grant, and the agency administering the section 1915(c) waiver might apply for a ''Nursing Facility Transitions'' grant. However, no State may be awarded more than one grant per State per type of grant. For example, a State may not receive two ''Real Choice Systems Change'' grants or two ''Community PASS'' grants. Neither an Independent Living Partnership grant nor a technical assistance grant will count against this limit.

In addition, a State, or other eligible entity, may submit a single application for any one type of grant that is composed of multiple, interrelated projects. For example, a State might submit an application for the ''Real Choice Systems Change'' grant that is composed of a ''one-stop shopping'' demonstration and a separate but related project to solve the shortage of front-line workers. While only one entity may receive the grant, the Grantee agency may subcontract portions of the award consistent with the Applicant's proposed project. A potential Applicant may request written clarification from us in advance of the application due date if it is unclear whether it is eligible to apply for a particular grant.

HCFA reserves the right to assure reasonable balance in the awarding of grants, in terms of key factors such as geographic distribution, broad target group representation, etc.

E. Involvement of Consumers, Stakeholders, and Public-Private Partnerships

For all grant solicitations, we strongly encourage the continuous, active involvement of consumers in both project design and implementation. We encourage processes that promote the active involvement of all other stakeholders. In addition, we encourage the development of public-private partnerships that make the most effective use of each partner's expertise.

For the ''Real Choice Systems Change'' grants, the Congress expressed its preference that the grant applications ''be developed jointly by the State and the Consumer Task Force. The Task Force should be composed of individuals with disabilities from diverse backgrounds, representatives from organizations that provide services to individuals with disabilities, consumers of long-term services and supports, and those who advocate on behalf of such individuals'' (H. Conf. Rep. No. 106–1033 at 150).

We encourage collaboration with a broad range of public and private organizations whose primary purpose is advocating for people with disabilities or long-term illnesses. Examples of these organizations include State Independent Living Councils, Area Agencies on Aging (AAAs), Developmental Disabilities Councils, State Mental Health Planning Councils, State Assistive Technology Act Projects (AT Act Projects), and other national and statewide consumer disability and aging organizations. We also encourage Applicants to partner with volunteer groups, employers, faith-based service providers, private philanthropic organizations, and other community-based organizations.

For more information regarding the options available to States relative to the consumer task force and other more detailed questions related to these grants, please visit our web site at *http://www.hcfa.gov/medicaid.*

F. Executive Order 12372

Applications for these grants are not subject to review by States under Executive Order 12372, ''Intergovernmental Review of Federal Programs'' (45 CFR Part 100).

G. Information Collection Requirements

The information collection requirements associated with the solicitation are under review by the Office of Management and Budget. We published a notice in the **Federal Register** on May 10, 2001, to solicit comments on the collection.

Authority: These grants are authorized under section 1110 of the Social Security Act. Funding and Congressional language was provided in the Consolidated Appropriations Act, 2001 (Pub. L. 106–554) (including H.R. 5656 Labor, HHS, and Education Appropriations), and in the accompanying Report, H. Conf. Rep. No. 106–1033. HCFA is the designated HHS agency with administrative responsibility for this grant program.

(Catalog of Federal Domestic Assistance Number: 93.779; Research and Demonstrations)

Dated: May 10, 2001.

Michael McMullan,

Acting Deputy Administrator, Health Care Financing Administration.

BILLING CODE 4120–03–U

CHART OF SYSTEMS CHANGE GRANTS FOR COMMUNITY LIVING - FY 2001

Name of Grant	Application Deadline Date	Who May Apply?	Maximum Award	Average Award	Maximum Project Period	Estimated Number of Awards
1. Nursing Facility Transitions grants (CFDA 93.779)						
❖ **Independent Living Partnerships**	07/20/01	Independent Living Centers*	$600,000	$200,000	36 mos.	6-8
❖ **State Program grants**	07/20/01	Any State Agency*	$1,200,000	$600,000	36 mos.	10-18
2. Community-Integrated Personal Assistance Services and Supports grants (CFDA 93.779)	07/20/01	Any Entity*	$1,200,000	$600,000	36 mos.	9-12
3. Real Choice Systems Change grants (CFDA 93.779)	07/20/01	State Agency or Instrumentality*	$3,500,000	$1,000,000	36 mos.	40
4. National Technical Assistance Exchange for Community Living grant (CFDA 93.779)	07/16/01	Any Entity	$4-$5 Million	$4-$5 million	36 mos.	1

* Requires the support and active participation of one of the following: the Governor, the State Medicaid agency, or the State agency administering a relevant section of the1915(c) home and community-based waiver.

[FR Doc. 01–12882 Filed 5–17–01; 4:37 pm]
BILLING CODE 4120–03–C

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

Privacy Act of 1974; Computer Matching Program (Match Number 2001–04)

AGENCY: Department of Health and Human Services (HHS), Health Care Financing Administration (HCFA).

ACTION: Notice of Computer Matching Program (CMP).

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, as amended, this notice announces a CMP agreement that HCFA plans to conduct with the Department of Defense (DOD). We have provided background information about the proposed matching program in the **SUPPLEMENTARY INFORMATION** section below. Although the Privacy Act requires only that HCFA provide an opportunity for interested persons to comment on the CMP, HCFA invites comments on all portions of this notice. See **EFFECTIVE DATES** section below for comment period.

EFFECTIVE DATES: HCFA filed a report of the CMP with the Chair of the House Committee on Government Reform and Oversight, the Chair of the Senate Committee on Governmental Affairs, and the Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB) on May 16, 2001. We will not disclose any information under a matching agreement until 40 days after filing a report to OMB and Congress or 30 days after publication. We may defer implementation of this matching program if we receive comments that persuade us to do so.

ADDRESS: The public should address comments to: Director, Division of Data Liaison and Distribution (DDLD), HCFA, Mailstop N2–04–27, 7500 Security Boulevard, Baltimore, Maryland 21244–1850. Comments received will be available for review at this location, by appointment, during hours specified, Monday through Friday from 9 a.m.–3 p.m., Eastern Time zone.

FOR FURTHER INFORMATION CONTACT: Maribel Franey, Health Insurance Specialist, Division of Data Liaison and Distribution, Enterprise Database Group, Office of Information Services, HCFA, Mailstop N2–04–27, 7500 Security Boulevard, Baltimore, Maryland 21244–1850. The telephone number is (410) 786–0757 or facsimile (410) 786–5636. The e-mail address is mfraney@hcfa.gov.

SUPPLEMENTARY INFORMATION:

I. Description of the Matching Program

A. General

The Computer Matching and Privacy Protection Act (CMPPA) 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 added certain protections for individuals applying for and receiving Federal benefits. Section 7201 of the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 100–508) 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 CMPs:

1. Negotiate written agreements with the other agencies participating in matching programs;
2. Obtain the Data Integrity Board's (DIB) approval of the match agreement;
3. Furnish detailed reports about matching programs to Congress and OMB;
4. Notify applicants and beneficiaries that the records are subject to matching; and
5. Verify match findings before reducing, suspending, terminating, or denying an individual's benefits or payments.

B. HCFA Computer Matches Subject to the Privacy Act

HCFA has taken action to ensure that all of the computer match programs that this agency participates in comply with the requirements of the Privacy Act of 1974, as amended.

Michael McMullan,

Acting Deputy Administrator, Health Care Financing Administration.

Computer Match No. 2001–04

NAME:

Verification of TRICARE Eligibility.

SECURITY CLASSIFICATION:

Level Three Privacy Act Sensitive.

PARTICIPATING AGENCIES:

The Health Care Financing Administration (HCFA); and the Department of Defense (DOD).

AUTHORITY FOR CONDUCTING MATCHING PROGRAM:

The Computer Matching Agreement is executed to comply with the Privacy Act of 1974 (5 U.S.C. 552a), as amended, the Office of Management and Budget (OMB) Circular A–130, titled ''Management of Federal Information Resources'' (61 FR 6435, February 20, 1996), and OMB guidelines pertaining to computer matching (54 FR 25818, June 19, 1989).

This agreement provides for information matching necessary to implement the information provisions of the National Defense Authorization Act (NDAA) 2001 (Pub. L. 106–398) sections 711 and 712; the NDAA for fiscal year (FY) 1993 (Pub. L. 102–484) section 705, and the NDAA for FY 1992 (Pub. L. 102–190) sections 704 and 713.

PURPOSE(S) OF THE MATCHING PROGRAM:

The purpose of this agreement is to establish the conditions, safeguards, and procedures under which the Health Care Financing Administration (HCFA) will disclose Medicare enrollment information to the Department of Defense (DOD), Defense Manpower Data Center (DMDC), Defense Enrollment and Eligibility Reporting System Office (DEERS), and the Office of the Assistant Secretary of Defense (Health Affairs)/ TRICARE Management Activity (TMA). This disclosure will provide TMA with the information necessary to determine if an individual is eligible to receive extended TRICARE coverage.

Current law requires TMA to provide health care and medical benefits to Medicare—Part A eligible beneficiaries who are enrolled in the medical insurance program under Part B of the Medicare program. In order for TMA to meet these requirements, HCFA agrees to disclose Part A entitlement and Part B enrollment data on this dual-eligible population, which will be used to determine a beneficiary's eligibility for care under TRICARE. DEERS will receive the results of the computer match and provide the information to TMA for use in its program.

CATEGORIES OF RECORDS AND INDIVIDUALS COVERED BY THE MATCH:

DEERS will furnish HCFA with an electronic file on a monthly basis extracted from DEERS system of records identified as S322.50, entitled ''Defense Eligibility Records (DER),'' containing social security numbers (SSNs) and date of birth for all DOD-eligible beneficiaries who may also be eligible for Medicare benefits. HCFA will match the DEERS file against its ''Enrollment Database (EDB)'' system of records (formerly known as the Health Insurance Master Record), System No. 09–70–0502, and will validate the identification of the beneficiary by providing the Health Insurance Claim

Number (HICN) that matches against the SSN and date of birth provided by DEERS. The HICN uniquely identifies a Medicare eligible individual. Since Medicare remains the primary payer for many retiree health services, TRICARE will need this information to determine when Medicare has already paid for retiree benefits, so that TRICARE only pays when appropriate. HCFA will also provide the Medicare Part A entitlement and Part B enrollment status of the beneficiary. HCFA's data will help TMA to determine a beneficiary's eligibility for care under TRICARE. DEERS will receive the results of the computer match and provide the information provided in the reply file to TMA for use in its program.

INCLUSIVE DATES OF THE MATCH:

The matching program shall become effective no sooner than 40 days after the report of the matching program is sent to OMB and Congress, or 30 days after publication in the **Federal Register**, whichever 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. 01–12763 Filed 5–21–01; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Program Requirements and Review Criteria for Cooperative Agreements for Regional Centers for Health Workforce Studies

The Health Resources and Services Administration (HRSA) announces that applications will be accepted for Cooperative Agreements for fiscal year (FY) 2001 to establish or continue five Regional Centers for Health Workforce Studies (Regional Centers).

The purpose of these Cooperative Agreements is to support health workforce research, analysis and technical assistance with a State and regional focus, including issues regarding the impact of Federal initiatives aimed at improving the training of health professionals and health workforce development in general, both within specific disciplines and as they pertain to the three cross-discipline major trends (diversity, genetics, and geriatrics) identified by HRSA's Bureau of Health Professions (BHPr). In addition, patient-focused cross-discipline research and analysis of issues such as border, mental and oral health, cultural competence, and the impact of health workforce development on access to or financing of a State's or region's health care system will be addressed.

Authorizing Legislation

These Cooperative Agreements are governed by section 761 of title VII of the Public Health Service (PHS) Act (the Act), which authorizes the collection of data and the analysis of workforce related issues.

The Federal role in the conduct of these Cooperative Agreements allows for substantial Federal programmatic involvement with the planning, development, administration, and evaluation of the Regional Centers and their outputs. The BHPr program officer will be assisted in this effort by program staff of the BHPr Divisions. The Federal Government involvement will include:

(a) Participation in the identification and selection of workforce study priorities;

(b) Participation in the review and selection of research projects, which includes providing substantial guidance on Federal policy-relevant issues, or issues of particular national interest that require research and analysis. This includes identification of HRSA programmatic issues for special attention (e.g., diversity) through the Cooperative Agreements;

(c) Participation in the approval of study protocols and methodologies;

(d) Consultation regarding sub-contracts awarded under these Cooperative Agreements, including review of contracts and agreements developed during the implementation of project activities;

(e) Assistance in supplying data relevant to Regional Center studies, or in identifying sources of such data, including other Federal agencies, or other public and private organizations; defining the mission, goals and objectives for the Center;

(f) Assistance in the dissemination of results and, if appropriate, participation in their publication in peer-reviewed journals.

Availability of Funds

Approximately $1,250,000 is available to fund five regional competitive Cooperative Agreements in FY 2001. The project period will be 5 years. This is a one time competition and is not expected to be an ongoing Cooperative Agreement program. Each applicant may request up to $250,000 per year in total costs (direct plus indirect costs) for up to 5 years. Funding for years after the first year will depend on satisfactory performance and the availability of appropriations.

The award recipient institution must share in the cost of the program as follows: for each year funds are awarded under this program, the matching contribution shall be at least one-third of the amount of the Federal award for that year. Up to 50 percent of the recipient's matching contribution may be in the form of in-kind donations such as faculty time, staff time, use of computers and other shared resources.

Because the Regional Centers will have a strong regional component, the BHPr will consider the regional dimension of each center selected to ensure that the geographic distribution of the five selected centers will assure maximum geographic coverage of the nation. Five Regional Centers will be funded at this time, subject to the availability of funds, but only one Regional Center will be approved in each of five of the six geographic areas.

For purposes of this competition, the HRSA six geographic areas are:

(a) HRSA Regions 1 (Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont), 2 (New Jersey, New York, Puerto Rico, Virgin Islands), and 3 (Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, West Virginia);

(b) HRSA Region 4 (Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee);

(c) HRSA Regions 5 (Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin) and 7 (Iowa, Kansas, Missouri, Nebraska);

(d) HRSA Region 6 (Arkansas, Louisiana, New Mexico, Oklahoma, Texas);

(e) HRSA Region 9 (American Samoa, Arizona, California, The Federated States of Micronesia, The Commonwealth of the Northern Mariana Islands, Guam, Hawaii, Nevada, The Republic of the Marshall Islands, and The Republic of Palau);

(f) HRSA Regions 8 (Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming) and 10 (Alaska, Idaho, Oregon, Washington).

For a map and description of the HRSA Regions, see HRSA's web site at: *http://bhpr.hrsa/gov/healthworkforce/fieldoffices.htm.*

Background

The successful Regional Center applicant will have three overriding objectives:

(1) Serve as a national resource in health workforce studies (This may include congressionally-mandated studies such as the recent Pharmacy Shortage Report or lead participation in

educational forums to national legislators and policymakers);

(2) Serve as a resource in health workforce studies to its State(s), region, and rural areas (This may include studies of specific health professional shortages such as nursing, or work with their States primary care offices (PCOs) and primary care associations (PCAs), and State Office of Rural Health, or lead participation in educational forums for State, rural, and local legislators and policymakers); and

(3) Serve as a resource in health workforce studies for HRSA and the BHPr (This may include national studies such as the pharmacy, the paraprofessional workforce, scope-of-practice laws, and the State Health Workforce profiles, or assisting and working with organizations such as Area Health Education Centers (AHECs) or public health training centers in workforce analysis). For examples of past studies see the BHPr, National Center for Health Workforce Information and Analysis web site at: *www.bhpr.hrsa.gov/healthworkforce/.*

Eligible Applicants

Eligible applicants are State or local governments, health professions schools, schools of nursing, academic health centers, community-based health facilities, and other appropriate public or private nonprofit entities. Due to the complexity of the work, experience and infrastructure in health workforce analysis and research is required.

The applicant for a Regional Center should have an established relationship with and knowledge of HRSA's health professions training grant programs and experience in providing technical assistance in health workforce analysis to State and local agencies and organizations such as PCOs and PCAs as a partnership. The applicant organization will serve as a regional resource in health workforce analysis.

The successful Regional Center applicant will be expected to produce ground-breaking reports that move the field forward, in form of peer reviewed and other publications, presentations at national and regional or State forums, and in web-based publishing. Each center must conduct high-quality research and disseminate findings to colleagues and policymakers at the institutional, Federal, and State levels.

Funding Preference

A funding preference is defined as the funding of a specific category or group of approved applications ahead of other categories of groups of applications. The following preference is available under this Cooperative Agreement:

Taking into consideration that only five Regional Centers will be funded at this time with a limitation of one Regional Center to be awarded per area as specified above, a funding preference will be given to any qualified application that will show experience with the analysis of health workforce issues as they relate to the nation's Hispanic and border populations. Providing health services to and training health care providers for these often overlapping underserved populations are high priorities for HRSA and BHPr. For example, only 62 primary care physicians per 100,000 population reside in (U.S.-Mexican) border counties compared to 105 per 100,000 nationally, and the poverty rate in these counties is much higher than the national average.

Review Criteria

Applications received will be reviewed by an ad hoc review panel using the following criteria:

(a) The degree to which the proposal contains clearly stated, realistic, and measurable objectives, especially as they relate to Federal, regional or State concerns, policies, or legislative deliberations affecting the health workforce;

(b) The proposed activities and projects for the first year must be specific in content and expected outcome. They should address the 3 major trends identified by the Bureau: genetics, geriatrics, and diversity.

(c) The qualifications and achievements of the proposed center's principal investigator and senior research staff, breadth of knowledge about health workforce disciplines, including level of productivity and national prominence in health workforce research and analysis, and the appropriateness of their time commitment;

(d) The extent of the applicant's experience with research and analysis of:

(1) Specific disciplines such as nursing, primary care medicine and medical specialties, dentistry, pharmacy, public or allied health;

(2) Health workforce issues as they pertain to the three cross-discipline major trends identified by HRSA's BHPr: diversity, genetics, and geriatrics;

(3) Health workforce issues of concern to States, rural, urban, and local areas, in partnership with State PCOs and PCAs, and State Offices of Rural Health;

(4) Issues such as border, Hispanic, mental and oral health, or cultural competence;

(5) Impact of health workforce development on a State's or region's health care system or financing.

(e) The experience and accomplishments of the applicant in health workforce issues and research directly supporting BHPr programs and priorities, especially with regard to important and high visibility contractual work;

(f) The strength of the applicant's plan to actively promote dissemination of research findings both in peer-reviewed journals and to relevant national and State policymakers;

(g) The administrative and management capability of the applicant to carry out the Cooperative Agreements, and the extent to which the budget justifications are complete, appropriate, and cost-effective; and

(h) The extent to which the applicant can demonstrate the ability to obtain non-Federal funding and resources to provide program matching and the likelihood to continue the center's workforce analytical activities beyond the project period.

These Cooperative Agreements will fund either the establishment and operation of a new health workforce research center, or the re-establishment and continuation of an existing center (four Centers for Health Workforce Studies have been in operation for a 3-year period, ending with FY 2000). The new Regional Center must be an identifiable entity within the applicant's institution rather than a set of discrete, investigator-initiated research projects pulled together in one application. It must have a director; a coherent, research agenda; and researchers who function as a team. The principal investigator must be an experienced researcher who provides research leadership and is primarily responsible for the organization and operation of the center. Each Regional center's researchers must collectively possess multidisciplinary skills and have experience in health services and workforce research. Interdisciplinary collaboration in research is encouraged. Although the center will share common resources with the applicant institution, there must be sufficient core staff with significant time commitment to the center.

The funds for each Cooperative Agreement will provide basic support for the center, including the development and implementation of its research agenda, administrative and research staff support, researcher time (although not necessarily at 100 percent), and dissemination of the center research products. Each Cooperative Agreement must not be the sole source of support for the center—the applicant institution must demonstrate a commitment to support

the organizational and management structure of the centers, including a matching contribution, and its investigators should seek other funds for the support of its research agenda.

Application Requests, Dates and Address

In order to be considered for competition, applications for these Cooperative Agreements must be received by mail or delivered to the Grants Management Office no later than June 21, 2001. Completed applications should be mailed or delivered to: Grants Management Officer (BHPr), Room 8C–26, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857. Applications received after the deadline date or sent to any address other than that above will be returned to the applicant and not reviewed. In addition, applications which do not follow format instructions or exceed the page limitation indicated in the proposal instructions will not be accepted for processing and will be returned to the applicant.

Eligible entities interested in receiving materials regarding this program should notify HRSA. Materials will be sent only to those entities making a request. Requests for proposal instructions should be directed to the HRSA website address at *http://bhpr.hrsa.gov/grants2001/*. Applicants may also request a hard copy of these materials from the HRSA Grants Application Center (GAC) at 1815 North Fort Myer Drive, Suite 300, Arlington, VA 22209; telephone number 1–877–477–2123. The GAC e-mail address is: *hrsa.gac@hrsa.gov*.

National Health Objectives for the Year 2010

The PHS urges applicants to submit their work plans that address specific objectives of Healthy People 2010, which potential applicants may obtain through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325 (telephone: 202–783–3238). Particular attention should focus on Healthy People 2010 Workforce Objectives, such as Objectives 1–8 (achieving minority representation in the health professions) and 23–8 (incorporating specific competencies into the public health workforce).

Smoke-Free Workplace

The Public Health Service strongly encourages all grant recipients to provide a smoke-free workplace; to promote the non-use of all tobacco products; and to promote Pub. L. 103–227, the Pro-Children Act of 1994, which prohibits smoking in certain facilities that receive Federal funds in which education, library, day care, health care, and early childhood development services are provided to children.

Additional Information

Questions concerning programmatic aspects of these Cooperative Agreements will be addressed via conference call. Details pertaining to the conference call will be announced in the application material.

Questions regarding grants policy and business management issues should be directed to: Ms. Wilma Johnson, Grants Management Officer, Bureau of Health Professions, HRSA, Room 8C–26, 5600 Fishers Lane, Rockville, Maryland 20857; telephone: (301) 443–6880.

Paperwork Reduction Act

The standard application form PHS 398, PHS Grant Application, has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act. The OMB clearance number is 0925–0001. OMB review and approval will be required for data collection activities resulting from these Cooperative Agreements which fall under the purview of the Paperwork Reduction Act.

This program is not subject to the provisions of Executive Order 12372, Intergovernmental Review of Federal Programs (as implemented through 45 CFR part 100). This program is also not subject to the Public Health System Reporting Requirements.

Dated: May 14, 2001.

Elizabeth M. Duke,

Acting Administrator.

[FR Doc. 01–12771 Filed 5–21–01; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Advisory Committee; 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 June 2001.

Name: Advisory Committee on Interdisciplinary, Community-Based Linkages.

Date and Time: June 7, 2001; 9:30 a.m.–5:30 p.m.; June 8, 2001; 9:30 a.m.–4 p.m.

Place: The Doubletree Hotel Park Terrace on Embassy Row 1515 Rhode Island Avenue, NW., Washington, DC 20005.

The meeting is open to the public.

Agenda items will include, but not be limited to: Welcome; plenary discussion of community-based and interdisciplinary education; guidance provided on an ad hoc basis by Federal program staff from the Division of Interdisciplinary, Community-Based Programs (DICP) and the Division of Medicine and Dentistry (DMD), Bureau of Health Professions (BHPr), Health Resources and Services Administration (HRSA); and refining standards and writing the Committee report due to the Secretary and the Congress in November 2001.

Meeting content will be based on the Committee's charge under Section 756 of the Public Health Service Act, to include background research and writing of the Committee report and scheduling of topics of the next Committee meeting in September 2001.

Public comment will be permitted before lunch and at the end of the Committee meeting on June 7 and 8, 2001. Oral presentations will be limited to 5 minutes per public speaker. Persons interested in providing an oral presentation should submit a written request, with a copy of their presentation to: Mr. Leo Wermers, Principal Staff Liaison, Division of Interdisciplinary, Community-Based Programs, Bureau of Health Professions, Health Resources and Services Administration, Room 9–105, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443–1648.

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 Division of Interdisciplinary, Community-Based Programs 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 wish to make an oral statement may register to do so at the Doubletree Hotel Park Terrace on Embassy Row, Washington, D.C. on June 7, 2001. These persons will be allocated time as the Committee meeting agenda permits.

FOR FURTHER INFORMATION CONTACT: Anyone requiring information regarding the Committee should contact Mr. Wermers, Division of Interdisciplinary, Community-Based Programs, Bureau of

Health Professions, Health Resources and Services Administration, Room 9–105, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443–1648.

Dated: May 16, 2001.

Jane M. Harrison,

Director, Division of Policy Review and Coordination.

[FR Doc. 01–12809 Filed 5–21–01; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4652–N–11]

Notice of Proposed Information Collection for Public Comment—Procedure for Obtaining Certificates of Insurance for Capital Program Projects

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:* July 23, 2001.

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: Procedure for Obtaining Certificates of Insurance for Capital Program Projects.

OMB Control Number: 2477–0046.

Description of the need for the information and proposed use: HUD requires Housing Agencies (Has) to obtain certificates of insurance from contractors and subcontractors before beginning work under either the development of a new low-income housing project or the modernization of an existing project. The certificates of insurance provide evidence that worker's compensation and general liability, automobile liability insurance, is in force before any construction work is started.

Agency form numbers, if applicable: None.

Members of affected public: State or Local Government Public Housing Agencies.

Estimation of the total number of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: 3,000 respondents, 4 responses per respondent, 12, 000 total responses, .50 average hours per response, 6,000 hours for the reporting burden, 6,000 hours for the recordkeeping burden, 12,000 hours total burden.

Status of the proposed information collection: Extension.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: May 15, 2001.

Gloria Cousar,

Acting General Deputy Assistant Secretary for Public and Indian Housing.

[FR Doc. 01–12795 Filed 5–21–01; 8:45 am]

BILLING CODE 4210–33–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4579–FA–09]

Announcement of Funding Award—FY 2001 Lead-Based Paint Hazard Control Tides Foundation

AGENCY: Office of the Secretary—Office of Healthy Homes and Lead Hazard Control.

ACTION: Announcement of funding award.

SUMMARY: In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this announcement notifies the public of a funding decision made by the Department to the Tides Foundation. This announcement contains the name and address of the awardee and the amount of the award.

FOR FURTHER INFORMATION CONTACT: Staci Gilliam, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 755–1785, ext. 110. Hearing- or speech-impaired individuals may access this number by calling the Federal Information Relay Service TTY at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: The Lead-Based Paint Hazard Control grant for the Tides Foundation was issued pursuant to Pub. L. 102–550, Title X, Residential Lead-Based Paint Hazard Reduction Act of 1992.

This notice announces the award of $581,612.00 to the Tides Foundation which will be used to provide financial support and technical assistance to support education and outreach efforts by parent groups and other community-based organizations to protect children from being lead poisoned.

(The Catalog of Federal Domestic Assistance number for this program is 14.900.)

In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (103 Stat. 1987, 42 U.S.C. 3545), the Department is publishing the name, address, and amount of the award as follows: Tides Foundation, P.O. Box 29907, San Francisco, CA 94129–0907. *FY 2001:* $581,612.00. *Total Amount of Grant:* $1,493,921.00.

Dated: May 11, 2001.

David E. Jacobs,

Director, Office of Healthy Homes and Lead Hazard Control.

[FR Doc. 01–12796 Filed 5–21–01; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4456–N–15]

Privacy Act of 1974; Establishment of a New System of Records

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notification of the establishment of a new system of records.

SUMMARY: Pursuant to the provisions of the Privacy Act of 1974 (5 U.S.C. 552a), as amended, the Department of Housing and Urban Development (HUD) is giving notice that it proposes to establish a new system of records entitled ''Inspector Quality Assurance/Quality Control Administrative Files,'' which will be used in performing quality assurance and quality control reviews of physical inspections of certain properties performed by inspectors certified in the use of the HUD inspection protocol, and in supporting other administrative requirements related to monitoring inspectors' performance of physical inspections.

DATES: *Effective Date:* This proposal shall become effective without further notice on June 21, 2001, unless comments are received on or before that date which would result in a contrary determination.

Comments Due Date: June 21, 2001.

ADDRESSES: Interested persons are invited to submit comments regarding this notice to the Rules Docket Clerk, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410–0500. Communications should refer to the above docket number and title. Comments submitted by facsimile (FAX) will not be accepted. A copy of each communication submitted will be available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays at the above address.

FOR FURTHER INFORMATION CONTACT: For Privacy Act Information: Jeanette Smith, Department Privacy Act Officer, Telephone Number (202) 708–2374. For REAC, Quality Assurance/Quality Control Administrative Files, Richard Santangelo, Telephone (202) 708–4932, x3002. (These are not toll-free numbers.) A telecommunications device for hearing and speech-impaired persons (TTY) is available at 1–800–877–8339 (Federal Information Relay Services). (This is a toll-free number.)

SUPPLEMENTARY INFORMATION: Pursuant to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, notice is given that HUD proposes to establish a new system of records identified as HUD/REAC–3, the Quality Assurance/ Quality Control Administrative Files of the Real Estate Assessment Center (REAC). REAC is currently responsible for evaluating the physical and financial condition of over 3,000 Public Housing Agencies (PHAs) and approximately 30,000 Federal Housing Administration (FHA) multifamily insured, direct loan, HUD-held, and Section 8 project-based subsidized properties; in the future, REAC may also be responsible for evaluating the physical condition of additional HUD programs identified by statute or regulation, or by contract, the physical condition of other federally-assisted properties (all of these properties are hereinafter referred to collectively as ''properties''). The physical condition of certain HUD assisted or insured properties is evaluated using the Uniform Physical Conditions Standards (UPCS), which HUD adopted on September 1, 1998 (see 24 CFR 5.703). Under the UPCS, certain HUD assisted or insured properties are physically inspected annually, unless otherwise notified by HUD, to ensure they are decent, safe, sanitary and in good repair.

To ensure that physical inspections are conducted according to the UPCS or other appropriate protocol, REAC has developed a quality assurance and quality control (QA/QC) process that will monitor inspectors' performance.

There are five levels to the QA process. At the first level, the HUD contractor or other inspection entity is responsible for implementing an internal quality control procedure to ensure that inspections are conducted in accordance with the applicable regulations. At the second level, REAC staff evaluate the inspector's performance and ability to properly apply the UPCS or other appropriate protocol. At the third level, REAC staff evaluate the accuracy of the inspections and the scores. And at the fourth level, REAC research and development staff evaluate the performance of the overall inspection program with regard to the precision and replicability of the inspection protocol. At the fifth level, end users of the information created by REAC will assess the reliability and replicability of the inspection process.

This QA/QC process provides HUD with the assurance that the information in the physical inspection report is accurate and the inspection was conducted according to the UPCS protocol, or other appropriate protocol.

Title 5 U.S.C. 552a(e)(4) and (11) provide that the public be afforded a 30-day period in which to comment on the new record systems. The new system report was submitted to the Office of Management and Budget (OMB), the House of Representatives Committee on Government Reform and Oversight, and the Senate Committee on Governmental Affairs pursuant to paragraph 4c of Appendix 1 to OMB Circular No. A–130, ''Federal Responsibilities for Maintaining Records About Individuals,'' July 25, 1994; 59 FR 37914.

Accordingly, this notice establishes a new system of records and accompanying routine uses to be created during the physical inspection quality assurance review process at HUD's Real Estate Assessment Center.

Authority: 5 U.S.C. 552a:88 Stat. 1896; 42 U.S.C. 3535(d).

Dated: May 17, 2001.

Gloria R. Parker,

Chief Information Officer.

HUD/REAC–3

SYSTEM NAME

Quality Assurance/Quality Control Administrative Files of the Real Estate Assessment Center.

SYSTEM LOCATION

Headquarters.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM

All individuals who are qualified, and who have successfully completed HUD approved training in the use of the data collection device (DCD), UPCS software, and other requirements of the HUD inspection protocol; have successfully passed the test to be certified in the use of the HUD inspection protocol; and have received an inspector identification number and badge from the REAC. The system also covers individuals who have submitted an inspector application, and contains information by individual name of those REAC inspectors and contractors conducting the QA/QC.

CATEGORIES OF RECORDS IN THE SYSTEM

Records may contain correspondence relating to inspector performance. Such correspondence will include periodic reports provided to contract inspection entities or persons who have contracted with HUD or servicing mortgagees to perform inspections, and servicing mortgagees whose employees are certified to conduct inspections. Correspondence may also include complaints about inspector performance or behavior received from owners, agents, servicing lenders or residents; reports of inspector performance that may serve as the basis for appeals or technical reviews; Congressional inquiries; correspondence from Federal, state or local jurisdictions; or other documentation. Also, records consist of documentation regarding inspector qualifications. Such documentation will include inspector applications, resumes, substantiations of training courses attended, test results, etc.

Records also consist of the physical inspection reports prepared by the inspectors and the results of REAC's

acceptance testing procedures. Records may include documentation of observations by REAC QA/QC Inspectors in conjunction with and/or during the Collaborative Quality Assurance (CQA), Independent Quality Assurance (IQA) reviews, or other quality assurance reviews. Other records may include information regarding the planning, conduct and results of the QA/QC process, trend analyses, internal legal assistance requests, information requests, responses to such requests, reports of findings, etc.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Information on statutory authority of housing standards can be found in the United States Housing Act of 1937 (42 U.S.C. 1437, et seq.), and in the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12701, et seq.). Subpart G of 24 CFR Part 5 contains information on the uniform physical condition standards and physical inspection requirements for certain HUD housing. A final rule published December 8, 2000 (65 FR 77230), contains information on the uniform physical condition standards and physical inspection requirements for multi-family housing. Information on the Public Housing Assessment System (PHAS) can be found at 24 CFR Part 902, as amended. OMB Circular A–123 (Management Accountability and Control) contains information on agency requirements to develop and implement strategies to ensure accountability and effectiveness of Federal programs. OMB Circular A–130, Appendix I (Federal Agency Responsibilities for Maintaining Records about Individuals) provides information on agency responsibilities for implementing the reporting and publication requirements of the Privacy Act. Additional information on physical inspection requirements of HUD assisted or insured properties can be found in the HUD 2020 Management Reform Plan.

PURPOSE(S):

REAC performs the QA/QC process on inspectors and inspections of properties to assure that the physical inspections are conducted in accordance with the HUD protocol or other appropriate protocol and that the information is accurate and reliable. In the event that the records generated during the process of the review indicate a violation or potential violation of the law, relevant records may be disclosed to the appropriate Federal, state or local authority for investigation or enforcement of the applicable laws.

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 subsection (b) of the Privacy Act of 1974, 5 U.S.C. 552a(b), records may also be disclosed routinely to other users under the following circumstances:

1. In the event that records indicate a violation or potential violation of law, whether criminal, civil or regulatory in nature, the relevant records may be disclosed to the appropriate Federal, state, or local agency charged with the responsibility for investigating or prosecuting such violation or enforcing or implementing such statute, rule or regulation.

2. Records may be disclosed to a congressional office in response to an inquiry from that congressional office made at the request of the individual who is the subject of the records.

3. Records may be disclosed to any committee, subcommittee, or joint committee of Congress if the disclosure pertains to a matter within the legislative or investigative jurisdiction of the committee, subcommittee, or joint committee.

4. Records may be disclosed to HUD contractors or other entities who have entered into working agreements with the individual inspector for these inspection services, PHAs or management agents of HUD-assisted housing properties, servicing mortgagees, or owners or agents of other properties, in order to assist such entities in taking action to recover money or property, where such recovery serves to promote the integrity of the programs or operations of HUD or other contracting Federal agency.

5. Records may be disclosed during the course of an administrative proceeding where HUD or other contracting Federal agency is a party to the litigation and the disclosure is relevant, reasonable and necessary to adjudicate the matter.

6. Records may be disclosed to the Department of Justice for litigation purposes associated with the representation of HUD or other contracting Federal agency before the courts.

7. Records may be disclosed to any source, either private or governmental, to the extent necessary to elicit information relevant to an Office of Inspector General investigation.

8. Records may be disclosed to the HUD contractor or other entity who has entered into a working agreement with an individual inspector for inspection services, in order to assist in evaluating the working relationship between the individual inspector and the HUD contractor or other entity.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored electronically in office automation equipment and manually in file jackets.

RETRIEVABILITY:

Records may be retrieved by computer search and/or by reference to particular inspection number, inspector name, or by the inspector's HUD-issued identification number.

SAFEGUARDS:

Records are maintained in a secure computer network, and in locked filecabinets or in metal file cabinets in rooms with controlled access.

RETENTION AND DISPOSAL:

The records are retained and disposed of in accordance with the General Records Schedule contained in HUD Handbook 2228.2, appendix 14, item 25.

SYSTEM MANAGER(S) AND ADDRESS:

Richard Santangelo, Real Estate Assessment Center, 1280 Maryland Avenue, SW., Suite 800, Washington, DC 20024.

NOTIFICATION PROCEDURE:

The System Manager will accept inquiries from individuals seeking notification of whether the system contains records pertaining to them.

RECORD ACCESS PROCEDURES:

The procedures for requesting access to records appear in 24 CFR parts 16 and 2003.

CONTESTING RECORD PROCEDURES:

The procedures for requesting amendment or correction of records appear in 24 CFR part 16.

RECORD SOURCE CATEGORIES:

Information may be collected from a wide variety of sources, including from HUD, program participants, subject individuals, complainants, witnesses and other non-government sources.

EXEMPTIONS FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 01–12839 Filed 5–21–01; 8:45 am]

BILLING CODE 4210–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Receipt of Applications for Permit

Endangered Species

The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, *as amended* (16 U.S.C. 1531, *et seq.*). Written data or comments should be submitted to the Director, U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203 and must be received by the Director within 30 days of the date of this publication.

Applicant: Dana Michelle Bisatti, Southern Methodist University/ Department of Geology, Dallas, TX, PRT–025112

The applicant requests a permit to import samples obtained from salvaged leatherback (*Dermochelys coriacea*) marine turtles collected in Costa Rica for the purpose of scientific research. This notification covers activities conducted by the applicant over a five year period.

Applicant: Owen T. Muramatsu, Kaneohe, HI, PRT–042201

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purposes of enhancement of the survival of the species.

Applicant: John Stehle, Craig, CO, PRT–042200

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purposes of enhancement of the survival of the species.

Applicant: Mark Neussle, Scottsdale, AZ, PRT–042510

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purposes of enhancement of the survival of the species.

Applicant: James A. Crane, Jr., York, SC, PRT–042512

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purposes of enhancement of the survival of the species.

Applicant: Exotic Feline Breeding Compound, Inc., Rosamond, CA, PRT–039534

The applicant requests a permit to import one captive-born male Amur leopard (*Panthera pardus orientalis*) from Jungle Cat World, Orono, Canada for the purpose of enhancement of the species through captive propagation.

Applicant: Riverbanks Zoological Park, Columbia, SC, PRT–40699

The applicant requests a permit to import four live Parma wallabies (*Macropus parma*) from the Assiniboine Park Zoo, Winnipeg, Canada, for the purpose of enhancement of the survival of the species through captive propagation.

Applicant: Clifford Brooks, Citrus Heights, CA, PRT-042045

The applicant requests a permit to import a sport-hunted cheetah (*Acinonyx jubatus*) trophy from Namibia for the purpose of enhancement of the survival of the species.

Applicant: Monte L. Bean Life Science Museum, Brigham Young University, Provo, UT, PRT–042049

The applicant requests a permit to import one male and one female giant panda (*Ailuropoda melanoleuca*) skin and skull from animals that died naturally at the Chang-qing Nature Preserve, Huayang, Yangxian, Shaanxi, China for the purpose of enhancement of the survival of the species.

Applicant: Enoch D. Brandenburg, Mesa, AZ, PRT–042633

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: Lisa Jones-Engel/University of New Mexico, Albuquerque, NM, PRT–039959

The applicant requests a permit to import biological samples from captive-held Orangutan (*Pongo pygmaeus*) and White-handed gibbon (*Hylobates lar*) collected in Indonesia, for scientific research. This notification covers activities conducted by the applicant over a five year period.

Applicant: University of Colorado, Boulder, CO, PRT–040035

The applicant requests a permit to import hair samples from wild ringtailed lemur (*Lemur catta*) for the purpose of enhancement of the survival of the species through scientific research. This notification covers activities conducted by the applicant over a five year period.

Marine Mammals

The public is invited to comment on the following application(s) for a permit to conduct certain activities with marine mammals. The application(s) was submitted to satisfy requirements of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) and the regulations governing marine mammals (50 CFR 18).

Written data, comments, or requests for copies of these complete applications or requests for a public hearing on these applications should be sent to the U.S. Fish and Wildlife Service, Division of Management Authority, 4401 N. Fairfax Drive, Room 700, Arlington, Virginia 22203, telephone 703/358–2104 or fax 703/358–2281. These requests must be received within 30 days of the date of publication of this notice. Anyone requesting a hearing should give specific reasons why a hearing would be appropriate. The holding of such a hearing is at the discretion of the Director.

Applicant: USGS, BRD, Alaska Biological Science Center, Anchorage, AK, PRT–766818

Permit Type: Take for scientific research.

Name and Number of Animals: Southern sea otter (*Enhydra lutris nereis*), up to 30 animals from California.

Summary of Activity to be Authorized: The applicant has requested a permit to implant 30 adult sea otters of either sex with TDR/transmitter packages for the purpose of scientific research.

Source of Marine Mammals: Central California coast, as described in current permit.

Period of Activity: Until February 7, 2003, if issued.

Applicant: Mark Clementz, Earth Science Department, University of California, Santa Cruz, CA, PRT–038747

Permit Type: Take for scientific research.

Name and Number of Animals: West Indian manatee (*Trichechus manatus latirostris*), up to 30 specimens providing 1 tooth sample and 1 bone sample.

Summary of Activity to be Authorized: The applicant has requested a permit for the purpose of scientific research to analyze samples of teeth and bone from specimens in a museum collection for assessment of the role that diet plays on manatee health in the wild.

Source of Marine Mammals: archived specimens in the Florida State Museum of Natural History.

Period of Activity: Up to 5 years, if issued.

Concurrent with the publication of this notice in the **Federal Register**, the Division of Management Authority is forwarding copies of the above applications to the Marine Mammal Commission and the Committee of Scientific Advisors for their review.

Applicant: William Cunningham, MD, Hillsborough, NJ, PRT–042218

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Lancaster Sound polar bear population in Canada, taken in March 2001 for personal use.

Applicant: Lee Anderson, Jr., Long Lake, MN, PRT–042060

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Lancaster Sound polar bear population in Canada, taken in March 2001 for personal use.

Applicant: Robert V. Polito, Lebanon, PA, PRT–041826

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Northern Beaufort polar bear population in Canada, taken in March 2001 for personal use.

Applicant: Jay W. Furney, Pueblo, CO, PRT–037656

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Northern Beaufort polar bear population in Canada, taken in February 2001 for personal use.

Applicant: David Polke, Southbury, CT, PRT–042518

The applicant requests a permit to import a polar bear (*Ursus maritimus)* sport hunted from the Lancaster Sound polar bear population in Canada, taken in March 2001 for personal use.

Applicant: John E. Link, Minong, WI, PRT–042520

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Lancaster Sound polar bear population in Canada, taken in March 2001 for personal use.

Applicant: Daniel Welch, Curran, MI, PRT–042573

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Northern Beaufort Sea polar bear population in Canada, taken in April 2001 for personal use.

Applicant: John Van Horn, Mifflintown, PA, PRT–042638

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted prior to May 31, 2000, from the McClintock Channel polar bear population in Canada, taken in April 2000 for personal use.

Applicant: William Carvajal, El Paso, TX, PRT–042636

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Lancaster Sound polar bear population in Canada, taken in April 2001 for personal use.

Applicant: Danny Spindler, Evansville, IN, PRT–042635

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Lancaster Sound polar bear population in Canada, taken in April 2001 for personal use.

Applicant: Gary Sorensen, Paradise, UT, PRT–042199

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Southern Beaufort polar bear population in Canada, taken in April 2001 for personal use.

The U.S. Fish and Wildlife has information collection approval from OMB through February 28, 2001. OMB Control Number 1018–0093. Federal Agencies may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a current valid OMB control number.

Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203. Phone: (703/358–2104); Fax: (703/358–2281).

Dated: May 11, 2001.

Anna Barry,

Senior Permit Biologist, Branch of Permits, Division of Management Authority.

[FR Doc. 01–12831 Filed 5–21–01; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Issuance of Permit for Marine Mammals

On March 6, 2001, a notice was published in the **Federal Register**, Vol. 66, No. 44, Page 13566, that an application had been filed with the Fish and Wildlife Service by Circo Hermanos Suarez S.A., San Juan, PR, for a permit (PRT–036843) to import for the purpose of public display seven polar bears (*Ursus maritimus*) obtain from captive and wild sources.

Notice is hereby given that on May 5, 2001, as authorized by the provisions of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permit subject to certain conditions set forth therein.

Documents and other information submitted for these applications are available for review by any party who submits a written request to the U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203. Phone (703) 358–2104 or Fax (703) 358–2281.

Date: May 11, 2001.

Anna Barry,

Senior Permit Biologist, Branch of Permits, Division of Management Authority.

[FR Doc. 01–12830 Filed 5–21–01; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[UT–10000–1610–00]

Zion National Park; Availability of Final General Management Plan and Final Environmental Impact Statement

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: In accordance with the National Parks and Recreation Act of 1978; section 102 of the National Environmental Policy Act of 1969 (NEPA); section 202 of the Federal Land Policy and Management Act of 1976 (FLPMA) and 43 CFR part 1610, the Final General Management Plan (FGMP) and Final Environmental Impact Statement (FEIS) for Zion National Park has been prepared. The FGMP/FEIS incorporates a land use plan amendment for BLM's St. George Field Office (formerly called the Dixie Resource Area) Resource Management Plan (RMP), approved March 1999, prepared under a joint planning effort with Zion National Park. This notice announces the availability of the FGMP/FEIS and describes the protest process for the proposed plan amendment to the BLM RMP.

DATES: Those portions of the FGMP/FEIS that concern wild and scenic rivers recommendations on public lands administered by BLM may be protested for a 30 day period to the Director of BLM. The protest period will commence with the date of publication of the Notice of Availability. Protests must be submitted to the Director of the Bureau of Land Management on or before June 21, 2001.

Only those persons or organizations that participated in the scoping or comment periods during the planning process for the Draft Zion General Management Plan/Environmental Impact Statement leading to this Final General Management Plan/ Final Environmental Impact Statement may protest. If BLM's administrative records do not indicate standing in this planning process, any protest will be dismissed without further review. A protesting party may only raise those issues that he/she submitted for the record during the planning process. The period for filing a protest begins with publication of BLM's Notice of Availability for the FGMP/FEIS. The protest should include the specific information described in Appendix J of the FGMP. To be considered timely, a protest must be postmarked no later than the last day of the protest period. At the end of the 30-day protest period, and after the Governor's 60-day consistency review, the BLM's proposed land use plan amendment, excluding any portions under protest, will become final. Approval will be withheld on any portion of the BLM's land use plan amendment under protest until final action has been completed on such protest.

BLM will prepare its own Record of Decision regarding stream segments and adjacent public lands that are managed by BLM. Such decision will constitute a plan amendment to the approved St. George Field Office RMP.

ADDRESSES: Protests must be in writing to the Director, Bureau of Land Management, Attn: Brenda Williams (LS–1050), Protests Coordinator, 1849 C Street, NW., Washington, DC 20240. Overnight Mail Address: Director, Bureau of Land Management; 1620 L Street NW., Suite 1075, Washington, DC 20036; Telephone: (202) 452–5110.

FOR FURTHER INFORMATION CONTACT: Dawna Ferris-Rowley, Assistant Field Office Manager, St. George Field Office, Telephone: (435) 688–3216. Public reading copies of the FGMP/FEIS will be available for review at the following locations: Office of the Superintendent, Zion National Park, Springdale, UT 84767–1099; Telephone: (435) 772–0211; Planning and Environmental Quality, Intermountain Support Office-Denver, National Park Service, PO Box 25287, Telephone: (303) 969–2377; Office of Public Affairs, National Park Service, Department of the Interior, 18th and C Streets NW., Washington, DC 20240, Telephone: (202) 208–6843. The FGMP/FEIS is also available for review on the National Park Service's Internet site at www.nps.gov/planning.

SUPPLEMENTARY INFORMATION: On February 26, 2001, the National Park Service (NPS) released the FGMP/FEIS to the public. A Notice of Availability for the FGMP/FEIS was published by the Environmental Protection Agency in the **Federal Register** on March 23, 2001. The Draft General Management Plan/ Draft EIS was released for public review and comments in November, 1999 and was followed by a 90 day comment period. Since the release of the Draft GMP/DEIS, public meetings, workshops, mailings and briefings have been conducted to solicit comments, new information, and ideas for the FGMP/FEIS.

The FGMP/FEIS contains recommendations concerning the eligibility, classification, and suitability of rivers, their tributaries, and adjacent lands for inclusion in the National Wild and Scenic Rivers System, under section 5(d)(1) of the Wild and Scenic Rivers Act of 1968 (as amended). These were evaluated through a cooperative NPS–BLM study, authorized under two Memoranda of Understanding (MOU) concerning wild and scenic river studies in Utah. The first MOU was signed in 1997 by the Governor of Utah, the BLM State Director, the Regional Forester of the USDA Forest Service, the Regional Director of the NPS, and affected local agencies. These entities agreed to cooperatively conduct wild and scenic river studies and to make efforts to reach consensus on the Utah wild and scenic river recommendations to Congress.

In 1998, a second MOU was signed between NPS and BLM for the cooperative study of river segments within Zion National Park and on public lands contiguous to the boundaries of the Park. The recommendations from this NPS–BLM study of river segments on BLM-administered public lands constitute an amendment to the St. George Field Office RMP (approved in 1999).

The following six river segments (totaling 2.3 miles) on BLM-administered public lands were evaluated as eligible, classified as wild, and recommended as suitable for inclusion in the national system: Willis Creek (T. 38 S., R. 11 W., Sec. 27: SWSW–40 acres); Beartrap Canyon (T. 39 S., R. 11 W., Sec. 3: SWNW–40 acres); Goose Creek (T. 39 S., R. 10 W., Sec. 31 NESE, S2SE–120 acres); Shunes Creek, Segment A (T. 42 S, R. 91/2 W., Sec. 17 N2 (portions thereof); Sec. 18 N2; T. 42 S., R. 10 W.; Sec. 1: N2N2 (portions thereof—240 acres); the head of the Middle Fork of Taylor Creek (T. 38 S., R. 11 W., Sec. 30: SWNW–40 acres); and the head of Kolob Creek (T. 39 S., R. 10 W., Sec. 30–40 acres). Although these same river segments were initially found not eligible for further study when considered individually in BLM's original inventory (except for Shunes Creek, Segment B from the dry fall to the Washington County line), they have been found to be both eligible and suitable, when considered in conjunction with contiguous segments in the Park. Approved land use decisions in BLM's St. George RMP will be amended as follows:

Willis Creek Segment: Closed to Motorized and Non-Motorized Off-Highway Vehicle Use; Closed to Mineral Materials; Category 3 for Fluid Minerals; Plan of Operation required for Locatable Minerals.

Kolob Narrows Segment: Closed to Motorized and Non-Motorized Off-Highway Vehicle Use; Category 3 for Fluid Minerals; Plan of Operation required for Locatable Minerals.

Goose Creek Segment: Closed to Motorized and Non-Motorized Off-Highway Vehicle Use; Category 3 for Fluid Minerals; Plan of Operation required for Locatable Minerals.

Robert A. Bennett,

Acting Utah State Director.

[FR Doc. 01–12801 Filed 5–21–01; 8:45 am]

BILLING CODE 1610–DQ–$$

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–200–1220–PA]

Special Rule Regarding Operation of Motorized Vehicles

AGENCY: Bureau of Land Management, Interior.

ACTION: Implementation of a special rule regarding the operation of motorized vehicles within the Texas Creek, Penrose, Grand Canyon Hills, and Sand Gulch OHV ''Open'' areas on public lands administered by the Royal Gorge Field Office, Colorado.

SUMMARY: Off-highway vehicle (OHV) use in the Texas Creek, Penrose, Grand Canyon Hills, and Sand Gulch OHV ''Open'' areas has resulted in unacceptable impacts to the public lands, with the potential for more in the future. As a result, the Royal Gorge Field Office is implementing the special rule provision of 43 CFR 8341.2 to address this situation. The Special Rule affects the following sites, all found in Fremont County: 9,720 acres in Texas Creek, located north of Texas Creek; 3,174 acres in Penrose; 2,012 acres in Grand Canyon Hills, located west of Canon City; and 1,449 acres in Sand Gulch, located north of Howard. The use of the Special Rule changes the OHV designation of these four areas to ''limited to existing roads and trails''. Future interdisciplinary planning will determine the appropriate designated travel routes in these areas.

EFFECTIVE DATE: The implementation of the Special Rule goes into effect with the publication of this notice and shall remain in effect for one year. At the end of each year period it may be reviewed and extended.

ADDRESSES: If you wish to comment or request additional information, you may do so by any of several methods. You may mail or hand deliver your comments or requests to: Field Office Manager, Bureau of Land Management, Royal Gorge Field Office, 3170 East Main Street, Canon City, CO 81212. You may also comment via email to: *RGFOWEB@blm.gov*. Please submit comments as an ASCII file avoiding the use of special characters and any form of encryption. Please also include your name and address in your email message. Comments, including names and addresses of respondents, will be available for public review at the Bureau of Land Management, Royal Gorge Field Office, 3170 East Main Street, Canon City, CO during regular business hours. Individual respondents may request confidentially. If you wish to withhold your name and/or address from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your written comment. Such requests will be honored to the extent allowed by law. We will not, however, consider anonymous comments. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials or organizations or businesses, are available for public inspection in their entirety.

FOR FURTHER INFORMATION CONTACT: Levi D. Deike, Field Office Manager or Diana Kossnar, Outdoor Recreation Planner, at the address listed above, 719–269–8500, or John Nahomenuk, Outdoor Recreation Planner, 307 W. Sackett Ave., Salida, CO 81201, 719–539–7289.

SUPPLEMENTARY INFORMATION: The Special Rule provision of 43 CFR 8341.2 allows the authorized officer to close certain areas to specific types of OHV use. In the case of the Texas Creek, Penrose, Grand Canyon Hills, and Sand Gulch OHV ''Open'' areas, the authorized officer determines that the areas are closed to all forms of OHV use that goes off of existing travel routes. This then effectively changes the OHV designation for the areas to ''limited to existing roads and trails'', the same designation that is found on the surrounding public lands. The Special Rule is being implemented to preclude current and potential impacts to soils, vegetation, wildlife, and wildlife habitat.

The Royal Gorge Field Office will follow the implementation of this Special Rule with amendments to the Royal Gorge Resource Management Plan. The plan amendment will be completed with full public involvement and the other requirements of 43 CFR 1610.5–5.

This Special Rule does not apply to emergency, law enforcement, and federal or other government vehicles while being used for official or emergency purposes, or to any vehicle whose use is expressly authorized or otherwise officially approved by BLM. Violation of this order is punishable by fines and/or imprisonment as defined in 18 U.S.C. 3571. Notice of this Special Rule and detailed maps of the four areas affected will be posted at the Royal Gorge Field Office in Canon City and the Arkansas Headwaters Recreation Area Office in Salida.

Levi D. Deike,

Field Office Manager.

[FR Doc. 01–12800 Filed 5–21–01; 8:45 am]

BILLING CODE 4310–JB–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–958–6333-ET; HAG–01–0178; WAOR–56583]

Proposed Withdrawal and Opportunity for Public Meeting; Oregon

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice.

SUMMARY: The Corps Of Engineers (COE), Department of the Army, proposes to withdraw 400.27 acres of Public Lands, to protect the investment of federal funds and the existing hydroelectric generating units constructed at the Chief Joseph Dam. This notice closes the lands for up to 2 years from settlement, sale, location and entry under the general land laws, including the mining laws. The public lands have been and will remain open to mineral leasing.

EFFECTIVE DATE: Comments and requests for a public meeting must be received by August 21, 2001.

ADDRESSES: Comments and meetings requests should be sent to the Oregon/Washington State Director, BLM, PO Box 2965, Portland, Oregon 97208–2965.

FOR FURTHER INFORMATION CONTACT: Cindy Luciano, COE Seattle District, 206–764–3747, or, Charles R. Roy, BLM Oregon/Washington State Office, 503–952–6189.

SUPPLEMENTARY INFORMATION: On March 29, 2001, the COE filed an application to withdraw the following described public lands from settlement, sale, location and entry under the general land laws, including the mining laws (30 U.S.C. Ch. 2 (1994)), but not the mineral leasing laws, subject to valid existing rights:

Willamette Meridian

T. 29 N., R. 26 E.,
  Sec. 9, SW¼SW¼;
  Sec. 30, Lot 2.
T. 30 N., R. 26 E.,
  Sec. 25, NW¼NE¼;
  Sec. 35, SW¼SE¼;
T. 30 N., R. 27 E.,
  Sec. 28, SE¼SE¼;
  Sec. 29, NE¼NW¼;
  Sec. 34, SW¼NW¼, NE¼SW¼.
T. 30 N., R. 28 E.,

Sec. 9, SE¼SE¼;
Sec. 14, NE¼SW¼;

The areas described aggregates 400.27 acres in Douglas County.

The purpose of the proposed withdrawal is to protect the investment of federal funds and the existing hydroelectric generating units constructed at the Chief Joseph Dam.

The lands in Sec. 25, T. 30 N., R. 26 E.; Sec. 29, T. 30 N., R. 27 E.; and Sec. 9, T. 30 N., R. 28 E., are overlapped by Power Site Reserve 129, withdrawn by an Executive Order dated July 2, 1910.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the State Director at the address indicated above.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal. All interested parties who desire a public meeting for the purpose of being heard on the proposed withdrawal must submit a written request to the State Director at the address indicated above within 90 days from the publication of this notice. Upon determination by the authorized officer that a public meeting will be held, a notice of the time and place will be published in the **Federal Register** at least 30 days before the scheduled date of the meeting.

The application will be processed in accordance with the regulations set forth in 43 CFR part 2300.

For a period of 2 years from the date of publication of this notice in the **Federal Register**, the lands will be segregated as specified above unless the application is denied or canceled or the withdrawal is approved prior to that date. The temporary land uses which may be permitted during this segregative period include licenses, permits, rights-of-way, and disposal of vegetative resources other than under the mining laws.

Dated: May 15, 2001.

Robert D. DeViney, Jr.,

Chief, Branch of Realty and Records Services.

[FR Doc. 01–12768 Filed 5–21–01; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that a Consent Decree in *United States* v. *Applied Science Laboratories, Inc., et al.* (E.D. Va.) Civil Action No. 99CV834, was lodged on May 12, 2001, with the United States District Court for the Eastern District of Virginia. The Consent Decree resolves the claims of the United States under section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (''CERCLA''), for reimbursement of the United States' past response costs incurred in responding to contamination at the Applied Science Laboratories Superfund Site located in Richmond, Virginia. The Consent Decree obligates the estates of John F. Neves and Mattie R. Neves to sell the real property at 2216 Hull Street, Richmond, Virginia, and pay the first $50,000 of the proceeds from the sale to the United States in reimbursement of the past response costs incurred by EPA; the heirs will keep the next $10,000 and any balance above that will be divided evenly between the United States and the heirs.

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 Environmental and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Applied Science Laboratories, Inc.,* DOJ Ref. #90–11–3–07015.

The Consent Decree may be examined at the Region III Office of the Environmental Protection Agency, 1650 Arch Street, Philadelphia, Pennsylvania 19103; and by mail from the Consent Decree Library, Department of Justice, PO Box 7611, Washington, DC 20044–7611. In requesting a copy from the Consent Decree Library, please refer to the referenced case and enclose a check in the amount of $5.00, payable to the U.S. Treasury.

Robert Brook,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 01–12856 Filed 5–21–01; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Clean Water Act

Consistent with 28 CFR § 50.7, notice is hereby given that on April 17, 2001, a proposed consent decree (''Consent Decree'') in *United States* v. *Black Mesa Pipeline, Inc.*, Civil Action No. CIV–01–0681–PCT–EHC, was lodged with the United States District Court for the District of Arizona.

The Consent Decree resolves claims that the United States asserted against Black Mesa in a civil complaint filed concurrently with the lodging of the Consent Decree. The complaint alleges violations of the Clean Water Act at the company's coal slurry pipeline that runs from Peabody Western Coal Co.'s Black Mesa Mine near Kayenta, Arizona to the Southern California Edison Co.'s Mohave Generating Station in Laughlin, Nevada. Specifically, the complaint alleges that there were seven discharges of coal slurry from the pipeline between 1997 and 1999, which discharges reached waters of the United States. The State of Arizona is a co-plaintiff.

The Consent Decree requires defendant to pay a civil penalty of $128,000, plus interest. The payment will be split, with $79,000 being paid to the United States and $49,000 being paid to the State. The Consent Decree also requires defendant to implement a Preventative Measures Plan to prevent further spills and to continue to implement a Protocol for addressing spills should any occur.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *United States* v. *Black Mesa Pipeline, Inc.*, Civil Action No. CIV–01–0681–PCT–EHC, and D.J. Ref. 90–5–1–1–06803.

The Consent Decree may be examined at the Office of the United States Attorney, 4000 U.S. Courthouse, 230 North First Street, Phoenix, Arizona or at EPA Region 9, 75 Hawthorne Street, San Francisco, CA 94105. A copy of the Consent Decree may 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 $8.00 (25 cents per page reproduction cost) payable to the Consent Decree Library.

Ellen M. Mahan,

Assistant Section Chief, Environmenal Enforcement Section.

[FR Doc. 01–12854 Filed 5–21–01; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Settlement Agreement With Bankruptcy Court in Comprehensive Environmental Response, Compensation and Liability Act Cost Recovery Action

In accordance with the Departmental Policy, 28 CFR 50.7, notice is hereby given that a Settlement Agreement in *In re General Ceramics, Inc.,* No. 99–33406 (RG) was lodged with the United States Bankruptcy Court for the District of New Jersey on May 14, 2001. This Settlement Agreement resolves certain claims of the United States against General Ceramics, Inc., under section 107(a) of the Comprehensive Environmental Response, Compensation and Liability Act (''CERCLA''), 42 U.S.C. 9607(a), for payment of response costs incurred and to be incurred at the Boarhead Farms Superfund Site located in Bridgeton Township, Pennsylvania. The Settlement Agreement requires General Ceramics, Inc. pay an allowed claim of $275,000 in full.

The Department of Justice will accept written comments on the proposed Settlement Agreement for seventeen (17) days from the date of publication of this notice. Please address comments to the Assistant Attorney General, Environment and Natural Resources Division, Department of Justice, PO Box 7611, Ben Franklin Station, Washington, DC 20044 and refer to *In re General Ceramics, Inc.,* DOJ # 90–11–2–06036/1.

Copies of the proposed Settlement Agreement may be examined at the Office of the United States Attorney, District of New Jersey, 970 Broad Street, 7th Floor, Newark, NJ 07102, and at EPA Region III, 1650 Arch Street, Philadelphia, PA 19103. A copy of the proposed Settlement Agreement may be obtained by mail from the U.S. Department of Justice, Consent 7611, Washington, DC 20044–7611. When requesting a copy of the proposed Settlement Agreement, please enclose a check to cover the twenty-five cents per page reproduction costs payable to the ''Consent Decree Library'' in the amount of $2.00, and please reference *In re General Ceramics, Inc.,* DOJ No. 90–11–2–06036/1.

Robert Brook,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division, Department of Justice.

[FR Doc. 01–12793 Filed 5–21–01; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Clean Air Act, RCRA, EPCRA and CERCLA

Under 28 CFR 50.7, notice is hereby given that on May 11, 2001, a Consent Decree in *United States, et al.,* v. *Marathon Ashland Petroleum LLC*, Civil Action No. 01–40119 was lodged with the United States District Court for the Eastern District of Michigan.

In the Complaint the United States seeks injunctive relief and against Marathon Ashland Petroleum LLC (hereinafter, ''MAP''), pursuant to section 113(b) of the Clean Air Act (''CAA''), 42 U.S.C. 7413(b) (1983), *amended by*, 42 U.S.C. 7413(b) (Supp. 1991), the Resource Conservation and Recovery Act, (''RCRA''), 42 U.S.C. 6901 *et seq.*; the Comprehensive Environmental Response, Compensation and Liability Act (''CERCLA''), 42 U.S.C. 9603(a) and the Emergency Planning and Community Right to Know Act (''EPCRA''), 42 U.S.C. 11004(a) for alleged violations at MAP's seven refineries located in Robinson, Illinois; Garyville, Louisiana; Texas City, Texas; Catlettsburg, Kentucky; Detroit, Michigan; Canton, Ohio; and St. Paul Park, Minnesota.

Under the settlement, MAP will implement innovative pollution control technologies to greatly reduce emissions of nitrogen oxides (''NO_X'') and sulfur dioxide (''SO_2'') from refinery process units and adopt facility-wide enhanced monitoring and fugitive emission control programs. In addition, MAP will pay a civil penalty of $3.8 million, and perform supplemental environmental projects totaling approximately $5.9 million. The States of Minnesota, Louisiana, and Ohio, and Wayne County, Michigan will join in this settlement as signatories to the Consent Decree.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, PO Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *United States, et al.,* v. *Marathon Ashland Petroleum LLC*, D.J. Ref. 90–5–2–1–07247.

The Consent Decree may be examined at the Office of the United States Attorney, 1001 Main Street, Suite A, Dyer, Indiana 46311 and at U.S. EPA Region 5, 77 West Jackson Blvd., Chicago, Illinois 60604. A copy of the Consent Decree may also be obtained by mail from the Consent Decree Library, PO Box 7611, U.S. Department of Justice, Washington, DC 20044–7611. In requesting a copy, please enclose a check in the amount of $50.00 (25 cents per page reproduction cost) payable to the Consent Decree Library.

Robert D. Brook,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 01–12855 Filed 5–21–01; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1933—Asymmetrical Digital Subscriber Line Forum

Notice is hereby given that, on June 23, 2000, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et. seq.* (''the Act''), Asymmetrical Digital Subscriber Line Forum (''ASDL'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Westwave Communications, Santa Rosa, CA; InfiniLink Corporation, Rancho Santa Margarita, CA; AI Metrix, El Dorado Hills, CA; Tachion Networks, West Long Branch, NJ; Maxcom Telecommunicaciones, Mexico City D.F., Mexico; TeleDream, San Jose, CA; Convergent Networks, Lowell, MA; Cornet Technologies, Springfield, VA; Broadband Gateways, Plano, TX; Voyan Technology, Santa Clara, CA; New Edge Networks, Vancouver, WA; HyperEdge Corporation, Itasca, IL; Prestolite Wire/Krone, Garland, TX; Polycom Inc., Milpitas, CA; Zhone Technologies, Oakland, CA; Ponte Communications, San Mateo, CA; Occam Networks, Santa Barbara, CA; Silicon Labs, Austin, TX; MEDIACENTERS.COM, Chantilly, VA; VideoTele.com, Beaverton, OR; On2.com, New York, NY; DSL.net, New Haven, CT; IP Communications, Dallas, TX; DiscoveryCom, Inc., Huntsville, AL; DSL.com, Inc., Carmel, IN; and Tripath Technology, Santa Clara, CA have been added as parties to this venture. Also, Chameleon Systems, Sunnyvale, CA; Design of Systems on Silicon, Valencia, Spain; Hitachi, Norcross, GA; Hyundai

Electronics, Seoul, Republic of Korea; Intracom, S.A., Peania, Attika, Greece; Starnet Technologies, San Jose, CA; Tektronix, Chelmsford, MA; Toshiba Corporation, Tokyo, Japan; Transcend Access Systems, Fremont, CA; Tycho Networks, Santa Cruz, CA; VTT Electronics, Oulu, Finland; WCI Cable, Dover, DE; xDSL Networks, Inc., Towson, MD; ASC, Atlanta, GA; and Cabletron Systems, Piscataway, NJ have been dropped as parties to this venture. In addition, Pulsecom, San Diego, CA has been acquired by ECI Telecom, Altamonte Springs, FL.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and ASDL intends to file additional written notifications disclosing all changes in membership.

On May 15, 1995, ADSL filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on July 25, 1995 (60 FR 38058).

The last notification was filed with the Department on December 8, 1999. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on November 28, 2000 (65 FR 70936).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 01–12857 Filed 5–21–01; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Financial Services Technology Consortium, Inc.

Notice is hereby given that, on March 30, 2001, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Financial Services Technology Consortium, Inc. (''Consortium'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, University Bank, Ann Arbor, MI has joined the Consortium as a principal member. Authentor Systems, Inc., Englewood, CA joined the Consortium as an associate member. National Institute of Standards & Technology (NIST), Gaithersburg, MD joined the Consortium as an advisory member. Also, Department of Treasury, Washington, DC; FundServ, Inc., Toronto, Ontario, Canada; IntraNet, Newton, MA; National Center for Manufacturing Sciences (NCMS), Ann Arbor, MI; and NEC Corporation, Tokyo, Japan have been dropped as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Financial Services Technology Consortium, Inc. intends to file additional written notification disclosing all changes in membership.

On October 21, 1993, Financial Services Technology Consortium, Inc. filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on December 14, 1993 (58 FR 65399).

The last notification was files with the Department on December 27, 2000. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on March 20, 2001 (66 FR 15758).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 01–12858 Filed 5–21–01; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

May 11, 2001.

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 contact Darrin King at (202) 693–4129 or E-Mail *King-Darrin@dol.gov.*

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for PWBA, 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: Extension of a currently approved collection.

Agency: Pension and Welfare Benefits Administration (PWBA).

Title: Prohibited Transaction Class Exemption 81–6.

OMB Number: 1210–0065.

Affected Public: Business or other for-profit; Not-for-profit institutions; and Individuals or households.

Frequency: On occasion.

Number of Respondents: 42,000.

Number of Annual Responses: 126,000.

Estimated Time Per Response: 5 minutes.

Total Burden Hours: 10,500.

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $48,000.

Description: Prohibited Transaction Class Exemption 81–6 exempts from the prohibited transaction restrictions of ERISA the lending of securities by plans to banks, registered broker-dealers, and dealers in Government Securities who are parties in interest, except if the borrower or an affiliate has discretionary authority or renders investment advice with respect to the involved plan assets.

The class exemption contains two information collection requirements. First, the borrower must furnish the lending plan fiduciary with the most recent available audited statement of the borrower's financial condition and make a representation at the time of the loan is negotiated that there has been no material adverse change in its financial condition since the audited statement. Second, the loan of the securities is made pursuant to a written agreement,

is intended to ensure that the terms of the transaction are made public and are at least as favorable to the plan as an arms-length transaction with an unrelated party. Individual agreements are not required for each transaction; the agreement may be made in the form of a master agreement covering a series of transactions.

Without the audited statement of the borrower's financial condition and a written agreement, the Department, which may only grant an exemption if it can find that participants and beneficiaries are protected, would be unable to effectively enforce the terms of the class exemption and ensure user compliance.

Type of Review: Extension of a currently approved collection.

Agency: Pension and Welfare Benefits Administration (PWBA).

Title: Regulation relating to Loans to Plan Participants and Beneficiaries who are Parties in Interest with Respect to the Plan.

OMB Number: 1210–0076.

Affected Public: Business or other for-profit; Not-for-profit institutions; and Individuals or households.

Frequency: On occasion.

Number of Respondents: 1,310.

Number of Annual Responses: 1,310.

Estimated Time Per Response: 0.

Total Burden Hours: 0.

Total Annualized Capital/Startup Costs: 0.

Total Annual Costs (operating/maintaining systems or purchasing services): $283,000.

Description: In this regulation (29 CFR 2550.408b–1) the Department sets out the terms of ERISA section 408(b)(1) under which loans from a plan to participants and beneficiaries who are parties in interest are permitted. ERISA section 408(b)(1)(C) requires that loans from a plan to participants and beneficiaries be made in accordance with ''specific provisions'' set forth in the plan. This regulation proscribes eight specific provisions that must be included in the plan documents. Because 402(a)(1) of ERISA requires that every employee benefit be in writing, these eight specific provisions must also be in writing. The plan document is the legal statement of the plan provisions and governs all plan operations.

The disclosure requirement incorporated within this regulation is intended to ensure that loan programs are operated impartially.

Type of Review: Extension of a currently approved collection.

Agency: Pension and Welfare Benefits Administration (PWBA).

Title: Prohibited Transaction Class Exemption 85–68 to Permit Employee Benefit Plans to Invest in Customer Notes of Employers.

OMB Number: 1210–0094.

Affected Public: Business or other for-profit; Not-for-profit institutions; and Individuals or households.

Frequency: On occasion.

Number of Respondents: 120.

Number of Annual Responses: 960.

Estimated Time Per Response: 1 hour.

Total Burden Hours: 960.

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $0.

Description: Prohibited Transaction Class Exemption 85–68 exempts from the prohibited transaction restrictions of ERISA the investment by employee benefits plan in customer notes accepted by an employer of employees covered by the plan in the ordinary course of the employer's primary business activity.

The class exemption contains a recordkeeping requirement. Plans are required 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 are being met.

Without the records, the Department, which may only grant an exemption if it can find that participants and beneficiaries are protected, would be unable to effectively enforce the terms of the class exemption and ensure user compliance.

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. 01–12843 Filed 5–21–01; 8:45 am]

BILLING CODE 4510–29–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

April 26, 2001.

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, ESA, and PWBA contact Marlene Howze ((202) 219–8904 or by email to Howze-Marlene@dol.gov). To obtain documentation for ETA, MSHA, OSHA, and VETS contact Darrin King ((202) 693–4129 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 FLS, 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 OBM is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: Pension and Welfare Benefits Administration.

Title: Prohibited Transaction Class Exemption 82–63, Compensation to fiduciaries for securities lending services to an employee benefit plan.

Type of Review: Extension of a currently approved collection.

OMB Number: 1210–0062.

Affected Public: Individuals or households; Business or other for-profit; Not-for-profit institutions.

Frequency of Response: On occasion.

Total Respondents: 42,000.

Total Responses: 126,000.

Total Estimated Burden Hours: 3,500 hours.

Total Annualized Capital/Startup Costs: $0.

Total Annual Cost (Operating and Maintenance): $0.

Description: PTE 82–63 allows certain compensation arrangements to be made for the provision by a fiduciary of securities lending services to an employee benefit plan, if the conditions specified in the exemption are met. In the absence of this exemption, certain aspects of these transactions might be prohibited by section 406 of the Employee Retirement Income Security Act. The class exemption has two basic

information collection requirements. The first requirement is that the compensation be paid in accordance with a written instrument authorized by a non-lending fiduciary, and the second is that the lending fiduciary furnish the authorizing fiduciary with information needed for the authorizing fiduciary to determine whether the compensation arrangement should be made or renewed.

Agency: Pension and Welfare Benefits Administration.

Title: Prohibited Transaction Class Exemption 91–55, Purchases and Sales of American Eagle Coins.

Type of Review: Extension of a currently approved collection.

OMB Number: 1210–0079.

Record-keeping: Six years.

Affected Public: Individuals or households; Business or other for-profit; Not-for-profit institutions.

Frequency of Response: On occasion.

Total Respondents: 3.

Total Responses: 55,000.

Total Estimated Burden Hours: 2,384 hours.

Total Annualized Capital/Startup Costs: $0.

Total Annual Cost (Operating and Maintenance): $0.

Description: Prohibited Transaction Class Exemption 91–55 permits the purchase and sale of American Eagle Coins between individual retirement accounts (IRA) and authorized purchasers from the United States Mint that also are ''disqualified persons'' within the meaning of Code section 4975(e)(2), with respect to IRAs. The exemption also describes the circumstances under which an interest-free extension of credit in connection with such sales and purchases is permitted. In the absence of an exemption, such purchases and sales and extensions of credit would be impermissible under the Employee Retirement Income Security Act of 1974 (ERISA). The information collection request includes: record keeping; issuing a confirmation statement after each transaction; and disclosing to the person directing the covered transaction certain information about transactions in Coins.

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. 01–12844 Filed 5–21–01; 8:45 am]

BILLING CODE 4510–29–M

DEPARTMENT OF LABOR

Employment And Training Administration

Trade Adjustment Assistance Program; Designation of Certifying Officers

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice of designation of certifying officers.

SUMMARY: The trade adjustment assistance program operates under the Trade Act of 1974 to furnish program benefits to domestic workers adversely affected in their employment by imports of articles which are like or are directly competitive with articles produced by the firm employing the workers. The North American Free Trade Agreement-Transitional Adjustment Assistance amended the Trade Act of 1974 to provide assistance to workers impacted by a shift in production from the workers' firm to Mexico or Canada, or increased company or customer imports from Mexico or Canada of articles like or directly competitive with those produced by the workers' firm. Workers become eligible for program benefits only if the worker group is certified under the Act as eligible to apply for adjustment assistance. From time to time the agency issues an Order designating officials of the agency authorized to act as certifying officers. Employment and Training Order No. 1–01, was issued to revise the listing of officials designated as certifying officers, superseding the previous Order. Employment and Training Order No. 1–01, is published below.

Signed at Washington, D.C., this 10th day of May 2001.

Raymond J. Uhalde,

Deputy Assistant Secretary of Labor, Employment and Training Administration.

[FR Doc. 01–12820 Filed 5–21–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment Standards 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 Standards Administration is soliciting comments concerning the proposed revision collection of the following information collection: Operator Controversion (CM–970), Operator Response (CM–970A), Operator Response to Schedule for Submission of Additional Evidence (CM–2970), and Operator Response to Notice of Claim (CM–2870A).

DATES: Written comments must be submitted to the office listed in the addressee section below by July 23, 2001.

ADDRESSES: Ms. Patricia A. Forkel, U.S. Department of Labor, 200 Constitution Ave., NW., Room S–3201, Washington, DC 20210, telephone (202) 693–0339 (this is not a toll-free number), fax (202) 693–1451.

SUPPLEMENTARY INFORMATION:

I. Background

The Division of Coal Mine Workers' Compensation administers the Black Lung Benefits Act (30 U.S.C. 901 *et seq.*,) which provides benefits to coal miners totally disabled due to pneumoniosis, and their surviving dependents. When the Division of Coal Mine Workers' Compensation (DCMWC) makes an initial finding that an applicant is eligible for benefits, and, if a coal mine operator has been identified as potentially liable for payment of those benefits, the responsible operator is notified of the initial finding. The CM–970 gives the operator an opportunity to controvert the liability. The CM–970 is used for all claims filed before January 19, 2001. Regulations require that a coal mine operator be identified and notified of potential liability as early in the adjudication process as possible. The CM–970A is sent to the operator with the Notice of Claim notifying the operator of potential liability of payment for benefits. The CM–970A gives the operator an opportunity to agree or disagree with the identification. The CM–970A is be used for all claims filed before January 19, 2001. The CM–2970 and 2970A serve the same purposes as the CM–970 and 970A, will be used for all claims filed after January 19, 2001. Regulatory

authority is found at 20 CFR 725.412 for the CM–970, 20 CFR 725.413 for the CM–970A, 20 CFR 725.410 for the CM–2970, and 20 CFR 725.408 for the CM–2970A.

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 Department of Labor seeks the approval for this information collection in order to carry out its responsibility to administer the Black Lung Benefits Act. As a result of revised regulations published on December 20, 2000, the wording and appearance of the original CM–970 and CM–970A have been revised. The revised versions of the forms have been designated as the CM–2970 and CM–2970A, and are to be used for those claims filed after January 19, 2001. The CM–970 and CM–970A will continue to be used for all claims filed prior to January 19, 2001. The CM–970 and CM–970A forms will eventually be phased out as the CM–2970 and 2970A replace them.

Type of Review: Revision.

Agency: Employment Standards Administration.

Title: Operator Controversion (CM–970), Operator Response (CM–970A), Operator Response to Schedule for Submission of Additional Evidence (CM–2970), Operator Response to Notice of Claim (CM–2970A).

OMB Number: 1215–0058.

Affected Public: Businesses or other for-profit; State, Local or Tribal Government.

Frequency: On occasion.

Form	Number of respondents	Average time per response	Burden hours
CM–970	400	15 minutes	100
CM–970A	400	15 minutes	100
CM–2970	5,000	10 minutes	833
CM–2970A	5,000	15 minutes	1,250

Total Respondents: 10,800.

Estimated Total Burden Hours: 2,283.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintenance): $3,996.

Comments submitted in response to this notice 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: May 1, 2001.

Margaret J. Sherrill,

Chief, Branch of Management Review and Internal Control, Division of Financial Management, Office of Management, Administration and Planning, Employment Standards Administration.

[FR Doc. 01–12821 Filed 5–21–01; 8:45 am]

BILLING CODE 4510–27–P

NATIONAL CAPITAL PLANNING COMMISSION

Guidelines and Submission Requirements for Antennas on Federal Property in the National Capital Region

AGENCY: National Capital Planning Commission.

ACTION: Proposed commission procedure revision.

SUMMARY: The National Capital Planning Commission has prepared a draft of proposed revisions to its current Guidelines and Submission Requirements for Antennas on Federal Property in the National Capital Region developed in compliance with the Telecommunications Act of 1966, the President's Executive Memorandum on ''Facilitating Access to Federal Property for the Siting of Mobile Services Antennas'' dated August 10, 1995, the General Services Administration's ''Placement of Commercial Antennas on Federal Property'' dated June 11, 1997, and Public Law 106–113. The Commission requests public review and comment on the draft proposed guidelines and submission requirements during a 60-day comment period that begins on the date of this notice.

DATES: Submit comments on or before July 23, 2001.

ADDRESSES: All comments should be addressed to: National Capital Planning Commission, Attention: Susan M. Hinton, 401 9th Street, NW, Suite 500 North Lobby, Washington, DC 20576. Comments may also be sent by e-mail to susan.hinton@ncpc.gov. Faxes may be sent to (202) 482–7272. All comments will be fully considered.

FOR FURTHER INFORMATION CONTACT: Ms. Susan Hinton, Community Planner, National Capital Planning Commission, (202) 482–7231 or Mr. Ash Jain, General Counsel, National Capital Planning Commission, (202) 482–7270. A copy of the revised procedures may be requested and is also available at the Commission's Internet website: www.ncpc.gov/what.html

SUPPLEMENTARY INFORMATION: The Commission has drafted revisions to the agency's Guidelines and Submission Requirements for Antennas on Federal Property in the National Capital Region. This revised document addresses necessary changes to the Commission's existing guidelines and submission requirements, which describe how the National Capital Planning Commission will review proposals to locate antennas on federal property in the National Capital Region. The revised guidelines and submission requirements, when adopted in their final form, would supersede the current guidelines and submission requirements approved by the Commission on January 7, 1988 and amended on April 6, 1989, and November 6, 1997.

Dated: May 3, 2001.

Ash Jain,

General Counsel and Congressional Liaison, National Capital Planning Commission.

[FR Doc. 01–12877 Filed 5–21–01; 8:45 am]

BILLING CODE 7520–01–U

NATIONAL CREDIT UNION ADMINISTRATION

Notice of Change in Subject of Meeting

The National Credit Union Administration Board determined that its business required the deletion of the following item from the previously announced closed meeting (**Federal Register**, Vol. 66, No. 93, page 24409, May 14, 2001) scheduled for Thursday, May 17, 2001:

2. One (1) Personnel Matter. Closed pursuant to exemptions (2) and (6).

The Board voted unanimously that agency business required that this item be removed from the closed agenda. Earlier announcement of this change was not possible.

The previously announced items were:

1. Administrative Action under Part 704 of NCUA's Rules and Regulations. Closed pursuant to exemption (8).

2. Two (2) Personnel Matters. Closed pursuant to exemptions (2) and (6).

FOR FURTHER INFORMATION CONTACT: Becky Baker, Secretary of the Board, Telephone (703) 518–6304.

Becky Baker,

Secretary of the Board.

[FR Doc. 01–13015 Filed 5–18–01; 12:51 pm]

BILLING CODE 7535–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel for Social, Behavioral, and Economic Sciences; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel for Social, Behavioral, and Economic Sciences (#1766).

Date/Time: May 31–June 1, 2001, 8:00 a.m. to 5:00 p.m.

Place: National Science Foundation, Rm 525 and 535 (Stafford-II), 4201 Wilson Blvd. Arlington, VA

Type of Meeting: Closed.

Contact Person: Thomas J. Baerwald, Division of Behavioral and Cognitive Sciences, Room 995, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230 (703) 292–8754.

Purpose of Meeting: To evaluate proposals submitted for the Biocomplexity in the Environment/Dynamics of Coupled Natural and Human Systems competition.

Agenda: The panel will evaluate proposals and make funding recommendations to NSF staff.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters that are exempt under 5 U.S.C. 552b(c)(4) and (6) of the Government Sunshine Act.

Reason for Late Notice: Conflicting schedules of members and the necessity to proceed with the evaluation of proposals.

Dated: May 17, 2001.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 01–12829 Filed 5–21–01; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Dockets No.: 070–364, 70–3035]

Consideration of License Amendment Requests for the Babcock and Wilcox Facility and Shallow Land Disposal Area in Parks Township, PA, and Opportunity for a Hearing

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of consideration of license amendment requests for the Babcock and Wilcox Facility and Shallow Land Disposal Area in Parks Township, Pennsylvania, and opportunity for a hearing.

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of license amendments to Special Nuclear Material License No. SNM–414 (SNM–414), and Special Nuclear License No. SNM–2001 (SNM–2001), both issued to Babcock and Wilcox Company, Pennsylvania Nuclear Service Operation (the license), to authorize amending condition 9, ''Authorized Places of Use,'' of its SNM–414 License at its facility in Parks Township, Pennsylvania and of its SNM–2001 License at its Shallow Land Disposal Area (SLDA).

The licensee has been decommissioning the site in accordance with the conditions discussed in SNM–414. On April 4, 2001, the licensee submitted a license amendment request for change of boundaries by adjusting and transferring two portions of the facility under SNM–414 to a contiguous site under NRC license, SNM–2001, Shallow Land Disposal Area. Both sites are on the NRC's Site Decommissioning Management Plan and the SLDA is being assessed by the U.S. Army Corps of Engineers for possible remediation under the Formerly Utilized Sites Remedial Action Program.

The NRC hereby provides notice that this is a proceeding on request for amendment of a license falling within the scope of Subpart L ''Informal Hearing Procedures for Adjudication in Materials Licensing Proceedings,'' of NRC's rules and practice for domestic licensing proceedings in 10 CFR Part 2. Pursuant to § 2.1205(a), any person whose interest may be affected by this proceeding may file a request for a hearing in accordance with Section 2.1205(c). A request for a hearing must be filed within thirty (30) days of the date of publication of this **Federal Register** notice.

The request for a hearing must be filed with the Office of the Secretary either:

1. By delivery to the Docketing and Service Branch of the Secretary at One White Flint North, 11555 Rockville Pike, Rockville, MD 20852–2738; or

2. By mail or telegram addressed to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Attention: Docketing and Service Branch.

In addition to meeting other applicable requirements of 10 CFR Part 2 of the NRC's regulations, a request for a hearing filed by a person other than an applicant must describe in detail:

1. The interest of the requester in the proceeding;

2. How that interest may be affected by the results of the proceeding, including the reasons why the requester should be permitted a hearing, with particular reference to the factors set out in § 2.1205(g);

3. The requester's area of concern about the licensing activity that is the subject matter of the proceeding; and

4. The circumstances establishing that the request for a hearing is timely in accordance with § 2.1205(c).

In accordance with 10 CFR 2.1205(e), each request for a hearing must also be served by delivering it personally or by mail, to:

1. The applicant, Babcock and Wilcox Company, R.D. 1, Box 355, Vandergrift, PA 15690, Attention Mr. Richard M. Bartosik; and

2. The NRC staff, by delivery to the Executive Director for Operations, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852, or by mail to the Executive Director for Operations, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

For further details with respect to this action, the licensee request and plans are available for inspection at the NRC's Public Document Room, One White Flint North, 11555 Rockville Pike, Rockville, MD, 20852.

Dated at Rockville, Maryland, this 14th Day of May, 2001.

For the Nuclear Regulatory Commission.

Robert A. Nelson,

Acting Chief, Decommissioning Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 01–12834 Filed 5–21–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

The NRC Seeks Qualified Candidates for the Advisory Committee on Reactor Safeguards

AGENCY: Nuclear Regulatory Commission.

ACTION: Request for resumés.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is seeking qualified candidates for an appointment to its Advisory Committee on Reactor Safeguards (ACRS) to fill a vacancy.

ADDRESSES: Submit resumés to: Ms. Sherry Meador, Administrative Assistant, Operations Support Branch, ACRS/ACNW, Mail Stop T2E–26, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION: Congress established the ACRS to provide the NRC with independent expert advice on matters related to the safety of existing and proposed nuclear power plants and on the adequacy of proposed reactor safety standards. The Committee work currently emphasizes safety issues associated with the operation of 103 commercial nuclear units in the United States; the pursuit of a risk-informed and performance-based regulatory approach; license renewal applications; risk-informed revisions to 10 CFR Part 50; power uprates; transient and accident analysis codes; use of mixed oxide and high burnup fuels; and advanced reactor designs.

The ACRS membership includes individuals from national laboratories, academia, and industry who possess specific technical expertise along with a broad perspective in addressing safety concerns. Committee members are selected from a variety of engineering and scientific disciplines, such as nuclear power plant operations, nuclear engineering, mechanical engineering, electrical engineering, chemical engineering, metallurgical engineering, risk assessments, structural engineering, materials science, and instrumentation and process control systems. At this time, candidates are specifically being sought who have 15–20 years of experience, including graduate level education, in the area of thermal hydraulics.

Criteria used to evaluate candidates include education and experience, demonstrated skills in nuclear safety matters, and the ability to solve problems. Additionally, the Commission considers the need for specific expertise in relationship to current and future tasks. Consistent with the requirements of the Federal Advisory Committee Act, the Commission seeks candidates with varying views so that the membership on the Committee will be fairly balanced in terms of the points of view represented and functions to be performed by the Committee.

Because conflict-of-interest regulations restrict the participation of members actively involved in the regulated aspects of the nuclear industry, the degree and nature of any such involvement will be weighed. Each qualified candidate's financial interests must be reconciled with applicable Federal and NRC rules and regulations prior to final appointment. This might require divestiture of securities issued by nuclear industry entities, or discontinuance of industry-funded research contracts or grants.

Copies of a resume describing the educational and professional background of the candidate, including any special accomplishments, professional references, current address, and telephone number should be provided. All qualified candidates will receive careful consideration. Appointment will be made without regard to such factors as race, color, religion, national origin, sex, age, or disabilities. Candidates must be citizens of the United States and be able to devote approximately 80–100 days per year to Committee business. Applications will be accepted until July 16, 2001.

Dated: May 16, 2001.

Andrew L. Bates,

Advisory Committee Management Officer.

[FR Doc. 01–12833 Filed 5–21–01; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon written request, copies available from: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549

Extension: Rule 19b–4(e) and Form 19b–4(e); SEC File No. 270–447; OMB Control No. 3235–0504.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget a request for extension of the previously approved collection of information discussed below.

Rule 19b–4(e) permits a self-regulatory organization (''SRO'') to immediately list and trade a new derivative securities product so long as such product is in compliance with the criteria of Rule 19b–4(e) under the Securities Exchange Act of 1934 (''Act''). However, in order for the Commission to maintain an accurate record of all new derivative securities products traded through the facilities of SROs and to determine whether an SRO has properly availed itself of the permission granted by Rule 19b–4(e), it is necessary that the SRO maintain, on-site, a copy of Form 19b–4(e) under the Act. Rule 19b–4(e) requires SROs to file a summary form, Form 19b–4(e), and thereby notify the Commission, within five business days after the commencement of trading a new derivative securities product. In addition, the Commission reviews SRO compliance with Rule 19b–4(e) through its routine inspections of the SROs.

The collection of information is designed to allow the Commission to maintain an accurate record of all new derivative securities products traded through the facilities of SROs and to determine whether an SRO has properly availed itself of the permission granted by Rule 19b–4(e).

The respondents to the collection of information are self-regulatory organizations (as defined by the Act), including national securities exchanges and national securities associations.

Ten respondents file an average total of 100 responses per year, which corresponds to an estimated annual response burden of 100 hours. At an average cost per burden hour of $47.50, the resultant total related cost of compliance for these respondents in $4,750 per year (100 burden hours multiplied by $47.50/hour=$4,750).

Compliance with Rule 19b–4(e) is mandatory. Information received in response to Rule 19b–4(e) shall not be kept confidential; the information collected is public 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 control number.

Written comments regarding the above information should be directed to the following persons: (a) Desk Officer

for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503; and (b) Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Comments must be submitted to the Office of Management and Budget within 30 days of this notice.

Dated: May 15, 2001.

Jonathan G. Katz,

Secretary.

[FR Doc. 01–12790 Filed 5–21–01; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44301; File No. SR–GSCC–00–13]

Self-Regulatory Organizations; Government Securities Clearing Corporation; Order Approving a Proposed Rule Change Relating to Establishment of a Cross-Margining Agreement With the Chicago Mercantile Exchange and a Clarification of the Government Securities Clearing Corporation's Cross-Margining Rules

May 11, 2001.

On October 13, 2000, the Government Securities Clearing Corporation (''GSCC'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change (File No. SR–GSCC–00–13) pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'').[1] Notice of the proposal was published in the **Federal Register** on January 23, 2001.[2] No comment letters were received. For the reasons discussed below, the Commission is approving the proposed rule change.

I. Description

On August 19, 1999, the Commission approved GSCC's proposed rule change to establish a cross-margining program with other clearing organizations and to begin its program with the New York Clearing Corporation (''NYCC'').[3] GSCC is now establishing a cross-margining arrangement with the Chicago Mercantile Exchange (''CME'') similar to the one GSCC already has in place with NYCC. With the GSCC–CME cross-margining arrangement, GSCC will implement its ''hub-and-spoke'' method of cross-margining, which was introduced in the rule filing establishing the GSCC–NYCC cross-margining arrangement and which applies when more than one clearing organization is involved in cross-margining with GSCC.

(i) GSCC's Cross-Margining Program

GSCC believes that the most efficient and appropriate approach for establishing cross-margining links for fixed-income and other interest rate products is to do so on a multilateral basis with GSCC as the ''hub.'' Each clearing organization that participates in a cross-margining arrangement with GSCC (hereinafter a ''Participating CO'') will enter into a separate cross-margining agreement between itself and GSCC, as NYCC did and now CME will do. Each of the agreements will have similar terms,[4] and no preference will be given by GSCC to one Participating CO over another.

Cross-margining is available to any GSCC netting member (with the exception of inter-dealer broker netting members) that is, or that has an affiliate that is, a member of a Participating CO. Any such member (or pair of affiliated members) may elect to have its margin requirements at both clearing organizations calculated based upon the net risk of its cash and repo positions at GSCC and its offsetting and correlated positions in related contracts carried at the Participating CO. Cross-margining is intended to lower the cross-margining participant's (or pair of affiliated members') overall margin requirement.

The GSCC member (and its affiliate, if applicable) signs an agreement under which it (or they) agrees to be bound by the cross-margining agreement between GSCC and the Participating CO and which allows GSCC or the Participating CO to apply the member's (or its affiliate's) margin collateral to satisfy any obligation of GSCC to the Participating CO (or vice versa) that results from a default of the member (or its affiliate).

Margining based on the net combined risk of correlated positions is based on an arrangement under which GSCC and each Participating CO agree to accept the correlated positions in lieu of supporting collateral. Under this arrangement, each clearing organizations holds and manages its own positions and collateral and independently determines the amount of margin that it will make available for cross-margining (referred to as the ''residual margin amount'').

GSCC computes the amount by which the cross-margining participant's margin requirement can be reduced at each clearing organization (*i.e.,* the ''cross-margin reduction'') by comparing the participant's positions and the related margin requirements at GSCC against those at each Participating CO.[5] GSCC offsets each cross-margining participant's residual margin amount (based on related position) at GSCC against the offsetting residual margin amounts of the participant (or its affiliate) at each Participating CO. If the residual margin that GSCC has available for a participant is greater than the combined residual margin submitted by the Participating COs, GSCC will allocate a portion of its residual margin equal to the combined residual margin at the Participating COs. If the combined residual margin submitted by the Participating COs is greater than the residual margin that GSCC has available for that participant, GSCC will first allocate its residual margin to the Participating CO with the most highly correlated position.[6] If the positions are equally correlated, GSCC will allocate pro rata based upon the residual margin amount available at each Participating CO. GSCC and each Participating CO may then reduce the amount of collateral they collect to reflect the offsets between the cross-margining participant's positions at GSCC and its (or its affiliate's) position at the Participating CO.[7] In the event of the default and liquidation of a cross-margining participant, the loss sharing between GSCC and each of the Participating COs will be based upon the foregoing allocations and the cross-margin reduction.

GSCC will guarantee the cross-margining participant's (or its affiliate's) performance to each Participating CO

[1] 15 U.S.C. 78s(b)(1).

[2] Securities Exchange Act Release No. 43849 (January 17, 2001), 66 FR 7522.

[3] Securities Exchange Act Release No. 41766 (August 19, 1999), 64 FR 46737 (August 26, 1999) [File No. SR–GSCC–98–)4]. The rule changes necessary for GSCC to engage in cross-margining were made in the NYCC cross-margining rule filing.

[4] It is anticipated that in the interest of conformity NYCC and GSCC will execute a new cross-margining agreement that is substantially the same as the draft agreement with the CME.

[5] NYCC uses GSCC's margin rates to determine margin reduction. CME, which utilizes its own rates, and GSCC will compare margin reduction rates and will use the lower of the two in determining margin reduction.

[6] GSCC has computed and tested disallowance factors that will be applicable to each potential pair of positions being offset. ''Disallowance factor'' means the specified percentage in the cross-margining agreement between GSCC and CME that is applied to reduce the residual margin amount used to calculate the margin offset.

[7] GSCC and each Participating CO unilaterally have the right to not reduce its participant's margin requirement by the cross-margin reduction or to reduce it by less than the cross-margin reduction. However, the clearing organizations may not reduce a participant's margin requirement by more than the cross-margin reduction.

up to a specified maximum amount which relates back to the cross-margin reduction. There will always be a specified maximum amount that one clearing organization could be required to pay another clearing organization. Each Participating CO will provide the same guaranty up to the same specified maximum amount to GSCC.

GSCC proposed one additional rule change, to Rule 22, Section 4, in this present rule filing in order to further clarify that before GSCC credits an insolvent member for any profit realized on the liquidation of the member's final net settlement positions, GSCC will fulfill its obligations with respect to that member under the cross-margining agreement.

(ii) Information Specific to the Current Agreement between GSCC and CME

(a) *Participation in the cross-margining program:* Any netting member of GSCC other than an inter-dealer broker netting member will be eligible to participate. Any clearing member of CME will be eligible to participate.[8]

(b) *Products subject to cross-margining:* The products that will be eligible for the GSCC–CME cross-margining arrangement will be (1) the Treasury bills, notes, and bonds that are cleared by GSCC and (2) Eurodollar futures contracts with ranges in maturity from 3 months to 10 years and options on such futures contracts cleared by CME.[9] GSCC offset classes will be offset against CME offset classes based on correlation studies and the appropriate disallowance factors will be applied. All eligible positions maintained by a cross-margining participant in its account at GSCC and in its (or its affiliate's) proprietary account at CME will be eligible for cross-margining.[10]

(c) *Margin Rates:* GSCC and CME currently use different margin rates to establish margin requirements for their respective products. Residual margin amounts in the GSCC–CME cross-margining arrangement will always be computed based on the lower of the applicable margin rates. This methodology results in a potentially lesser benefit to the participant but ensures a more conservative result for both GSCC and CME (*i.e.,* more collateral held at the clearing organizations).

(d) *Daily Procedures:* On each business day, it is expected that CME will inform GSCC of the residual margin amounts it is making available for cross-margining by approximately 10 p.m. New York time. GSCC will inform CME by approximately 12 a.m. New York time how much of these residual margin amounts it will use. Reductions as computed will be reflected in GSCC's daily clearing fund calculation.

(iii) Benefits of Cross-Margining

GSCC believes that its cross-margining program enhances the safety and soundness of the settlement process for the government securities marketplace by: (1) Providing clearing organizations with more data concerning members' intermarket positions (which is especially valuable during stressed market conditions) to enable the clearing organizations to more accurately make decisions regarding the true risk of such positions to the clearing organization; (2) allowing for enhanced sharing of collateral resources; and (3) encouraging coordinated liquidation processes for a joint participant, or a participant and its affiliate, in the event of an insolvency. GSCC further believes that cross-margining benefits participating clearing members by providing members with the opportunity to more efficiently use their collateral. More important from a regulatory perspective, however, is that cross-margining programs have long been recognized as enhancing the safety and soundness of the clearing system itself. Studies of the October 1987 market break gave support to the concept to the concept of cross-margining. For example, The Report of the President's Task Force on Market Mechanisms (January 1988) noted that the absence of a cross-margining system for futures and securities options markets contributed to payment strains in October 19878. The Interim Report of the President's Working Group on Financial Markets (May 1988) also recommended that the SEC and CFTC facilitate cross-margining programs among clearing organizations. As a result, the first cross-margining arrangement between clearing organizations was implemented in 1988.[11]

II. Discussion

Under section 19(b) of the Act, the Commission is directed to approve a proposed rule change of a clearing agency if not finds that the proposed rule change is consistent with the Act and the rules and regulations thereunder.[12] In section 17A(a)(2)(A)(ii) of the Act, Congress directs the Commission to use its authority under the Act to facilitate the establishment of linked or coordinated facilities for clearance and settlement of transactions in securities, securities options, contracts of sale for further delivery and options thereon, and commodity options.[13] Section 17A(b)(3)(F) of the Act requires that the rules of a clearing agency be designed to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency for which it is responsible.[14] The Commission believes that the approval of GSCC's proposed rule change is consistent with these sections.

First, the Commission's approval of GSCC's proposed rule change to establish a cross-margining arrangement with the CME and to implement its hub and spoke approach to cross-margining with the CME and NYCC is in line with the Congressional directive to the Commission to facilitate linked and coordinated facilities for the clearance and settlement of securities and futures. Second, approval of GSCC's proposal should result in increased and better information sharing between GSCC and Participating COs regarding the portfolios and financial conditions of participating joint and affiliated members. As a result, GSCC and participating COs will be in a better position to monitor and assess the potential risks of participating joint or affiliated members and will be in a better position to handle the potential losses presented by the insolvent of any joint or affiliated member. Therefore, GSCC's proposal should help GSCC better safeguard the securities and funds in its possession or control or for which it is responsible.

[8] The draft GSCC–CME agreement requires ownership of 50 percent or more of the common stock of an entity to indicate control of the entity for purposes of the definition of ''affiliate.''

[9] Under the GSCC–NYCC cross-margining arrangement are Treasury bills, notes, and bonds cleared by GSCC and Treasury futures cleared by NYCC.

[10] At least initially, the GSCC–CME cross-margining arrangement will be applicable on the futures side only to positions in a proprietary account of a cross-margining participant (or its affiliate) at the CME. The arrangement will not apply to positions in a customer account at CME that would be subject to segregation requirements under the CEA. This is also the case with respect to the GSCC–NYCC cross-margining arrangement.

[11] Securities Exchange Act Release No. 26153 (October 3, 1988), 53 FR 39567 (October 7, 1988) [File No. SR–OCC–86–17] (order approving cross-margining program between The Options Clearing Corporations and the Intermarket Clearing Corporation).

[12] 15 U.S.C. 78s(b).

[13] 15 U.S.C. 78q–1(a)(2)(A)(ii).

[14] 15 U.S.C. 78q–1(b)(3)(F).

III. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act and in particular with the requirements of section 17A of the Act and the rules and regulations thereunder.

It is Therefore Ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change (File No. SR–GSCC–00–13) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[15]

Jonathan G. Katz,

Secretary.

[FR Doc. 01–12824 Filed 5–21–01; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44307; File No. SR–NASD–2001–37]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to Trading Halt Authority

May 15, 2001.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 11, 2001, the National Association of Securities Dealers, Inc. (''NASD''), through its subsidiary, The Nasdaq Stock Market, Inc. (''Nasdaq'' or ''Association''), filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by Nasdaq. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Nasdaq is proposing to amend NASD Rule 4120, Trading Halts, to clarify the extent of Nasdaq's authority to halt trading in a security in response to extraordinary market activity that Nasdaq believes may be caused by the misuse or malfunction of an electronic system that is operated by, or linked to, Nasdaq. The text of the proposed rule change is below. Proposed new language is in italics; proposed deletions are in brackets.

* * * * *

4120. Trading Halts

(a) No change.

(1)–(5) No change.

(6) Halt trading in a security listed on Nasdaq when:

(i) extraordinary market activity in the security is occurring, such as the execution of a series of transactions for a significant dollar value at prices substantially unrelated to the current market for the security, as measured by the national best bid and offer, and

(ii) Nasdaq believes that such extraordinary market activity may be caused by the misuse or malfunction of an electronic quotation, communication, reporting, or execution system operated by, or linked to, Nasdaq.

(b)(1)–(3) No change.

(4) Should Nasdaq determine that a basis exists under Rule 4120(a)[(1), (a)(2), (a)(3), (a)(4), or (a)(5)] for initiating a trading halt, the commencement of the trading halt will be effective simultaneously with appropriate notice in the Nasdaq ''NEWS'' frame.

(5) No change.

(6) A trading halt initiated under Rule 4120(a)(6) shall be terminated as soon as Nasdaq determines either that the system misuse or malfunction that caused the extraordinary market activity has been corrected or that system misuse or malfunction is not the cause of the extraordinary market activity.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Nasdaq included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. Nasdaq has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is clarify Nasdaq's authority to initiate and continue trading halts in circumstances where Nasdaq believes that extraordinary market activity in a security listed on Nasdaq may be caused by the misuse or malfunction of an electronic quotation, communication, reporting, or execution system operated by, or linked to, Nasdaq. NASD Rule 4120 provides Nasdaq with authority to halt trading in securities in a number of circumstances in which Nasdaq deems a trading halt necessary to protect investors and the public interest. The specific bases for initiating a trade halt that are currently listed in Rule 4120 focus primarily on ensuring that investors have access to material news about an issuer. Thus, trading may be halted to allow the issuer to disseminate material news or to allow Nasdaq to request from the issuer information relating to material news or other information that is necessary to protect investors and the public interest. Trading of a security may also be halted in certain circumstances to ensure coordination with a halt of the same or a related security imposed by another market. The decision to halt trading and to resume trading in a particular security are communicated to market participants via the Nasdaq ''NEWS'' frame of the Nasdaq Workstation.

As a result of the decentralized and electronic nature of the market operated by Nasdaq, the price and volume of transactions in a Nasdaq-listed security may be affected by the misuse or malfunction of electronic systems, including systems that are linked to, but not operated by, Nasdaq. In circumstances where misuse or malfunction results in extraordinary market activity, Nasdaq believes that it may be appropriate to halt trading until the system problem can be rectified. As is true for all trading halts initiated under Rule 4120, a decision to halt trading would require a determination that the action is necessary to protect investors and the public interest. Thus, a misuse or malfunction that has a limited effect on a particular security may not warrant a trading halt. In extraordinary circumstances, however, the system misuse or malfunction may generate significant misinformation about the demand for a particular security in a manner that distorts prices to the detriment of investors.

Under the proposed rule change, Nasdaq would be authorized to initiate a halt if it believes that a particular insurance of extraordinary market activity may be caused by system misuse of malfunction. However, the trading halt would continue only until Nasdaq determines either that the system misuse or malfunction that caused the extraordinary market activity has been corrected or that system misuse or malfunction is not the cause of the extraordinary market activity. Thus, the existence of extraordinary market activity, unrelated to an instance of system misuse or malfunction, would

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[15] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

not provide a basis for continuing a trade halt.

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of section 15A(b)(6) of the Act,[3] which requires, among other things, that the Association's rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. Nasdaq believes the proposed rule change is consistent with these requirements because the amendment will provide Nasdaq with clearer authority to respond to and alleviate market disruptions and thereby protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

Nasdaq does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the NASD consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of Nasdaq. All submissions should refer to file number SR–NASD–2001–37 and should be submitted by June 12, 2001.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[4]

Jonathan G. Katz,

Secretary.

[FR Doc. 01–12825 Filed 5–21–01; 8:45 am]

BILLING CODE 8010–01–M

[3] 15 U.S.C. 78o–3(b)(6).

[4] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44302; File No. SR–NYSE–00–61]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the New York Stock Exchange, Inc., To Amend the Interpretation of NYSE Rule 412, ''Customer Account Transfer Contracts''

May 14, 2001.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 22, 2000, the New York Stock Exchange, Inc. (''NYSE''), filed with the Securities and Exchange Commission (''Commission'') the proposed rule change and on February 12, 2001, amended the proposed rule change[3] as described in Items I, II, and III below, which Items have been prepared primarily by the NYSE. The Commission is publishing this notice to solicit comments on the amended proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Letter from Darla C. Stuckey, Assistant Secretary, NYSE to Jerry Carpenter, Assistant Director, Division of Market Regulation (February 8, 2001).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NYSE proposes to amend its Interpretation of NYSE Rule 412, ''Customer Account Transfer Contracts,'' to expedite the transfer of customer accounts containing proprietary and/or third party products. The text of the proposed rule change is available upon request from the NYSE's Office of the Secretary or through the Commission's Public Reference Branch.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NYSE included statements concerning the prupose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NYSE has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.[4]

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

a. *Introduction.* NYSE Rule 412 prescribes procedures for member organizations transfering customer accounts and requires the use of the automated Customer Account Transfer Service (''ACATS'') which is administered by the National Securities Clearing Corporation (''NSCC''). Since ACATS's inception in 1985, several enhancements to the system and to NYSE Rule 412 have allowed for faster and more efficient transfers to customer accounts. Recent ACATS modifications offer the capability to facilitate the transfer of accounts containing third party and/or proprietary products. The proposed amendments to the Interpretation of NYSE Rule 412 relate to these modifications and would provide the number greater flexibility to expedite the transfer of such accounts.

b. *Background.* The transfer process is initiated when, upon a customer's written instructions, the receiving firm[5] submits a Transfer Instruction Form or Transfer Initiation Form (''TIF'') to the

[4] The Commission has modified the text of the summaries prepared by the NYSE.

[5] Within the context of NYSE Rule 412, the term ''receiving firm'' refers to a member organization to which a customer is transferring his account.

carrying firm.[6] Although most securities can be transferred through ACATS, member organizations vary widely in their ability to accept and support certain proprietary and/or third party investment products. These differences in servicing capability are particularly problematic with regard to mutual funds.

In order to carry a mutual fund position for a customer's account, the member organization must have a marketing agreement with the investment company that has issued the fund and must have certain corresponding servicing capabilities (*e.g.,* capacity to by and sell shares, reinvest dividends, etc.). The extraordinarily large number of mutual funds that have become available over the last decade has resulted in great variance among member organizations with respect to the third party funds they can sell, service, and support.

c. *Current Situation.* In the current ACATS environment, a carrying firm must deliver third party client mutual funds without knowing whether the receiving firm has the capability to accept, service, and support such funds. If the receiving firm cannot support a particular fund, the delivery will be made to the receiving firm and then to be reversed back to the carrying firm, resulting in substantial processing time by both firms and an overall delay in completing the transfer. To illustrate the point, member organizations approximate that 50% of their ACATS ''fails-to-deliver'' that must ultimately be reversed are caused by mutual funds the receiving firm is unable to support. The ACATS-generated fails result in considerable expense to carrying firms because they are required to credit the receiving firm funds equivalent to the value of the assets they are unable to deliver.

d. *Proposed Amendments to the Interpretation of NYSE Rule 412.* The proposed amendments to paragraphs (b)(1)/01,/04, and /06 of the Interpretation of NYSE Rule 412, in conjunction with the corresponding modifications to the ACATS system, would allow the receiving firm to review an asset validation report provided by the carrying firm and designate those proprietary and/or third party products (*i.e.,* mutual funds/money market funds) it is unable to support. As to those products it is unable to support, the receiving firm would have to provide the customer with a list of the specific assets and request in writing prior to or at the time it makes such designation, further instructions from the customer with respect to the disposition of such assets. The customer would, at minimum, have to be provided with the following options':

(1) Liquidation;

(2) Retention by the carrying organization;

(3) Physical shipment in the customer's name to the customer; or

(4) Transfer to the third party that is the original source of the product.[7]

The transfer of the other assets in the account would be undertaken simultaneously with the receiving firm's designation of nontransferable assets. The proposed designation requirements on the part of the receiving firm should reduce the overall timeframe for transferring proprietary and/or third party products and should lower the related costs incurred by member organizations.

The proposed amendments also include a notification enhancement that will expedite the disposition of nontransferable carrying firm proprietary products.[8] The current Interpretation requires that the carrying organization provide general notification to the customer if an account to be transferred contains any nontransferable assets. The proposed amendments would require the carrying organization to notify the customer of the specific nontransferable, proprietary assets of the carrying firm that are in the account and would further require the carrying organization to provide the customer with a list of those specific assets.

e. *Internal Reassignment of Accounts.* An additional amendment to the Interpretation of NYSE Rule 412[9] is being proposed to address situations where a carrying organization internally reassigns customer accounts to other registered representatives and establishes new account numbers. The proposed amendment places responsibility for tracking these account number changes with the carrying organization and makes clear that a transfer request rejected on the basis of such reassignment will not be considered a legitimate exception under the new rule.

2. Statutory Basis

The NYSE believes the proposed rule change is consistent with section 6(b) of the Act[10] in general and furthers the objectives of section 6(b)(5) of the Act[11] in particular in that it is designed to: promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system, and protect investors and the public interest. These interests are served when procedures governing the transfer of customer accounts are made more efficient.

B. Self-Regulatory Organization's Statement on Burden on Competition

The NYSE believes that the proposed rule change will not impose any burden on competition that is not necessary or appropriate in the furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The NYSE has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

(A) By order approve such proposed rule change or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the

[6] Within the context of NYSE Rule 412, the term ''carrying firm'' refers to a member organization from which a customer is transferring his account.

[7] Rule 412(b)(/06(B).

[8] Rule 412(b)(1)/06(A).

[9] Rule 412(b)(1)/02.

[10] 15 U.S.C. 78f.

[11] 15 U.S.C. 78f(b)(5).

provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at NYSE's principal office. All submissions should refer to File No. SR–NYSE–00–61 and should be submitted by June 12, 2001.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[12]

Jonathan G. Katz,

Secretary.

[FR Doc. 01–12791 Filed 5–21–01; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

Data Collection Available for Public Comments and Recommendations

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Small Business Administration's intentions to request approval on a new, and/or currently approved information collection.

DATES: Submit comments on or before July 23, 2001.

ADDRESSES: Send all comments regarding whether this information collection is necessary for the proper performance of the function of the agency, whether the burden estimate is accurate, and if there are ways to minimize the estimated burden and enhance the quality of the collection, to Jonathan R. Pawlow, Assistant Chief Counsel, Office of Advocacy, Small Business Administration, 409 3rd Street, SW., Suite 7800, Washington DC 20416.

FOR FURTHER INFORMATION CONTACT: Jonathan R. Pawlow, Assistant Chief Counsel, (202) 205–6951 or Curtis B. Rich, Management Analyst, (202) 205–7030.

SUPPLEMENTARY INFORMATION:

Title: Evaluation of State Efforts to Review and Alleviate State Regulatory Burdens on Small Business.

Form No: N/A.

Description of Respondents: The Office of Advocacy is surveying states to gain a better understanding of what states are doing to help small businesses overcome state regulatory hurdles.

Annual Responses: 130.

Annual Burden: 120.

Jacqueline White,

Chief, Administrative Information Branch.

[FR Doc. 01–12827 Filed 5–21–01; 8:45 am]

BILLING CODE 8025–01–P

[12] 17 CFR 200.30–2(a)(12).

DEPARTMENT OF STATE

[Public Notice 3666]

Advisory Committee on International Communications and Information Policy; Meeting Notice

The Department of State is announcing the next meeting of its Advisory Committee on International Communications and Information Policy.

The Committee provides a formal channel for regular consultation and coordination on major economic, social and legal issues and problems in international communications and information policy, especially as these issues and problems involve users of information and communication services, providers of such services, technology research and development, foreign industrial and regulatory policy, the activities of international organizations with regard to communications and information, and developing country interests.

There will be a featured guest speaker at the meeting who will speak on an important topic involving international communications and information policy.

This meeting will be held on Thursday, June 14, 2001, from 9:30 a.m.–12:30 p.m. in Room 1105 of the Main Building of the U.S. Department of State, located at 2201 ''C'' Street, NW., Washington, DC 20520.

Members of the public may attend these meetings up to the seating capacity of the room. While the meeting is open to the public, admittance to the State Department Building is only by means of a pre-arranged clearance list. In order to be placed on the pre-clearance list, please provide your name, title, company, social security number, date of birth, and citizenship to Timothy C. Finton at <fintontc@state.gov> no later than noon on Wednesday, June 13. All attendees for this meeting must use the 23rd Street entrance. One of the following valid ID's will be required for admittance: any U.S. driver's license with photo, a passport, or a U.S. Government agency ID. Non-U.S. Government attendees must be escorted by State Department personnel at all times when in the State Department building.

For further information, contact Timothy C. Finton, Executive Secretary of the Committee, at (202) 647–5385 or <fintontc@state.gov>.

Dated: May 14, 2001.

Timothy C. Finton,

Executive Secretary, Advisory Committee on International Communications and Information Policy, Department of State.

[FR Doc. 01–12851 Filed 5–21–01; 8:45 am]

BILLING CODE 4710–45–P

DEPARTMENT OF STATE

[Public Notice Number: 3662]

Advisory Commission on Public Diplomacy; Notice of Meeting

The U.S. Advisory Commission on Public Diplomacy, reauthorized pursuant to Public Law 106–113 (H.R. 3194, Consolidated Appropriations Act, 2000), will meet on Thursday, June 7, 2001, in Room 600, 301 4th St., SW., Washington, DC from 9:30 a.m. to 12:00 Noon.

The Commission will discuss its recent trip to Asia, the future of public diplomacy in the Department of State, and the future of the Commission.

Members of the general public may attend the meeting, though attendance of public members will be limited to the seating available. Access to the building is controlled, and individual building passes are required for all attendees. Persons who plan to attend should contact David J. Kramer, Executive Director, at (202) 619–4463.

Dated: May 11, 2001.

David J. Kramer,

Executive Director, Advisory Commission on Public Diplomacy, Department of State.

[FR Doc. 01–12849 Filed 5–21–01; 8:45 am]

BILLING CODE 4710–11–P

DEPARTMENT OF STATE

[Notice Number 3665]

Shipping Coordinating Committee; Notice of Meeting

The Shipping Coordinating Committee (SHC) will conduct an open meeting at 9:00 a.m. on Tuesday, 12 June, in Room 6301, at U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593–0001. The purpose of the meeting is to finalize preparations for the 50th Session of the Technical Cooperation Committee (TCC 50) and 86th Session of Council of the International Maritime Organization (IMO).

The TCC 50 meeting will be held at IMO Headquarters on 21 June 2001 and will focus on the following items:

—Technical Co-operation Programme (ITCP) for 2002–2003;
—Regional Co-ordination and Delivery including a review of IMO's pilot project on regional presence;
—IMO Women in Development Programme;
—Institutional Development and Fellowships;
—Report on the status of funding for the translation of model courses; and
—Election of the Chairman and Vice-Chairman of TCC for 2002.

The 86th Session of the Council is scheduled for 18–22 June 2001, at the IMO Headquarters in London. Items of interest include:

—Committees reports;
—Report on the International Conference on Liability and Compensation for Bunker Oil Pollution Damage;
—Work Program and Budget for 2002–2003;
—Review of the Organization's financial framework in accordance with Assembly resolution A.877(21);
—Report on the status of conventions and other multilateral instruments in respect of which the Organization performs its function;
—World Maritime University;
—IMO International Maritime Law Institute;
—Relations with intergovernmental and non-governmental organizations; and
—Assembly matters.

Members of the public may attend these meetings up to the seating capacity of the room. Interested persons may seek information by writing: Director, International Affairs, U.S. Coast Guard Headquarters, Commandant (G–CI), Room 2114, 2100 Second Street, SW., Washington, DC 20593–0001 or by calling: (202) 267–2280.

Dated: May 11, 2001.

Stephen M. Miller,

Executive Secretary, Shipping Coordinating Committee, Department of State.

[FR Doc. 01–12850 Filed 5–21–01; 8:45 am]

BILLING CODE 4710–01–P

DEPARTMENT OF STATE

[Notice Number 3667]

Shipping Coordinating Committee; International Maritime Organization Legal Committee; Notice of Meetings

The Shipping Coordinating Committee (SHC) will conduct open meetings between June and October, 2001, to assist in formulating the United States position on International Maritime Organization (IMO) Legal Committee negotiations of a draft protocol to the Athens Convention Relating to the Carriage of Passengers and Their Luggage by Sea, 1974 (draft Athens protocol), and also to prepare for other items on the agenda of the eighty-third session of the Legal Committee (LEG 83). LEG 83 will meet from 8 to 12 October 2001.

The U.S. delegation to LEG 83 will consider views on issues raised by the draft Athens protocol as indicated below, but will also allow time for discussion of other topics raised at the meetings. To submit views on the draft Athens protocol in advance of the scheduled meetings, please send them either electronically to *dgoettle@comdt.uscg.mil* or by fax to the attention of LT Daniel J. Goettle at (202) 267–4496 or by mail to Commandant (G–LMI), U.S. Coast Guard, 2100 Second St. SW., Washington, D.C., 20593–0001, attention LT Daniel J. Goettle. Any written submissions may be posted at *http://afls14.jag.af.mil/dscgi/ds.py/View/Collection-2640.* Additionally, changes to the below schedule of SHC meetings will be posted on this site as well as published in the **Federal Register**. The current text of the draft Athens protocol can be found at: *http://www.uio.no/~erikro/WWW/corrgr/index.html.*

The following meeting schedule has been established to allow time for the preparation of U.S. submissions, if deemed necessary, for consideration of LEG 83. The IMO requires submissions of six or more pages to be sent no later than August 6, 2001, and submissions of less than six pages to be sent no later than September 10, 2001. Each meeting will be held at U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593–0001. The meetings will be held in room 2415 at 10:00 a.m. The SHC meeting dates and issues for discussion are as follows:

June 14, 2001: The U.S. delegation will consider views on the draft Athens protocol liability scheme. This topic will include consideration of views on: liability of the carrier (Article 3); the performing carrier (Article 4); contributory fault (Article 6); limit of liability for personal injury (Article 7); and the loss of right to limit liability (Article 13). All article references are to the Athens Convention as modified by the draft Athens protocol.

July 10, 2001: The U.S. delegation will consider views on: the draft Athens protocol compulsory insurance provisions (Article 4bis); the time-bar (Article 16); the jurisdictional provisions (Article 17); recognition and enforcement (Article 17bis); invalidity of contractual provisions (Article 18); and other conventions on limitation of liability (Article 19).

August 7, 2001: The U.S. delegation will consider views on all other articles and any other issue raised through a written submission to the Coast Guard after July 10 or raised at this meeting.

September 11, 2001: This meeting is reserved and will be held if necessary to discuss any further views on the draft Athens protocol.

October 2, 2001: In addition to the draft Athens protocol, this meeting will consider views on the remainder of the LEG 83 agenda items. The other issues on the agenda are expected to include: development of a draft convention on wreck removal; the implementation of the International Convention on Liability and Compensation for Damage in Connection With the Carriage of Hazardous and Noxious Substances by Sea; and consideration of two draft resolutions submitted to the Legal Committee by the Joint International Maritime Organization/International Labor Organization Ad Hoc Expert Working Group on Liability and Compensation Regarding Claims for Death, Personal Injury and Abandonment of Seafarers, which met from 30 April through 4 May 2001. The first resolution provides guidelines for member states to ensure that shipowners have the financial means to cover liability for the abandonment of seafarers, and the second resolution provides such guidelines for the death or injury of seafarers.

Members of the public are invited to attend the SHC meetings up to the seating capacity of the room. For further information, please contact Captain Joseph F. Ahern or Lieutenant Daniel J. Goettle, U.S. Coast Guard, Office of Maritime and International Law (G–LMI), 2100 Second Street, SW., Washington, DC 20593–0001; telephone (202) 267–1527; fax (202) 267–4496.

Dated: May 16, 2001.

Stephen M. Miller,

Executive Secretary, Shipping Coordinating Committee, Department of State.

[FR Doc. 01–12852 Filed 5–21–01; 8:45 am]

BILLING CODE 4710–07–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

[USCG–2001–9267]

Approval for Experimental Shipboard Installations of Ballast Water Treatment Systems

AGENCY: Coast Guard, DOT.

ACTION: Request for comments.

SUMMARY: The Coast Guard is requesting comments about how to provide incentives to further develop ballast water treatment (BWT) technologies and reduce the potential for introducing nonindigenous species (NIS) to the waters of the United States via discharged ballast water. Ideally, vessel owners and operators given approval to install prototype BWT systems would be considered to be in compliance with the first set of future BWT requirements, when they are implemented. Depending on the information received, we may begin developing the type of incentives outlined in this notice.

DATES: Comments and related material must reach the Docket Management Facility on or before July 23, 2001.

ADDRESSES: To make sure your comments and related material are not entered in the docket more than once, please submit them by only one of the following means:

(1) By mail to the Docket Management Facility, (USCG–2001–9267) 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) By electronic means 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 material received from the public will become part of this docket and will be available for inspection or copying at room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: For questions on this notice, call Dr. Richard Everett, Project Manager, Office of Operating and Environmental Standards (G–MSO), Coast Guard, telephone 202–267–0214. For questions on viewing or submitting material to the docket, call Dorothy Beard, Chief, Dockets, Department of Transportation, telephone 202–366–5149.

SUPPLEMENTARY INFORMATION:

Request for Comments

We invite you to provide your views on: The program described in this notice; new and other approaches not identified in this notice; the potential impacts of such a program (including possible unintended or unanticipated consequences); and, any supporting or relevant data or information that you would like the Coast Guard to consider during the development of an approval program. Please explain your views as clearly as possible, describe any assumptions used, and provide copies of data or technical information used to support your views. If you submit comments and related material, please include your name and address, identify the docket number for this notice (USCG–2001–9267), indicate the specific section of this document to which each comment applies, and give the reason for each comment. You may submit your comments and material by mail, hand delivery, fax, or electronic means to the Docket Management Facility as indicated under **ADDRESSES.** Please submit your comments and material by only one means. If you submit them by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. The Coast Guard will consider all comments received during the comment period.

Why Is the Coast Guard Asking for Comments?

The problem of how to reduce the threat of introducing foreign organisms to the waters of the U.S. via ballast water discharged from vessels is complex. A number of factors contribute to the complexity of this issue, including: The relative volumes and pumping rates involved in ballasting operations; the great variability in voyage durations and routes; and the great variability in the physical, chemical, and biological make up of the ballast water carried by the vessels that operate in U.S. waters.

Under paragraphs (a) and (b) in section 1101 of the Nonindigenous Aquatic Nuisance Prevention and Control Act (Pub. L. 101–646), as amended by the National Invasive Species Act of 1996 (NISA) (Pub. L. 104–332), Congress directed the Coast Guard to issue regulations and guidelines on ballast water management practices to prevent the introduction of NIS to U.S. waters via the discharge of foreign water from ballast tanks of ships. Specifically, these regulations are to identify mid-ocean ballast water exchange (BWE), or environmentally sound alternative ballast water treatment (BWT) methods determined by the Coast Guard to be as effective as BWE in preventing and controlling infestations of aquatic nuisance species, as acceptable BWT technologies. These regulations are contained in 33 CFR part 151, subparts C and D; we issued these regulations on May 17, 1999 (64 FR 26672).

The development of effective BWT technologies, capable of significantly reducing the probability of introducing foreign organisms via ballast water discharges, is essential. The NISA explicitly directs that such technologies must be ''as effective as (BWE).'' Currently, the actual ''effectiveness'' of BWE in reducing the threat of introductions is not well resolved. Concerns have been voiced that exchange as a practice will be inherently difficult to quantify. Furthermore, because safe exchange using existing ballast water systems is not practicable on all voyages, exchange is not capable of providing a sufficient level of protection against the introduction of unwanted foreign organisms. An increasing number of alternative BWT technologies are being developed and tested at small, bench-top, or dockside scales. However, complete evaluation and refinement of the capabilities of such systems requires ship-scale installations that are tested for longer periods of time under a wide range of conditions.

As on-board installation and testing costs are likely to be significant, vessel owners are understandably reluctant to participate in on-board testing projects without assurances that installed experimental systems will be accepted for some specified time should regulations come into effect during the testing period.

The Coast Guard is considering developing a program that would allow vessel owners to apply for advance, conditional approval of experimental BWT systems installed and tested on board their operating vessels. Even though only a limited number of the experimental systems would be approved, the program would help nurture the establishment of collaborative partnerships between technology developers and vessel owners while standards and requirements are being developed. If we approve an experimental BWT system under the terms of the program, it would be considered to meet the requirements of the first set of future regulations regarding BWT.

Are There Any Particular Questions the Coast Guard Is Interested in Having Answered?

While we welcome comments on every aspect on this approval program, to help us ensure that studies are conducted according to well-established principles of experimental design and analysis, we encourage opinions on what specific protocols should be included in the studies associated with the program.

What Are the Details Being Considered for This Program for Approval of Experimental Shipboard Installations of BWT Systems?

The basic procedures and conditions envisioned for the approval program are as follows:

Approval Process

Applications for approval of experimental BWT systems would be accepted and reviewed as follows:

- Applications for advance approval of experimental ballast water treatment systems would be accepted at any time.
- Within 10 working days of receiving an application, applicants would be sent (via surface mail, e-mail, or facsimile transmission) a notice of the completeness of the application package. Applicants with incomplete submissions would be sent an explanation of deficiencies. Incomplete application packages would be returned (provided a self-addressed label and sufficient postage are included), or if deficiencies are minimal, held for 30 days in order to allow the applicant to correct the deficiencies.
- Formal, full reviews of supporting data and proposed study plans would be completed within 45 days of receipt of the application.
- Formal reviews would be conducted by panels of biologists and engineers with expertise in experimental investigations of biota associated with ballast water, water treatment technology, naval architecture, and marine engineering.
- The review panels would provide recommendations to the Coast Guard on the acceptability of the supporting evidence and study plans submitted with each application.
- The Coast Guard would accept or reject each application on the basis of reviews by Coast Guard staff and the recommendations of the review panel.

Criteria for Review

Applications for approval of experimental ballast water treatment systems would be evaluated on the completeness of the following information:

- A letter of commitment from the owner of the specified vessel, the manufacturer or developer of the treatment system, and the principle investigators conducting the tests, stating their intents to carry out all components of the study plan for which they are responsible.
- Documentation stating that the residual concentrations of any primary treatment chemicals or chemicals that occur as disinfection by-products meet all applicable local, state, federal, and tribal requirements.
- Documentation from preliminary, smaller scale, experiments that demonstrates the potential of the system to significantly reduce the threat of introducing nonindigenous species via ballast water discharges. The results would demonstrate a taxonomic breadth of effectiveness across a suite of organisms such as bacteria, phytoplankton (including dinoflagellates and diatoms), heterotrophic protists, rotifers, copepods (cyclopoid and harpacticoid; larval, post-larval, and adult life stages), mollusc larvae, polychaete larvae, mysids, decapod crustaceans (crabs and shrimp; larval, post-larval; and adult), and fish.
- Preliminary and proposed testing experiments would control for confounding factors and include statistical analyses that include formal power analyses (a determination of the ability of a particular statistical test to actually detect a difference among the data) for each statistical test.
- A statement with explanations of the scalability of preliminary experiments.
- A detailed study plan that:

1. Is organized according to a standardized format (to be developed).
2. Experimentally compares the effectiveness of the treatment system to the effectiveness of a specified mode of ballast water exchange.
3. Evaluates the effectiveness of the treatment system over a range of operational (including the cumulative hours of operation, volumes treated, and time since the experimental tanks were last cleaned of sediment) and environmental (including abundance of organisms, organic and inorganic ''load'', temperature and salinity of water, sea surface characteristics) conditions during operations.
4. Identifies explicit hypotheses about limiting conditions of the specified ship and route.
5. Assures that samples would be representative of the flow or volume from which they are taken.
6. Contains a detailed quality assurance and/or quality control plan.

Conditions of Approval

- Experimental systems would be approved for use on specified ships operating on specified routes.
- Approval of an experimental system would lapse after 1 year if the system was not installed or the testing begun as proposed.
- Experimental systems would be approved for use in all U.S. waters, including the Great Lakes and the Hudson River upstream of the George Washington Bridge.
- Systems approved under the experimental approval program would be considered to meet all BWT requirements promulgated by the Coast Guard for a period of 5 years, or until the first BWT standard is revised, whichever date is earlier. However, in the event that subsequent work reveals adverse effects on ecology or human health, the tests will be discontinued and the approval will lapse.
- Systems approved under the experimental approval program would be subject to all subsequent standards and regulations upon the expiration of the experimental approval period.
- Experimental approval would be contingent on adherence to a detailed study plan designed to test the effectiveness of the treatment system over a specified period of time. The study plan would be described completely in the application and agreed upon by the applicant and the U.S. Coast Guard.
- The experimental team would be required to submit quarterly status reports identifying tasks completed and unanticipated problems. An annual report documenting the work and results to date would be required after every 12 months of testing. A final report documenting the study findings and conclusions would be required no later than six months after the on-board testing is completed.
- Vessels receiving approval for experimental BWT systems would be subject to inspections by Coast Guard personnel to verify the presence and condition of experimental systems.
- The principle scientists and engineers responsible for conducting and analyzing the tests would attend and participate in a technical workshop during which the results of the study, along with other similar studies, would be presented and discussed. The workshops would be organized by the Coast Guard but travel costs and salary would be the responsibility of the participants.

Sample Timeline for Advance Approval Process

Following is an example of a timeline for the approval of an experimental ballast water treatment system. For illustrative purposes, the timeline incorporates the development of a standard and regulations during the test period.

Date	Action
Submit (S)	Application package submitted and reviewed for completeness.
S + 10 days	Application package accepted or rejected for submission to review panel. If complete, application package submitted to independent review panel.
S + 45 days	Application approved or denied. Final approval pends agreement on study plan.
S + 90 days (A)	Study plan negotiated and agreed-upon by Coast Guard and applicant. This date is considered the Approval Date (A). Treatment system considered meeting regulatory requirements for 5 years from this date.
Install (I)	Experimental system installed and adjusted; preliminary organization for study completed. Experimental work begins.
I + 3 months	First progress report submitted to USCG.
I + 6 months	Second progress report submitted to USCG.
I + 9 months	Third Progress report submitted to USCG.
I + 12 months	Annual Report submitted to USCG. Study continues according to schedule, with quarterly and annual reports submitted to the USCG.
Standard/Reg	First U.S. standard and regulations established for ballast water treatment. Operation of experimental system continues under study plan.
A + 5 years	Vessel must meet existing standard and regulations, regardless of date standard and regulations are promulgated.

What Is the Coast Guard's Authority for Taking This Action?

Under 16 U.S.C. 4711, the Coast Guard (acting on behalf of the Secretary of Transportation) is authorized to take this action.

Dated: March 30, 2001.

R.C. North,

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

[FR Doc. 01–12719 Filed 5–21–01; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Approval of Noise Compatibility Program Camarillo Airport, Camarillo, CA

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its findings on the Noise Compatibility Program submitted by the county of Ventura, Camarillo, California, under the provisions of Title I of the Aviation Safety and Noise Abatement Act of 1979 (Public Law 96–193) and Title 14, Code of Federal Regulations, Part 150 (FAR Part 150). These findings are made in recognition of the description of Federal and nonfederal responsibilities in Senate Report No. 96–52 (1980). On September 10, 1998, the FAA determined that the noise exposure maps submitted by the county of Ventura under FAR Part 150 were in compliance with applicable requirements. On May 4, 2001, the Acting Associate Administrator for Airports approved the Camarillo Airport Noise Compatibility Program. All twenty-three of the program measures have been approved. Fourteen measures were approved as voluntary measures and nine measures were approved outright.

EFFECTIVE DATE: The effective date of the FAA's approval of the Camarillo Airport Noise Compatibility Program is May 4, 2001.

FOR FURTHER INFORMATION CONTACT: Brian Armstrong, Airport Planner, Airports Division, AWP–611.1, Federal Aviation Administration, Western-Pacific Region. Mailing address: P.O. Box 92007, Los Angeles, California 90009–2007. Telephone: (310) 725–3614. Street address: 15000 Aviation Boulevard, Hawthorne, California 90261. Documents reflecting this FAA action may be reviewed at this location.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA has given its overall approval to the Noise Compatibility Program for the Camarillo Airport, effective May 4, 2001. Under section 104(a) of the Aviation Safety and Noise Abatement Act of 1979 (hereinafter referred to as ''the Act''), an airport operator who has previously submitted a Noise Exposure Map, may submit to the FAA, a Noise Compatibility Program which sets forth the measures taken or proposed by the airport operator for the reduction of existing noncompatible land uses and prevention of additional noncompatible land uses within the area covered by the Noise Exposure Maps. The Act requires such programs to be developed in consultation with interested and affected parties including local communities, government agencies, airport users, and FAA personnel.

Each airport Noise Compatibility Program developed in accordance with FAR Part 150 is a local program, not a federal program. The FAA does not substitute its judgment for that of the airport proprietor with respect to which measures should be recommended for action. The FAA's approval or disapproval of FAR Part 150 program recommendations is measured according to the standards expressed in FAR Part 150 and is limited to the following determinations:

a. The Noise Compatibility Program was developed in accordance with the provisions and procedures of FAR Part 150;

b. Program measures are reasonably consistent with achieving the goals of reducing existing noncompatible land uses around the airport and preventing the introduction of additional noncompatible land uses;

c. Program measures would not create an undue burden on interstate or foreign commerce, unjustly discriminate against types or classes of aeronautical uses, violate the terms of airport grant agreements, or intrude into areas preempted by the Federal Government; and

d. Program measures relating to the use of flight procedures can be implemented within the period covered by the program without derogating safety, adversely affecting the efficient use and management of the navigable airspace and air traffic control systems, or adversely affecting other powers and responsibilities of the Administrator prescribed by law.

Specific limitations with respect to FAA's approval of an airport Noise Compatibility Program are delineated in

FAR Part 150, Section 150.5. Approval is not a determination concerning the acceptability of land uses under Federal, State, or local law. Approval does not by itself constitute a FAA implementing action. A request for Federal action or approval to implement specific noise compatibility measures may be required, and a FAA decision on the request may require an environmental assessment of the proposed action. Approval does not constitute a commitment by the FAA to financially assist in the implementation of the program nor a determination that all measures covered by the program are eligible for grant-in-aid funding from the FAA. Where Federal funding is sought, requests for project grants must be submitted to the FAA Airports Division office in Hawthorne, California.

The county of Ventura submitted the Noise Exposure Maps, descriptions, and other documentation produced during the noise compatibility planning study conducted from May 1997 through March 2000 to the FAA on May 28, 1998, and March 10, 2000. The Camarillo Airport Noise Exposure Maps were determined by FAA to be in compliance with applicable requirements on September 10, 1998. Notice of this determination was published in the **Federal Register** on September 23, 1998.

The Camarillo Airport study contains a proposed Noise Compatibility Program comprised of actions designed for implementation by airport management and adjacent jurisdictions. It was requested that the FAA evaluate and approve this material as a Noise Compatibility Program as described in section 104(b) of the Act. The FAA began its review of the program on November 6, 2000, and was required by a provision of the Act to approve or disapprove the program within 180 days (other than the use of new flight procedures for noise control). Failure to approve or disapprove such program within the 180-day period shall be deemed to be an approval of such program.

The submitted program contained twenty-three proposed actions for noise mitigation on and off the airport. The FAA completed its review and determined that the procedural and substantive requirements of the Act and FAR Part 150 have been satisfied. The Acting Associate Administrator for Airports approved the overall program effective May 4, 2001.

All twenty-three of the program measures have been approved. The following fourteen measures were approved as voluntary measures: Continue prohibiting formation takeoffs and landings without prior permission from the Director of Airports; Continue advising north traffic to fly the downwind leg along U.S. Highway 101; Continue advising Runway 26 arrivals to make base leg turns west of Las Posas Road; Continue advising pattern traffic on Runway 8 to turn to the crosswind leg prior to Las Posas Road; Continue advising right traffic on Runway 8 so as to avoid low overflights of the city; Advise straight-in VFR approaches to Runway 26 to remain south of U.S. Highway 101 and south of housing areas; Advise Runway 26 departures to fly west and north of city when turning right; Require aircraft over 80,000 pounds to land on Runway 8 and depart on Runway 26 whenever safe and practicable; When landings on Runway 26 are necessary, require aircraft over 80,000 pounds to make offset visual approaches from the southeast over farmland; Promote use of NBAA standard noise abatement departure procedures by jets; Promote use of AOPA Noise Awareness Steps by light single and twin engine aircraft; Continue promoting a standard left hand traffic pattern on Runway 26; Designate Runway 26 as the calm wind runway; and advise departures on Runway 8 to make right turns to avoid overflights of city. The following nine measures were approved outright: Use combined 2003 and 2018 noise contours as basis for noise compatibility planning; Set 60 CNEL as the threshold for promoting airport compatible development; Preserve airport-compatible land use designations within 60 CNEL and beneath the close-in traffic pattern; Establish noise compatible guidelines for the review of development projects within the ''compatible land use preservation area'' and require fair disclosure agreements and covenants for noise-sensitive uses granted a development permit; Maintain and enhance system for receiving, analyzing, and responding to noise complaints; Review Noise Compatibility Plan implementation; Publish pilot guide; Update Noise Exposure Maps and Noise Compatibility Program; Acquire noise monitors.

These determinations are set forth in detail in a Record of Approval endorsed by the Acting Associate Administrator for Airports on May 4, 2001. The Record of Approval, as well as other evaluation materials and the documents comprising the submittal are available for review at the FAA office listed above and at the administrative offices of the county of Ventura, Camarillo, California.

Issued in Hawthrone, California on May 14, 2001.

Ellsworth L. Chan,

Acting Manager, Airports Division, AWP–600, Western-Pacific Region.

[FR Doc. 01–12835 Filed 5–21–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent to Rule on Application (#01–03–C–00–COD) To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Yellowstone Regional Airport, Submitted by the Joint Powers Board, Yellowstone Regional Airport, Cody, Wyoming

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 PFC revenue at Yellowstone Regional Airport under the provisions of 49 U.S.C. 40117 and Part 158 of the Federal Aviation Regulations (14 CFR 158).

DATES: Comments must be received on or before June 21, 2001.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Alan E. Wiechmann, Manager; Denver Airports District Office, DEN–ADO; Federal Aviation Administration; 26805 E. 68th Avenue, Suite 224; Denver, CO 80249–6361.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. David R. Ulane, Airport Manager, at the following address: Joint Powers Board, Yellowstone Regional Airport, P.O. Box 2748, Cody, WY 82414.

Air Carriers and foreign air carriers may submit copies of written comments previously provided to Yellowstone Regional Airport, under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Chris Schaffer, (303) 342–1258; Denver Airports District Office, DEN–ADO; Federal Aviation Administration; 26805 68th Avenue, Suite 224; Denver, CO 80249–6361. 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 (#01–03–C–00–COD) to impose and use PFC revenue at Yellowstone Regional Airport, under the provisions of 49

U.S.C. 40117 and Part 158 of the Federal Aviation Regulations (14 CFR part 158).

On May 14, 2001, the FAA determined that the application to impose and use the revenue from a PFC submitted by the Joint Powers Board, Yellowstone Regional Airport, Cody, Wyoming, 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 August 16, 2001.

The following is a brief overview of the application.

Level of the proposed PFC: $4.50.

Proposed charge effective date: November 1, 2001.

Proposed charge expiration date: January 1, 2003.

Total requested for use approval: $294,000.00.

Brief description of proposed projects: Encasement of irrigation canal, relocation/reconstruction of parallel taxiway, acquisition of airfield equipment, and general aviation apron expansion.

Class or classes of air carriers, which the public agency has requested not be required to collect PFC's: Non-scheduled on-demand air carriers filing 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, Northwest Mountain Region, Airports Division, ANM–600, 1601 Lind Avenue SW., Suite 315, Renton, WA 98055–4056.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Yellowstone Regional Airport.

Issued in Renton, Washington on May 14, 2001.

David A. Field,

Manager, Planning, Programming and Capacity Branch, Northwest Mountain Region.

[FR Doc. 01–12836 Filed 5–21–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Notice of Granted Buy America Waiver

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice of Granted Buy America Waiver.

SUMMARY: This waiver allows New Flyer of America to count a foreign manufactured articulating joint system used in its low floor buses as a domestic component for purposes of calculating the aggregate domestic content of the vehicle and was predicated on the non-availability of the item in the domestic market. The waiver was granted on April 24, 2001, for the period of two years, or until such time as a domestic source for this articulating joint becomes available, whichever occurs first. This notice shall insure that the public, particularly potential manufacturers, is aware of this waiver. FTA requests that the public notify it of any relevant changes in the domestic market.

FOR FURTHER INFORMATION PLEASE CONTACT: Meghan G. Ludtke, FTA Office of Chief Counsel, Room 9316, (202) 366–4011 (telephone) or (202) 366–3809 (fax).

SUPPLEMENTARY INFORMATION: The above-referenced waiver follows:

April 24, 2001.

Mr. Paul Smith,

Vice President, Sales and Marketing, New Flyer of America, 711 Kerneghan Avenue, Winnipeg, Manitoba, Canada R2C 3T4

Dear Mr. Smith: This letter responds to your correspondence of March 9, 2001, in which New Flyer of America requests a non-availability waiver of the Buy America requirements for the procurement of the Hubner Manufacturing Corporation (Hubner) articulating joint system for use in New Flyer's low floor buses. The system is comprised of three sections, a mechanical artic joint and hydraulic damping unit, an electronic control unit, and a center hoop and bellows.

The Federal Transit Administration's (FTA) requirements concerning domestic preference for federally funded transit projects are set forth in 49 U.S.C. 5323(j). Section 5323(j)(2)(C) addresses the general requirements for the procurement of rolling stock. This section provides that all rolling stock procured with FTA funds must have a domestic content of at least 60 percent and must undergo final assembly in the U.S.

A non-availability waiver would allow New Flyer to count the joint as domestic for the purpose of calculating the aggregate domestic content of the vehicle. You request a waiver under 49 U.S.C. 5323(j)(2)(B), which states the Buy America requirements shall not apply if the item or items being procured are not produced in the U.S. in sufficient and reasonably available quantities or are not of a satisfactory quality. The implementing regulation provides that, ''[i]t will be presumed that the conditions exist to grant this non-availability waiver if no responsive and responsible bid is received offering an item produced in the United States.'' 49 CFR 661.7(c)(1). The regulation goes on to note that, ''[t]he waivers described in paragraphs (b) and (c) of this section may be granted for a component or subcomponent in the case of the procurement of the items governed by [49 U.S.C. 5323(j)(2)(C)] (requirements for rolling stock). If a waiver is granted for a component or subcomponent, that component or subcomponent will be considered to be of domestic origin for the purposes of section 661.11 of this part.'' 49 CFR 661.7(f). The regulations allow a bidder or supplier to request a non-availability waiver for a component or subcomponent in the procurement of rolling stock. *See* 49 CFR 661.7(f) and 49 CFR 661.9(d).

New Flyer is a manufacturer of buses and regularly contracts to supply low floor buses to transit authorities and other U.S. customers. You state that the Hubner articulating joint system is necessary for the production of articulated low floor buses and is not available from a domestic source. In addition to the representations in your correspondence, you have also provided me with information indicating that, based on New Flyer's research, there are no U.S. companies with an approved design or the tooling necessary to produce the type of articulated joint required for New Flyer's low floor buses. You also included a letter from Hubner, which indicates that its manufacture of an American low floor articulating joint system is feasible but the manufacturing process would take a minimum of one year to develop.

This matter has been reviewed by FTA's engineering staff who noted that some components of the three sections included in the articulating joint system are available domestically but the entire joint mechanism necessary for New Flyer's vehicle design is not. Additionally, switching to a different type of joint would necessitate costly and time-consuming engineering changes to a low floor vehicle that has a limited share of the market.

Based on the information you have provided, I have determined that the grounds for a non-availability waiver do exist. Therefore, pursuant to the provisions of 49 U.S.C. 5323(j)(2)(B), the waiver is granted for the procurement of Hubner's articulating joint system for the New Flyer low floor buses for the period of two years, or until such time as a domestic source for this joint becomes available, whichever occurs first. In order to insure that the public is aware of this waiver, particularly potential manufacturers, this waiver will be published in the **Federal Register**.

If you have any questions, please contact Meghan G. Ludtke at 202.366–4011.

Very truly yours,

Gregory B. McBride,

Acting Chief Counsel.

Issued: May 16, 2001.

Hiram J. Walker,

Acting Deputy Administrator, Federal Transit Administration.

[FR Doc. 01–12863 Filed 5–21–01; 8:45 am]

BILLING CODE 4910–57–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2001–9705]

F/V DEFENDER—Applicability of Ownership and Control Requirements for Fishery Endorsement

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a petition requesting MARAD to issue a determination that the ownership and control requirements of the American Fisheries Act of 1998 and 46 CFR Part 356 are in conflict with an international investment agreement.

SUMMARY: The Maritime Administration (MARAD, we, our, or us) is soliciting public comments on a petition from the owners and mortgagees of the vessel *Defender*—Official Number 554030 (hereinafter the ''Vessel''). The petition requests that MARAD issue a decision that the American Fisheries Act of 1998 (''AFA''), Division C, Title II, Subtitle I, Pub. L. 105–277, and our regulations at 46 CFR part 356 (65 FR 44860 (July 19, 2000)) are in conflict with the U.S.-Japan Treaty and Protocol Regarding Friendship, Commerce and Navigation, 206 UNTS 143, TIAS 2863, 4 UST 2063 (1953) (''U.S.-Japan FCN'' or ''Treaty''). The petition is submitted pursuant to 46 CFR 356.53 and 213(g) of AFA, which provide that the requirements of the AFA and the implementing regulations will not apply to the owners or mortgagees of a U.S.-flag vessel documented with a fishery endorsement to the extent that the provisions of the AFA conflict with an existing international agreement relating to foreign investment to which the United States is a party. If MARAD determines that the AFA and MARAD's implementing regulations conflict with the U.S.-Japan FCN, the requirements of 46 CFR part 356 and the AFA will not apply to the extent of the inconsistency. Accordingly, interested parties are invited to review the petition and to submit their views on this petition and whether there is a conflict between the U.S.-Japan FCN and the requirements of both the AFA and 46 CFR part 356. In addition to receiving the views of interested parties, MARAD will consult with other Departments and Agencies within the Federal Government that have responsibility or expertise related to the interpretation of or application of international investment agreements.

DATES: You should submit your comments early enough to ensure that Docket Management receives them not later than June 21, 2001.

ADDRESSES: Comments should refer to the docket number that appears at the top of this document. Written comments may be submitted by mail to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., SW., Washington, DC 20590–0001. You may also send comments electronically via the Internet at http://dms.dot.gov/submit/. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except Federal Holidays. An electronic version of this document and all documents entered into this docket are available on the World Wide Web at http://dms.dot.gov.

FOR FURTHER INFORMATION CONTACT: John T. Marquez, Jr. of the Office of Chief Counsel at (202) 366–5320. You may send mail to John T. Marquez, Jr., Maritime Administration, Office of Chief Counsel, Room 7228, MAR–222, 400 Seventh St., SW., Washington, DC 20590–0001 or you may send e-mail to John.Marquez@marad.dot.gov.

SUPPLEMENTARY INFORMATION:

Background

The AFA was enacted in 1998 to give U.S. interests a priority in the harvest of U.S.-fishery resources by increasing the requirements for U.S. Citizen ownership, control and financing of U.S.-flag vessels documented with a fishery endorsement. MARAD was charged with promulgating implementing regulations for fishing vessels of 100 feet or greater in registered length while the Coast Guard retains responsibility for vessels under 100 feet.

Section 202 of the AFA raises, with some exceptions, the U.S.-Citizen ownership and control standards for U.S.-flag vessels that are documented with a fishery endorsement and operating in U.S.-waters. The ownership and control standard was increased from the controlling interest standard (greater than 50%) of § 2(b) of Shipping Act, 1916 (''1916 Act''), as amended, 46 App. U.S.C. 802(b), to the standard contained in § 2(c) of the 1916 Act, 46 App. U.S.C. 802(c), which requires that 75 percent of the ownership and control in a vessel owning entity be vested in U.S. Citizens. In addition, section 204 of the AFA repeals the ownership grandfather ''savings provision'' in the Anti-Reflagging Act of 1987, Pub. L. 100–239, § 7(b), 101 Stat 1778 (1988), which permits foreign control of companies owning certain fishing vessels.

Section 202 of the AFA also establishes new requirements to hold a preferred mortgage on a vessel with a fishery endorsement. State or federally chartered financial institutions must now comply with the controlling interest standard of § 2(b) of the 1916 Act in order to hold a preferred mortgage on a vessel with a fishery endorsement. Entities other than state or federally chartered financial institutions must either meet the 75% ownership and control requirements of § 2(c) of the 1916 Act or utilize an approved U.S.-Citizen Trustee that meets the 75% ownership and control requirements to hold the preferred mortgage for the benefit of the non-citizen lender.

Section 213(g) of the AFA provides that if the new ownership and control provisions or the mortgagee provisions are determined to be inconsistent with an existing international agreement relating to foreign investment to which the United States is a party, such provisions of the AFA shall not apply to the owner or mortgagee on October 1, 2001, with respect to the particular vessel and to the extent of the inconsistency. MARAD's regulations at 46 CFR 356.53 set forth a process wherein owners or mortgagees may petition MARAD, with respect to a specific vessel, for a determination that the implementing regulations are in conflict with an international investment agreement. Petitions must be noticed in the **Federal Register** with a request for comments. The Chief Counsel of MARAD, in consultation with other Departments and Agencies within the Federal Government that have responsibility or expertise related to the interpretation of or application of international investment agreements, will review the petitions and, absent extenuating circumstances, render a decision within 120 days of the receipt of a fully completed petition.

The Petitioners

F/V Defender, LLC is a Washington limited liability company which owns the F/V *Defender* in its entirety. Its membership is comprised of the following five entities: (1) Ohai Fisheries, Inc., (2) Ohai Enterprises, Inc., (3) Fram Fisheries, Inc., (4) the Girls, LLC, and (5) Lisa Pace, an individual. Each of the entities is owned by U.S. Citizens and organized under the laws of the State of Washington or is an individual U.S. Citizen. The Petitioner asserts that it meets the U.S. Citizen ownership requirements set forth in 46 CFR Part 356 and is qualified to document a vessel with a fishery endorsement.

Prior to 2001, the Vessel was owned by F/V Defender Limited Partnership. The Partnership was owned 49% by Unisea, Inc. Unisea, Inc., a Washington corporation, is wholly owned by Nippon Suisan Kaisha, Ltd., a Japanese company, and therefore does not qualify as a U.S. Citizen under the AFA. In response to the passage of the AFA, Unisea sold its interest in F/V Limited Partnership to Ohai Enterprises, Inc., one of the members of the F/V Defender, LLC, the current vessel owner. To facilitate this sale, a refinancing of the Vessel that involved Unisea paying off the original preferred mortgage on the vessel was negotiated. Under the refinancing arrangement, Unisea now holds a preferred mortgage on the vessel as security for the loan that it provided to pay off the original mortgage on the Vessel.

Unisea no longer has any ownership interest in the Vessel. However, Unisea is a fish processing company which has had a history of purchasing substantially all of the Vessel's catch. The petition states that Unisea and F/V Defender, LLC have entered into a fishing agreement which would require F/V *Defender,* LLC to sell 90% of the vessel's catch to Unisea through the year 2009.

The Petition

This notice provides a summary of the issues presented in the petition. The portion of the petition in which the Petitioner describes the inconsistencies that it suggests exist between the AFA, MARAD's implementing rules and the Japan FCN can be viewed over the internet and is available for downloading through either the DOT Docket Management System by following the instructions in this notice under **ADDRESSES** or through MARAD's web site at *http://www.marad.gov/afa.html.*

In consideration of the financing provided by Unisea, the members of F/V Defender, LLC have committed the Vessel to continue to sell 90% of its catch to Unisea through 2009. Petitioners believe that the loan agreements and the fishing agreement do not convey impermissible control to a Non-Citizen; however, 46 U.S.C. 356.45 prohibits a fish processor from advancing funds to a vessel owner in return for a security interest in the vessel. The vessel owner submits in the petition, on behalf of Unisea, the mortgagee of the vessel, that such a restriction on holding a security interest in the vessel conflicts with Articles V and VII of the Japan FCN as it discriminates on the basis of alienage against a Japanese mortgagee's ability to obtain adequate security for loans that it has made to the vessel owner.

Requested Action

The petition requests that the Chief Counsel make a determination that the exclusive fishing agreement entered into between F/V *Defender,* LLC and Unisea and the preferred mortgage issued in favor of Unisea may remain in force as any restriction on the fishing agreement or the preferred mortgage imposed by the AFA or 46 CFR Part 356 would be inconsistent with the protections provided to existing investments of Unisea as a mortgagee under the Japan-FCN.

Dated: May 16, 2001.

By Order of the Maritime Administrator.

Joel Richard,

Secretary, Maritime Administration.

[FR Doc. 01–12837 Filed 5–21–01; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2001–9670]

Pacific Prince—Applicability of Ownership and Control Requirements for Fishery Endorsement

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a petition requesting MARAD to issue a determination that the ownership and control requirements of the American Fisheries Act of 1998 and 46 CFR Part 356 are in conflict with an international investment agreement.

SUMMARY: The Maritime Administration (MARAD, we, our, or us) is soliciting public comments on a petition from the owners and mortgagees of the vessel *Pacific Prince*—Official Number 697280 (hereinafter the ''Vessel''). The petition requests that MARAD issue a decision that the American Fisheries Act of 1998 (''AFA''), Division C, Title II, Subtitle I, Pub. L. 105–277, and our regulations at 46 CFR Part 356 (65 FR 44860 (July 19, 2000)) are in conflict with the U.S.-Japan Treaty and Protocol Regarding Friendship, Commerce and Navigation, 206 UNTS 143, TIAS 2863, 4 UST 2063 (1953) (''U.S.-Japan FCN'' or ''Treaty''). The petition is submitted pursuant to 46 CFR 356.53 and § 213(g) of AFA, which provide that the requirements of the AFA and the implementing regulations will not apply to the owners or mortgagees of a U.S.-flag vessel documented with a fishery endorsement to the extent that the provisions of the AFA conflict with an existing international agreement relating to foreign investment to which the United States is a party. If MARAD determines that the AFA and MARAD's implementing regulations conflict with the U.S.-Japan FCN, the requirements of 46 CFR Part 356 and the AFA will not apply to the extent of the inconsistency. Accordingly, interested parties are invited to review the petition and to submit their views on this petition and whether there is a conflict between the U.S.-Japan FCN and the requirements of both the AFA and 46 CFR Part 356. In addition to receiving the views of interested parties, MARAD will consult with other Departments and Agencies within the Federal Government that have responsibility or expertise related to the interpretation of or application of international investment agreements.

DATES: You should submit your comments early enough to ensure that Docket Management receives them not later than June 21, 2001.

ADDRESSES: Comments should refer to the docket number that appears at the top of this document. Written comments may be submitted by mail to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., SW., Washington, DC 20590–0001. You may also send comments electronically via the Internet at http://dms.dot.gov/submit/. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except Federal Holidays. An electronic version of this document and all documents entered into this docket are available on the World Wide Web at http://dms.dot.gov.

FOR FURTHER INFORMATION CONTACT: John T. Marquez, Jr. of the Office of Chief Counsel at (202) 366–5320. You may send mail to John T. Marquez, Jr., Maritime Administration, Office of Chief Counsel, Room 7228, MAR–222, 400 Seventh St., SW., Washington, DC 20590–0001 or you may send e-mail to John.Marquez@marad.dot.gov.

SUPPLEMENTARY INFORMATION:

Background

The AFA was enacted in 1998 to give U.S. interests a priority in the harvest of U.S.-fishery resources by increasing the requirements for U.S. Citizen ownership, control and financing of U.S.-flag vessels documented with a fishery endorsement. MARAD was charged with promulgating implementing regulations for fishing vessels of 100 feet or greater in registered length while the Coast Guard

retains responsibility for vessels under 100 feet.

Section 202 of the AFA, raises, with some exceptions, the U.S.-Citizen ownership and control standards for U.S.-flag vessels that are documented with a fishery endorsement and operating in U.S.-waters. The ownership and control standard was increased from the controlling interest standard (greater than 50%) of § 2(b) of Shipping Act, 1916 (''1916 Act''), as amended, 46 App. U.S.C. 802(b), to the standard contained in § 2(c) of the 1916 Act, 46 App. U.S.C. § 802(c), which requires that 75 percent of the ownership and control in a vessel owning entity be vested in U.S. Citizens. In addition, section 204 of the AFA repeals the ownership grandfather ''savings provision'' in the Anti-Reflagging Act of 1987, Pub. L. 100–239, § 7(b), 101 Stat 1778 (1988), which permits foreign control of companies owning certain fishing vessels.

Section 202 of the AFA also establishes new requirements to hold a preferred mortgage on a vessel with a fishery endorsement. State or federally chartered financial institutions must now comply with the controlling interest standard of § 2(b) of the 1916 Act in order to hold a preferred mortgage on a vessel with a fishery endorsement. Entities other than state or federally chartered financial institutions must either meet the 75% ownership and control requirements of § 2(c) of the 1916 Act or utilize an approved U.S.-Citizen Trustee that meets the 75% ownership and control requirements to hold the preferred mortgage for the benefit of the non-citizen lender.

Section 213(g) of the AFA provides that if the new ownership and control provisions or the mortgagee provisions are determined to be inconsistent with an existing international agreement relating to foreign investment to which the United States is a party, such provisions of the AFA shall not apply to the owner or mortgagee on October 1, 2001, with respect to the particular vessel and to the extent of the inconsistency. MARAD's regulations at 46 CFR 356.53 set forth a process wherein owners or mortgagees may petition MARAD, with respect to a specific vessel, for a determination that the implementing regulations are in conflict with an international investment agreement. Petitions must be noticed in the **Federal Register** with a request for comments. The Chief Counsel of MARAD, in consultation with other Departments and Agencies within the Federal Government that have responsibility or expertise related to the interpretation of or application of international investment agreements, will review the petitions and, absent extenuating circumstances, render a decision within 120 days of the receipt of a fully completed petition.

The Petitioners

Pacific Prince, LLC is a Washington limited liability company which owns, in its entirety the fishing vessel *Pacific Prince*. Pacific Prince, LLC is owned by two individual U.S. Citizens and meets the U.S. Citizen ownership requirements of the AFA. MARAD has not yet determined whether Pacific Prince, LLC also complies with the requirement that it be controlled by U.S. Citizens.

The Petition

The Petitioners have filed a consolidated petition for the vessels *Pacific Prince* and *Caitlin Ann.* The *Caitlin Ann* has a registered length of less than 100 feet and therefore is not directly addressed in this notice. However, because the loan agreements, loan guaranties, and fishing agreements on the vessels are related, there will be some discussion related to both vessels. This notice provides a summary of the issues in the petition. The portion of the petition in which the Petitioner describes the inconsistencies that it suggests exist between the AFA, MARAD's implementing rules and the Japan FCN can be viewed over the internet and is available for downloading through either the DOT Docket Management System by following the instructions in this notice under **ADDRESSES** or through MARAD's web site at http://www.marad.gov/afa.html.

The Vessel was purchased by Pacific Prince, LLC from Fishing Vessel Pacific Prince General Partnership in early 2000. In order to fund the purchase of the Vessel, the owners arranged financing through the U.S. Bank National Association (''U.S. Bank''). As part of the buy-out transaction, U.S. Bank required a partial guaranty of payment from a party with financial strength greater than could be offered by the individual U.S. Citizen owners of Pacific Prince, LLC and Caitlin Ann, LLC, the owner of the *Caitlin Ann.* A payment guaranty was obtained from Westward Seafoods, Inc. a Washington corporation (''Westward'') which is a wholly owned subsidiary of the Maruha Corporation of Japan and not a citizen of the United States for the purposes of 46 U.S.C. 12102(c) and 46 CFR Part 356. Pursuant to the terms of the guaranty, Westward is obligated to make any of the first nine quarterly payments on the *Pacific Prince* loan, if and to the extent that those payments are not made when due by Pacific Prince, LLC. In the event that Westward is required to make all or part of a payment to U.S. Bank on behalf of Pacific Prince, LLC, the payments will be deemed to be a loan by Westward to Pacific Prince, LLC, secured by a junior preferred mortgage on the Vessel and will be repaid out of excess earnings from the operation of the Vessel. Any amount advanced by Westward under the guaranty that is not repaid, in full, prior to the maturity of the U.S. Bank loan, will become due and payable at that time.

In consideration of the guaranty provided by Westward, the members of Pacific Prince, LLC, and Caitlan Ann, LLC have committed the *Pacific Prince* and *Caitlin Ann* to continue to sell their catch exclusively to Westward for the next four years, as they have in the past, so long as they continue to be paid a competitive market price for their fish.

Requested Action

The petition requests that the Chief Counsel make a determination that the exclusive fishing agreement and the guaranty agreement entered into between Pacific Prince, LLC, Caitlin Ann, LLC, and Westward may remain in force as any restriction on the guaranty or fishing agreement imposed by the AFA or 46 CFR part 356 would be inconsistent with the protections provided to existing investments of Westward and Maruha under the Japan-FCN. Because the rules prohibit a fish processor such as Westward from holding a preferred mortgage on a vessel, even through a mortgage trustee, the petition also seeks a determination that Westward's second preferred mortgage on the Vessels, provided as security for any payment made pursuant to the guaranty, does not convey impermissible control to a Non-Citizen and should be allowed to remain in place as any restrictions on the preferred mortgage would conflict with the protections afforded Westward and Maruha as Mortgagees under the Japan-FCN.

Dated: May 16, 2001.

By Order of the Maritime Administrator.

Joel Richard,

Secretary, Maritime Administration.

[FR Doc. 01–12838 Filed 5–21–01; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

Release of Waybill Data

The Surface Transportation Board has received a request from Mr. G. Sam Foster on behalf of the College of Forest Services of Mississippi State University (WB583–0—5/7/2001), for permission to use certain data from the Board's Carload Waybill Samples. A copy of the requests may be obtained from the Office of Economics, Environmental Analysis, and Administration.

The waybill sample contains confidential railroad and shipper data; therefore, if any parties object to these requests, they should file their objections with the Director of the Board's Office of Economics, Environmental Analysis, and Administration within 14 calendar days of the date of this notice. The rules for release of waybill data are codified at 49 CFR 1244.9.

FOR FURTHER INFORMATION CONTACT: James A. Nash, (202) 565–1542.

Vernon A. Williams,

Secretary.

[FR Doc. 01–12799 Filed 5–21–01; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Bureau of the Public Debt

Privacy Act of 1974, as Amended; System of Records

AGENCY: Bureau of the Public Debt, Treasury.

ACTION: Notice of systems of records.

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, as amended, 5 U.S.C. 552a, the Bureau of the Public Debt, Treasury, is publishing its Privacy Act systems of records.

SUPPLEMENTARY INFORMATION: Pursuant to the Privacy Act of 1974 (5 U.S.C. 552a) and the Office of Management and Budget (OMB) Circular No. A–130, the Bureau of the Public Debt has completed a review of its Privacy Act systems of records notices to identify minor changes that will more accurately describe these records.

A ''purpose'' statement has been added to the following three notices: BPD .003-United States Securities (Other than Savings Type Securities); BPD .004-Controlled Access Security System, and BPD .005-Employee Assistance Records. In addition, the language under ''Notification Procedure,'' ''Record Access Procedures,'' and ''Contesting Record Procedures,'' in each notice has been standardized.

Other changes throughout the document are editorial in nature and consist principally of changes to system locations and system manager addresses, retention schedules and updating the records disposal description, and adding microform as a storage medium in all systems of records.

The following system of records has been added to the Bureau's inventory of Privacy Act notices since September 30, 1998: BPD .008—Retail Treasury Securities Access Application. (Published February 15, 2001, at 66 FR 10562).

Systems Covered by This Notice

This notice covers all systems of records adopted by the Bureau up to April 9, 2001. The systems notices are reprinted in their entirety following the Table of Contents.

Dated: May 15, 2001.

W. Earl Wright, Jr.,

Chief Management and Administrative Programs Officer.

Table of Contents

BPD .001—Human Resources and Administrative Records
BPD .002—United States Savings-Type Securities
BPD .003—United States Securities (Other than Savings-Type Securities)
BPD .004—Controlled Access Security System
BPD .005—Employee Assistance Records
BPD .006—Health Service Program Records
BPD .007—Gifts to Reduce the Public Debt
BPD .008—Retail Treasury Securities Access Application

Bureau of the Public Debt Treasury/BPD .001

SYSTEM NAME:

Human Resources and Administrative Records-Treasury/BPD.

SYSTEM LOCATION:

Records are maintained at the following Bureau of the Public Debt locations: 200 Third Street, Parkersburg, WV; Park Center, 90 Park Center, Parkersburg, WV; H.J. Hintgen Building, 2nd and Avery Streets, Parkersburg, WV; United Building, 5th and Avery Streets, Parkersburg, WV; and 999 E Street, NW., Washington, DC. Copies of some documents have been duplicated for maintenance by supervisors for employees or programs under their supervision. These duplicates are also covered by this system of records.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Records cover present and former employees, applicants for employment, contractors, vendors, and visitors.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records is limited to those records Public Debt needs to function in an efficient manner and does not cover those records reported under another system of records notice.

(A) *Human Resources Records:* These records relate to categories such as disciplinary and adverse actions; leave and hours of duty; alternate work schedules, standards of conduct and ethics programs; indebtedness; employee suitability and security determinations; grievances; performance problems; bargaining unit matters; Federal labor relations issues; relocation notices; outside employment; recruitment; placement; merit promotion; special hiring programs, including Summer Employment, Veterans Readjustment, Career Development for Lower Level Employees (CADE), Student Employment Programs; position classification and management; special areas of pay administration, including grade and pay retention, premium pay, scheduling of work, performance management and recognition; training and employee development programs; incentive awards; benefits and retirement programs; personnel and payroll actions; insurance; worker's and unemployment compensation; employee orientation; retirement; accident reports; and consolidation of personnel/program efforts among offices.

(B) *Equal Employment Opportunity Records:* These are records of informal EEO complaints and discussions which have not reached the level of formal complaints. After 30 days these records are destroyed or incorporated in a formal complaint file. Formal complaints are handled by the Treasury Department's Regional Complaints Center. Copies of formal complaint documents are sometimes maintained by Public Debt's EEO Office.

(C) *Administrative Services Records:* These records relate to administrative support functions including motor vehicle operation, safety, access to exterior and interior areas, contract guard records, offense/incident reports, accident reports, and security determinations.

(D) *Procurement Records:* These records relate to contractors/vendors if they are individuals; purchase card holders, including the name, social security number and credit card number

for employees who hold Government-use cards; procurement integrity certificates, containing certifications by procurement officials that they are familiar with the Federal Procurement Policy Act.

(E) *Financial Management Records:* These records relate to travel by employees and account information for vendors and contractors who are individuals.

(F) *Retiree Mailing Records:* These records contain the name and address furnished by Public Debt retirees requesting mailings of newsletters and other special mailings.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 31 U.S.C. 321.

PURPOSE(S):

These records are collected and maintained to document various aspects of a person's employment with the Bureau of the Public Debt and to assure the orderly processing of administrative actions within the Bureau.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records may be disclosed to:

(1) The Office of Personnel Management, the Merit Systems Protection Board, the Equal Employment Opportunity Commission, and the Federal Labor Relations Authority upon authorized request;

(2) Other Federal, State, or local agencies, such as a State employment compensation board or housing administration agency, so that the agency may adjudicate an individual's eligibility for a benefit, or liability in such matters as child support;

(3) Creditors, potential creditors, landlords, and potential landlords when they request employment data or salary information for purposes of processing the employee's loan, mortgage, or apartment rental application (when information is requested by telephone, only verification of information supplied by the caller will be provided);

(4) Next-of-kin, voluntary guardians, and other representative or successor in interest of a deceased or incapacitated employee or former employee;

(5) Unions recognized as exclusive bargaining representatives under 5 U.S.C. chapter 71, arbitrators, and other parties responsible for the administration of the Federal labor-management program if needed in the performance of their authorized duties;

(6) Private creditors for the purpose of garnishing wages of an employee if a debt has been reduced to a judgment;

(7) Authorized Federal and non-Federal entities for use in approved computer matching efforts, limited to those data elements considered necessary in making a determination of eligibility under particular benefit programs administered by those agencies or entities, to improve program integrity, and to collect debts and other monies owed to those agencies or entities or to the Bureau of the Public Debt;

(8) Contractors of the Bureau for the purpose of processing personnel and administrative records;

(9) Other Federal, State, or local agencies in connection with the hiring or retention of an individual, the issuance of a security clearance, the conducting of a security or suitability investigation of an individual, the issuance of a license, contract, grant, or other benefit;

(10) Congressional offices in response to an inquiry made at the request of the individual to whom the record pertains;

(11) Other Federal agencies to effect salary or administrative offset for the purpose of collecting a debt, except that addresses obtained from the Internal Revenue Service shall not be disclosed to other agencies;

(12) Consumer reporting agencies, including mailing addresses obtained from the Internal Revenue Service to obtain credit reports;

(13) Debt collection agencies, including mailing addresses obtained from the Internal Revenue Service, for debt collection services;

(14) Appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation;

(15) A court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings or in response to a subpoena;

(16) Third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Debtor information is also furnished, in accordance with 5 U.S.C. 552a(b)(12) and section 3 of the Debt Collection Act of 1982, to consumer reporting agencies to encourage repayment of an overdue debt.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records in this system are stored on paper, microform, or in electronic media.

RETRIEVABILITY:

By name, social security number, or other assigned identifier.

SAFEGUARDS:

These records are maintained in controlled access areas. Identification cards are verified to ensure that only authorized personnel are present. Electronic records are protected by restricted access procedures, including the use of passwords and sign-on protocols which are periodically changed. Only employees whose official duties require access are allowed to view, administer, and control these records. Copies of records maintained on computer have the same limited access as paper records.

RETENTION AND DISPOSAL:

Records are maintained in accordance with National Archives and Records Administration retention schedules. Paper and microform records ready for disposal are destroyed by shredding or maceration. Records in electronic media are electronically erased using accepted techniques.

SYSTEM MANAGER(S) AND ADDRESS:

(A) *Human Resources Records:* Director, Human Resources Division, 200 Third Street, Parkersburg, WV 26106–1328.

(B) *Equal Employment Opportunity Records:* Equal Employment Opportunity Manager, 200 Third Street, Parkersburg, WV 26106–1328.

(C) *Administrative Services Records:* Director, Administrative Services Division, 200 Third Street, Parkersburg, WV 26106–1328.

(D) *Procurement Records:* Director, Division of Procurement, United Building, 5th and Avery Streets, Parkersburg, WV 26106–1328.

(E) *Financial Management Records:* Director, Division of Financial Management, 200 Third Street, Parkersburg, WV 26106–1328.

(F) *Retiree Mailing Records:* Director, Division of Support Services, 200 Third Street, Parkersburg, WV 26106–1328.

NOTIFICATION PROCEDURE:

Individuals may submit their requests for determination of whether the system contains records about them or for access to records as provided under ''Records Access Procedures.'' Requests

must be made in compliance with the applicable regulations (31 CFR part 1, subpart C). Requests which do not comply fully with these procedures may result in noncompliance with the request, but will be answered to the extent possible.

RECORD ACCESS PROCEDURES:

(1) A request for access to records must be in writing, signed by the individual concerned, identify the system of records, and clearly indicate that the request is made pursuant to the Privacy Act of 1974. If the individual is seeking access in person, identity may be established by the presentation of a single official document bearing the individual's photograph or by the presentation of two items of identification without the photograph but showing a name and signature. If the individual is seeking access by mail, identity may be established by presenting a signature, address, and one other identifier such as a photocopy of an official document bearing the individual's signature. The Bureau of the Public Debt reserves the right to require additional verification of an individual's identity.

(2) Submit requests to the appropriate office as shown under ''System Manager and Address'' above.

(3) The request must state whether the requester wishes to be notified that the record exists or desires to inspect or obtain a copy of the record. If a copy of the record is desired, the requester must agree to pay the fees for copying the documents in accordance with 31 CFR 1.26(d)(2)(ii).

CONTESTING RECORD PROCEDURES:

Initial amendment requests: (1) A request by an individual contesting the content of records or for correction of records must be in writing, signed by the individual involved, identify the system of records, and clearly state that the request is made pursuant to the Privacy Act of 1974. If the request is made in person, identity may be established by the presentation of a single official document bearing the individual's photograph or by the presentation of two items of identification without the photograph but instead showing a name and signature. If the request is made by mail, identity may be established by the presentation of a signature, address, and one other identifier such as a photocopy of an official document bearing the individual's signature. The Bureau of the Public Debt reserves the right to require additional verification of an individual's identity.

(2) Submit requests to the appropriate office as shown under ''System Manager and Address'' above.

(3) The request must specify:

(a) The dates of records in question,

(b) The specific records alleged to be incorrect,

(c) The correction requested, and

(d) The reasons.

(4) The request must include available evidence in support of the request.

Appeals from an initial denial of a request for correction of records:

(1) An appeal from an initial denial of a request for correction of records must be in writing, signed by the individual involved, identify the system of records, and clearly state that it is made pursuant to the Privacy Act of 1974. If the individual is making an appeal in person, identity may be established by the presentation of a single official document bearing the individual's photograph or by the presentation of two items of identification without the photograph but showing a name and signature. If the individual is making an appeal by mail, identity may be established by the presentation of a signature, address, and one other identifier such as a photocopy of an official document bearing the individual's signature. The Bureau of the Public Debt reserves the right to require additional verification of an individual's identity.

(2) Appellate determinations will be made by the Commissioner of the Public Debt or the delegate of such officer. Appeals should be addressed to, or delivered personally to: Chief Counsel, Bureau of the Public Debt, 999 E Street, NW, Room 501, Washington, DC 20239–0001 (or as otherwise provided for in the applicable appendix to 31 CFR part 1, subpart C), within 35 days of the individual's receipt of the initial denial of the requested correction.

(3) An appeal must be marked ''Privacy Act Amendment Appeal'' and specify:

(a) The records to which the appeal relates,

(b) The date of the initial request made for correction of the records, and

(c) The date the initial denial of the request for correction was received.

(4) An appeal must also specify the reasons for the requester's disagreement with the initial denial of correction and must include any applicable supporting evidence.

RECORD SOURCE CATEGORIES:

Information in this system of records is provided by the subject of the record, authorized representatives, supervisor, employers, medical personnel, other employees, other Federal, State, or local agencies, and commercial entities.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/BPD .002

SYSTEM NAME:

United States Savings-Type Securities-Treasury/BPD.

SYSTEM LOCATION:

Bureau of the Public Debt, Washington, DC, and Parkersburg, WV. Federal Reserve Banks and Branches located at: Buffalo, NY; Kansas City, MO; Minneapolis, MN; Pittsburgh, PA, and Richmond, VA.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Present and former owners of, claimants to, persons entitled to, and inquirers concerning United States savings-type securities and interest thereon, including, but not limited to, United States Savings Bonds, Savings Notes, Retirement Plan Bonds, and Individual Retirement Bonds.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) *Issuance:* Records relating to registration, issuance, and correspondence in connection with issuance of savings-type securities. This category includes records of current income savings bonds processed under an automated system which will permit access by selected Federal Reserve Banks and Branches.

(2) Holdings: Records documenting ownership, status, payments by date and account numbers, and inscription information; interest activity; correspondence in connection with notice of change of name and address; non-receipt or over- or underpayments of interest and principal; and numerical registers of ownership. Such records include information relating to savings-type securities held in safekeeping in conjunction with the Department's program to deliver such securities to the owners or persons entitled. This category includes records of current income savings bonds processed under an automated system which will permit access by selected Federal Reserve Banks and Branches.

(3) Transactions (redemptions, payments, and reissues): Records, which include securities transaction requests; interest activity; legal papers supporting transactions; applications for disposition or payment of securities and/or interest thereon of deceased or incapacitated owners; records of retired securities; and payment records. This category includes records of current income savings bonds processed under an automated system which will permit

access by selected Federal Reserve Banks and Branches.

(4) Claims: Records including correspondence concerning lost, stolen, destroyed, or mutilated savings-type securities; bonds of indemnity; legal documents supporting claims for relief; and records of caveats entered.

(5) Inquiries: Records of correspondence with individuals who have requested information concerning savings-type securities and/or interest thereon.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 31 U.S.C. 3101, *et seq.*

PURPOSES:

Information in this system of records is collected and maintained to enable Public Debt and its agents to issue savings bonds, to process transactions, to make payments, and to identify owners and their accounts.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records may be disclosed to:

(1) Agents or contractors of the Department for the purpose of administering the public debt of the United States;

(2) Next-of-kin, voluntary guardian, legal representative or successor in interest of a deceased or incapacitated owner of securities and others entitled to the reissue, distribution, or payment for the purpose of assuring equitable and lawful disposition of securities and interest;

(3) Either coowner for bonds registered in that form or to the beneficiary for bonds registered in that form, provided that acceptable proof of death of the owner is submitted;

(4) The Internal Revenue Service for the purpose of facilitating collection of the tax revenues of the United States;

(5) The Department of Justice in connection with lawsuits to which the Department of the Treasury is a party to trustees in bankruptcy for the purpose of carrying out their duties;

(6) The Veterans Administration and selected veterans' publications for the purpose of locating owners or other persons entitled to undeliverable bonds held in safekeeping by the Department;

(7) Other Federal agencies to effect salary or administrative offset for the purpose of collecting debts;

(8) A consumer reporting agency, including mailing addresses obtained from the Internal Revenue Service, to obtain credit reports;

(9) A debt collection agency, including mailing addresses obtained from the Internal Revenue Service, for debt collection services;

(10) Contractors conducting Treasury-sponsored surveys, polls, or statistical analyses relating to the marketing or administration of the public debt of the United States;

(11) Appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license;

(12) A court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings or in response to a subpoena;

(13) A Congressional office in response to an inquiry made at the request of the individual to whom the record pertains;

(14) Disclose through computer matching information on individuals owing debts to the Bureau of the Public Debt to other Federal agencies for the purpose of determining whether the debtor is a Federal employee or retiree receiving payments which may be used to collect the debt through administrative or salary offset;

(15) Disclose through computer matching information on holdings of savings-type securities to requesting Federal agencies under approved agreements limiting the information to that which is relevant in making a determination of eligibility for Federal benefits administered by those agencies; and

(16) Disclose through computer matching, information on individuals with whom the Bureau of the Public Debt has lost contact, to other Federal agencies for the purpose of utilizing letter forwarding services to advise these individuals that they should contact the Bureau about returned payments and/or matured, unredeemed securities.

DISCLOSURES TO CONSUMER REPORTING AGENCIES:

Debtor information is also furnished, in accordance with 5 U.S.C. 552a(b)(12) and section 3 of the Debt Collection Act of 1982, to consumer reporting agencies to encourage repayment of an overdue debt.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records in this system are stored on paper, microform, or in electronic media.

RETRIEVABILITY:

Information can be retrieved alphabetically by name, address, and period of time the security was issued, by bond serial numbers, other assigned identifier, or, in some cases, numerically by social security number. In the case of securities, except Series G savings bonds, registered in more than one name, information relating thereto can be retrieved only by the names, or, in some cases, the social security number of the registrants, primarily the registered owners or first-named coowners. In the case of gift bonds inscribed with the social security number of the purchaser, bonds are retrieved under that number, or by bond serial number.

SAFEGUARDS:

Information is contained in secure buildings or in areas which are occupied either by officers and responsible employees of Public Debt who are subject to personnel screening procedures and to the Treasury Department Code of Conduct or by agents of Public Debt who are required to maintain proper control over records while in their custody. Additionally, since in most cases, numerous steps are involved in the retrieval process, unauthorized persons would be unable to retrieve information in meaningful form. Information stored in electronic media is safeguarded by automatic data processing security procedures in addition to physical security measures. Additionally, for those categories of records stored in computers with online terminal access, the information cannot be accessed without proper passwords and preauthorized functional capability.

RETENTION AND DISPOSAL:

Records of holdings, forms, documents, and other legal papers which constitute the basis for transactions subsequent to original issue are maintained for such time as is necessary to protect the legal rights and interests of the United States Government and the persons affected, or otherwise until they are no longer historically significant. Other records are disposed of at varying intervals in accordance with records retention schedules reviewed and approved by the National Archives and Records Administration (NARA). Paper and microform records ready for disposal are destroyed by shredding or maceration. Records in electronic media are electronically erased using accepted techniques.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Commissioner, Securities Operations, Parkersburg, WV 26106–1328.

NOTIFICATION PROCEDURE:

Individuals may submit their requests for determination of whether the system contains records about them or for access to records as provided under ''Records Access Procedures.'' Requests must be made in compliance with the applicable regulations (31 CFR part 1, subpart C). Requests which do not comply fully with these procedures may result in noncompliance with the request, but will be answered to the extent possible.

RECORD ACCESS PROCEDURES:

(1) A request for access to records must be in writing, signed by the individual concerned, identify the system of records, and clearly indicate that the request is made pursuant to the Privacy Act of 1974. If the individual is seeking access in person, identity may be established by the presentation of a single official document bearing the individual's photograph or by the presentation of two items of identification without the photograph but showing a name and signature. If the individual is seeking access by mail, identity may be established by presenting a signature, address, and one other identifier such as a photocopy of an official document bearing the individual's signature. The Bureau of the Public Debt reserves the right to require additional verification of an individual's identity.

(2) The request must state whether the requester wishes to be notified that the record exists or desires to inspect or obtain a copy of the record. If a copy of the record is desired, the requester must agree to pay the fees for copying the documents in accordance with 31 CFR 1.26(d)(2)(ii).

(3) Requests by individuals about securities they own:

(a) For current income savings bonds: Individuals may make inquiries at a Federal Reserve Bank or Branch or directly to the Bureau of the Public Debt, Investor Services, Current Income Services Division, Parkersburg, WV 26106–1328. If the particular Federal Reserve Bank or Branch cannot access the particular record, the individual will be advised to contact the Bureau of the Public Debt. Individuals must provide sufficient information, including their address and social security number, to identify themselves as owner or coowner of the securities. They should provide the complete bond serial numbers, including alphabetic prefixes and suffixes, if known. Otherwise, the series, approximate date, form of registration, and, except for Series G Savings Bonds registered in coownership form, the names and social security numbers of all persons named in the registration should be provided. If a Case Identification Number is known, that should be provided.

(b) For all other types of securities covered by this system of records: Individuals should contact the following: Bureau of the Public Debt, Investor Services, Accrual Services Division, Parkersburg, WV 26106–1328. Individuals should provide sufficient information, including their address and social security number, to identify themselves as owner or coowner of the securities. Individuals must provide sufficient information to identify the securities, such as type or series of security, approximate date of issue, serial number, form of registration, and the name and social security number of the first-named coowner, or in the case of gift bonds the social security number of the purchaser if that number was used.

(4) Requests by anyone other than individuals named on securities must contain sufficient information to identify the securities; this would include type or series of securities, approximate date of issue, serial number, and form of registration. These requests will be honored only if the identity and right of the requester to the information have been established. Send requests to the addresses shown in (3)(a) or (3)(b) above, depending on the type of security involved.

(a) Requests by a beneficiary for information concerning securities registered in beneficiary form must be accompanied by the name and social security number of the owner and by proof of death of the registered owner.

(b) Requests for records of holdings or other information concerning a deceased or incapacitated individual must be accompanied either by evidence of the requester's appointment as legal representative of the estate of the individual or by a statement attesting that no such representative has been appointed and giving the nature of the relationship between the requester and the individual.

CONTESTING RECORD PROCEDURES:

Initial amendment requests: (1) A request by an individual contesting the content of records or for correction of records must be in writing, signed by the individual involved, identify the system of records, and clearly state that the request is made pursuant to the Privacy Act of 1974. If the request is made in person, identity may be established by the presentation of a single official document bearing the individual's photograph or by the presentation of two items of identification without the photograph but instead showing a name and signature. If the request is made by mail, identity may be established by the presentation of a signature, address, and one other identifier such as a photocopy of an official document bearing the individual's signature. The Bureau of the Public Debt reserves the right to require additional verification of an individual's identity.

(2) Submit requests to the appropriate office as shown under ''System Manager and Address'' above.

(3) The request must specify:

(a) The dates of records in question,

(b) The specific records alleged to be incorrect,

(c) The correction requested, and

(d) The reasons therefor.

(4) The request must include available evidence in support of the request.

Appeals from an initial denial of a request for correction of records: (1) An appeal from an initial denial of a request for correction of records must be in writing, signed by the individual involved, identify the system of records, and clearly state that it is made pursuant to the Privacy Act of 1974. If the individual is making an appeal in person, identity may be established by the presentation of a single official document bearing the individual's photograph or by the presentation of two items of identification without the photograph but showing a name and signature. If the individual is making an appeal by mail, identity may be established by the presentation of a signature, address, and one other identifier such as a photocopy of an official document bearing the individual's signature. The Bureau of the Public Debt reserves the right to require additional verification of an individual's identity.

(2) Appellate determinations will be made by the Commissioner of the Public Debt or the delegate of such officer. Appeals should be addressed to, or delivered personally to: Chief Counsel, Bureau of the Public Debt, 999 E Street, NW, Room 501, Washington, DC 20239–0001 (or as otherwise provided for in the applicable appendix to 31 CFR part 1, subpart C), within 35 days of the individual's receipt of the initial denial of the requested correction.

(3) An appeal must be marked ''Privacy Act Amendment Appeal'' and specify:

(a) The records to which the appeal relates,

(b) The date of the initial request made for correction of the records, and

(c) The date the initial denial of the request for correction was received.

(4) An appeal must also specify the reasons for the requester's disagreement with the initial denial of correction and must include any applicable supporting evidence.

RECORD SOURCE CATEGORIES:

Information on records in this system is furnished by the individuals or their authorized representatives as listed in ''Categories of Individuals'' and issuing agents for securities or is generated within the system itself.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/BPD .003

SYSTEM NAME:

United States Securities (Other than Savings-Type Securities)-Treasury/BPD.

SYSTEM LOCATION:

Bureau of the Public Debt, Washington, DC, and Parkersburg, WV. Federal Reserve Banks and Branches located at: Atlanta, GA; Baltimore, MD; Birmingham, AL; Boston, MA; Buffalo, NY; Charlotte, NC; Chicago, IL; Cincinnati, OH; Cleveland, OH; Dallas, TX; Denver, CO; Detroit, MI; El Paso, TX; Houston, TX; Jacksonville, FL; Kansas City, MO; Little Rock, AR; Los Angeles, CA; Louisville, KY; Memphis, TN; Miami, FL; Minneapolis, MN; Nashville, TN; New Orleans, LA; New York, NY; Oklahoma City, OK; Omaha, NE; Philadelphia, PA; Pittsburgh, PA; Portland, OR; Richmond, VA; Salt Lake City, UT; San Antonio, TX; San Francisco, CA; Seattle, WA; and St. Louis, MO.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Present and former owners of, subscribers to, claimants to, persons entitled to, and inquirers concerning United States Treasury securities (except savings-type securities) and interest thereon and such securities for which the Treasury acts as agents including, but not limited to, Treasury Bonds, Notes, and Bills; Adjusted Service Bonds; Armed Forces Leave Bonds; and Federal Housing Administration Debentures.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) *Issuance:* Records relating to tenders, bids, subscriptions, advices of shipment, requests (applications) for original issue, and correspondence concerning erroneous issue and nonreceipt of securities.

(2) *Holdings:* Records of ownership and interest activity on registered or recorded United States securities (other than savings-type securities); records about fees for TreasuryDirect accounts exceeding a stipulated amount; change of name and address notices; correspondence concerning errors in registration or recordation; nonreceipt or over- and underpayments of interest and principal; records of interest activity; records of unclaimed accounts; and letters concerning the New York State tax exemption for veterans of World War I.

(3) *Transactions (redemptions, payments, reissues, transfers, and exchanges):* Records which include securities transaction requests; records about fees for definitive securities issued; legal papers supporting transactions; applications for transfer, disposition, or payment of securities of deceased or incompetent owners; records of Federal estate tax transactions; certificates of ownership covering paid overdue bearer securities; records of erroneous redemption transactions; records of retired securities; and payment records.

(4) *Claims:* Records including correspondence concerning lost, stolen, destroyed, or mutilated United States securities (other than savings-type securities) or securities for which the Treasury acts as agent and interest coupons thereon; bonds of indemnity; legal documents supporting claims for relief; and records of caveats entered.

(5) *Inquiries:* Records of correspondence with individuals who have requested information concerning United States Treasury securities (other than savings-type securities) or securities for which the Treasury acts as agent.

(6) All of the above categories of records except ''(4) Claims'' include records of Treasury bills, notes, and bonds in the TreasuryDirect Book-entry Securities System.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 31 U.S.C. 3101 *et seq.*

PURPOSE(S):

Information in this system of records is collected and maintained to enable the Bureau of the Public Debt and its agents to issue United States securities (other than savings-type securities), to process transactions, to make payments, and to identify owners and their accounts.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records may be disclosed to:

(1) Agents or contractors of the Department for the purpose of administering the public debt of the United States;

(2) Next-of-kin, voluntary guardian, legal representative or successor in interest of a deceased or incapacitated owner of securities and others entitled upon transfer, exchange, distribution, or payment for the purpose of assuring equitable and lawful disposition of securities and interest;

(3) Any of the owners if the related securities are registered or recorded in the names of two or more owners;

(4) The Internal Revenue Service for the purpose of facilitating the collection of the tax revenues of the United States;

(5) The Department of Justice in connection with lawsuits to which the Department of the Treasury is a party or to trustees in bankruptcy for the purpose of carrying out their duties;

(6) The Veterans Administration when it relates to the holdings of Armed Forces Leave Bonds to facilitate the redemption or disposition of these securities;

(7) Other Federal agencies to effect salary or administrative offset for the purpose of collecting debts;

(8) A consumer reporting agency, including mailing addresses obtained from the Internal Revenue Service, to obtain credit reports;

(9) A debt collection agency, including mailing addresses obtained from the Internal Revenue Service, for debt collection services;

(10) Contractors conducting Treasury-sponsored surveys, polls, or statistical analyses relating to marketing or administration of the public debt of the United States;

(11) Appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license;

(12) A court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings or in response to a subpoena;

(13) A Congressional office in response to an inquiry made at the request of the individual to whom the record pertains;

(14) Disclose through computer matching information on individuals owing debts to the Bureau of the Public Debt to other Federal agencies for the purpose of determining whether the debtor is a Federal employee or retiree

receiving payments which may be used to collect the debt through administrative or salary offset;

(15) Disclose through computer matching information on holdings of Treasury securities to requesting Federal agencies under approved agreements limiting the information to that which is relevant in making a determination of eligibility for Federal benefits administered by those agencies; and

(16) Disclose through computer matching, information on individuals with whom the Bureau of the Public Debt has lost contact, to other Federal agencies for the purpose of utilizing letter forwarding services to advise these individuals that they should contact the Bureau about returned payments and/or matured unredeemed securities.

DISCLOSURES TO CONSUMER REPORTING AGENCIES:

Debtor information is also furnished, in accordance with 5 U.S.C. 552a(b)(12) and section 3 of the Debt Collection Act of 1982, to consumer reporting agencies to encourage repayment of an overdue debt.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records in this system are stored on paper, microform, or in electronic media.

RETRIEVABILITY:

Information can be retrieved by social security account number, other assigned identifier, or, in some cases, alphabetically by name or numerically by security serial number. In the case of securities registered in more than one name, information relating thereto can generally only be retrieved by social security number or by the name of the first-named owner.

SAFEGUARDS:

Information is contained in secure buildings, Federal Records Centers, or in areas which are occupied either by officers and responsible employees of the Department who are subject to personnel screening procedures and to the Executive Branch and Treasury Department Standards of Conduct or by agents of the Department who are required by the Department to maintain proper control over records while in their custody. Additionally, since in most cases, numerous steps are involved in the retrieval process, unauthorized persons would be unable to retrieve information in a meaningful form. Information stored in electronic media is safeguarded by automatic data processing security procedures in addition to physical security measures. Additionally, for those categories of records stored in computers with terminal access, the information cannot be obtained or modified without proper passwords and preauthorized functional capability.

RETENTION AND DISPOSAL:

Records of holdings, forms, documents, and other legal papers which constitute the basis for transactions subsequent to original issue are maintained for such time as is necessary to protect the legal rights and interests of the U.S. Government and the persons affected, or otherwise until they are no longer historically significant. Other records are disposed of at varying intervals in accordance with records retention schedules reviewed and approved by the National Archives and Records Administration (NARA). Paper and microform records ready for disposal are destroyed by shredding or maceration. Records in electronic media are electronically erased using accepted techniques.

SYSTEM MANAGERS AND ADDRESS:

Assistant Commissioner, Securities Operations, Bureau of the Public Debt, Parkersburg, WV 26106–1328.

NOTIFICATION PROCEDURE:

Individuals may submit their requests for determination of whether the system contains records about them or for access to records as provided under ''Records Access Procedures.'' Requests must be made in compliance with the applicable regulations (31 CFR part 1, subpart C). Requests which do not comply fully with these procedures may result in noncompliance with the request, but will be answered to the extent possible.

RECORD ACCESS PROCEDURES:

(1) A request for access to records must be in writing, signed by the individual concerned, identify the system of records, and clearly indicate that the request is made pursuant to the Privacy Act of 1974. If the individual is seeking access in person, identity may be established by the presentation of a single official document bearing the individual's photograph or by the presentation of two items of identification without the photograph but showing a name and signature. If the individual is seeking access by mail, identity may be established by presenting a signature, address, and one other identifier such as a photocopy of an official document bearing the individual's signature. The Bureau of the Public Debt reserves the right to require additional verification of an individual's identity.

(2) The request must state whether the requester wishes to be notified that the record exists or desires to inspect or obtain a copy of the record. If a copy of the record is desired, the requester must agree to pay the fees for copying the documents in accordance with 31 CFR 1.26(d)(2)(ii).

(3) Requests by individuals about securities they own:

(a) For Treasury bills, notes, or bonds held in the TreasuryDirect Book-entry Securities System: Individuals may contact the nearest TreasuryDirect Office as listed in the Appendix to this system of records, or the Bureau of the Public Debt, Investor Services, Current Income Services Division, Marketable Assistance Branch, Parkersburg, WV 26106–1328. Individuals should provide sufficient information, including their social security number, to identify themselves as owners of securities and sufficient information, including account number, to identify their TreasuryDirect account.

(b) For all other categories of records in this system of records: Individual owners should contact: Bureau of the Public Debt, Investor Services, Current Income Services Division, Marketable Assistance Branch, Parkersburg, WV 26106–1328. Requests must contain information to identify themselves including name, address, and social security number; the type of security involved such as a registered note or bond, an Armed Forces Leave Bond, etc.; and, to the extent possible specify the loan, issue date, denomination, exact form of registration, and other information about the securities.

(4) Requests by individuals who are representatives of owners or their estates require appropriate authority papers. Write to: Bureau of the Public Debt, Investor Services, Current Income Services Division, Marketable Assistance Branch, Parkersburg, WV 26106–1328, to obtain information on these requirements.

(5) In all cases: The request for information will be honored only if the identity and right of the requester to the information have been established.

CONTESTING RECORD PROCEDURES:

Initial amendment requests: (1) A request by an individual contesting the content of records or for correction of records must be in writing, signed by the individual involved, identify the system of records, and clearly state that the request is made pursuant to the Privacy Act of 1974. If the request is

made in person, identity may be established by the presentation of a single official document bearing the individual's photograph or by the presentation of two items of identification without the photograph but instead showing a name and signature. If the request is made by mail, identity may be established by the presentation of a signature, address, and one other identifier such as a photocopy of an official document bearing the individual's signature. The Bureau of the Public Debt reserves the right to require additional verification of an individual's identity.

(2) Submit requests to the appropriate office as shown under **SYSTEM MANAGER AND ADDRESS** above.

(3) The request must specify:

(a) The dates of records in question,

(b) The specific records alleged to be incorrect,

(c) The correction requested, and

(d) The reasons therefor.

(4) The request must include available evidence in support of the request.

Appeals from an initial denial of a request for correction of records: (1) An appeal from an initial denial of a request for correction of records must be in writing, signed by the individual involved, identify the system of records, and clearly state that it is made pursuant to the Privacy Act of 1974. If the individual is making an appeal in person, identity may be established by the presentation of a single official document bearing the individual's photograph or by the presentation of two items of identification without the photograph but showing a name and signature. If the individual is making an appeal by mail, identity may be established by the presentation of a signature, address, and one other identifier such as a photocopy of an official document bearing the individual's signature. The Bureau of the Public Debt reserves the right to require additional verification of an individual's identity.

(2) Appellate determinations will be made by the Commissioner of the Public Debt or the delegate of such officer. Appeals should be addressed to, or delivered personally to: Chief Counsel, Bureau of the Public Debt, 999 E Street, NW, Room 501, Washington, DC 20239–0001 (or as otherwise provided for in the applicable appendix to 31 CFR part 1, subpart C), within 35 days of the individual's receipt of the initial denial of the requested correction.

(3) An appeal must be marked **PRIVACY ACT AMENDMENT APPEAL** and specify:

(a) The records to which the appeal relates,

(b) The date of the initial request made for correction of the records, and

(c) The date the initial denial of the request for correction was received.

(4) An appeal must also specify the reasons for the requester's disagreement with the initial denial of correction and must include any applicable supporting evidence.

RECORD SOURCE CATEGORIES:

Information contained in records in the system is furnished by the individuals or their authorized representatives as listed in **CATEGORIES OF INDIVIDUALS,** or is generated within the system itself.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

APPENDIX OF TREASURYDIRECT CONTACTS.

This appendix lists the mailing addresses and telephone numbers of the places that may be contacted by individuals when inquiring about their securities accounts maintained in TreasuryDirect.

TreasuryDirect: P.O. Box 2076, Boston, MA 02106–2076.

TreasuryDirect: P.O. Box 660657, Dallas, TX 75266–0657.

TreasuryDirect: P.O. Box 9150, Minneapolis, MN 55480–9150.

The toll-free telephone number for all three sites is 1–800–722–2678.

Treasury/BPD .004

SYSTEM NAME:

Controlled Access Security System-Treasury/BPD.

SYSTEM LOCATION:

Bureau of the Public Debt, Parkersburg, WV.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Bureau of the Public Debt employees, employees of contractors and service companies, and official visitors.

CATEGORIES OF RECORDS IN THE SYSTEM:

A record is created for each access to designated areas and contains the individual's name; card number; work shift; access level; time, date, and location of each use of the access card at a card reader.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C. Sec. 321; 41 CFR 101–20.103.

PURPOSE:

Information in this system of records is collected and maintained to allow the Bureau of the Public Debt to control and verify access to all Parkersburg, West Virginia Public Debt facilities.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records may be disclosed to:

(1) Appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing a statute, rule, regulation, order, or license;

(2) A Federal, State, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit;

(3) A court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, or in connection with criminal law proceedings, or in response to a subpoena;

(4) A Congressional office in response to an inquiry made at the request of the individual to whom the record pertains;

(5) Unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114, arbitrators and other parties responsible for the administration of the Federal labor-management program if needed in the performance of their authorized duties.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records in this system are stored on paper, microform, or in electronic media.

RETRIEVABILITY:

Information on individuals can be retrieved by name or card number or other assigned identifier.

SAFEGUARDS:

Both the central system and the peripheral system will have limited accessibility. Paper records and magnetic disks are maintained in locked file cabinets with access limited to those personnel whose official duties require access, such as the systems manager, Bureau security officials, and employee relations specialists. Access to terminals is limited through the use of passwords to those personnel whose official duties require access, as for paper records.

RETENTION AND DISPOSAL:

The retention period is for three years. Paper and microform records ready for disposal are destroyed by shredding or maceration. Records in electronic media are electronically erased using accepted techniques.

SYSTEM MANAGERS AND ADDRESS:

Director, Division of Administrative Services, 200 Third Street, Parkersburg, WV 26106–1328.

NOTIFICATION PROCEDURE:

Individuals may submit their requests for determination of whether the system contains records about them or for access to records as provided under ''Records Access Procedures.'' Requests must be made in compliance with the applicable regulations (31 CFR part 1, subpart C). Requests which do not comply fully with these procedures may result in noncompliance with the request, but will be answered to the extent possible.

RECORD ACCESS PROCEDURES:

(1) A request for access to records must be in writing, signed by the individual concerned, identify the system of records, and clearly indicate that the request is made pursuant to the Privacy Act of 1974. If the individual is seeking access in person, identity may be established by the presentation of a single official document bearing the individual's photograph or by the presentation of two items of identification without the photograph but showing a name and signature. If the individual is seeking access by mail, identity may be established by presenting a signature, address, and one other identifier such as a photocopy of an official document bearing the individual's signature. The Bureau of the Public Debt reserves the right to require additional verification of an individual's identity.

(2) Submit requests to the appropriate office as shown under ''System Manager and Address'' above.

(3) The request must state whether the requester wishes to be notified that the record exists or desires to inspect or obtain a copy of the record. If a copy of the record is desired, the requester must agree to pay the fees for copying the documents in accordance with 31 CFR 1.26(d)(2)(ii).

CONTESTING RECORD PROCEDURES:

Initial amendment requests: (1) A request by an individual contesting the content of records or for correction of records must be in writing, signed by the individual involved, identify the system of records, and clearly state that the request is made pursuant to the Privacy Act of 1974. If the request is made in person, identity may be established by the presentation of a single official document bearing the individual's photograph or by the presentation of two items of identification without the photograph but instead showing a name and signature. If the request is made by mail, identity may be established by the presentation of a signature, address, and one other identifier such as a photocopy of an official document bearing the individual's signature. The Bureau of the Public Debt reserves the right to require additional verification of an individual's identity.

(2) Submit requests to the appropriate office as shown under ''System Manager and Address'' above.

(3) The request must specify:

(a) The dates of records in question,

(b) The specific records alleged to be incorrect,

(c) The correction requested, and

(d) The reasons therefor.

(4) The request must include available evidence in support of the request.

Appeals from an initial denial of a request for correction of records: (1) An appeal from an initial denial of a request for correction of records must be in writing, signed by the individual involved, identify the system of records, and clearly state that it is made pursuant to the Privacy Act of 1974. If the individual is making an appeal in person, identity may be established by the presentation of a single official document bearing the individual's photograph or by the presentation of two items of identification without the photograph but showing a name and signature. If the individual is making an appeal by mail, identity may be established by the presentation of a signature, address, and one other identifier such as a photocopy of an official document bearing the individual's signature. The Bureau of the Public Debt reserves the right to require additional verification of an individual's identity.

(2) Appellate determinations will be made by the Commissioner of the Public Debt or the delegate of such officer. Appeals should be addressed to, or delivered personally to: Chief Counsel, Bureau of the Public Debt, 999 E Street, NW, Room 501, Washington, DC 20239–0001 (or as otherwise provided for in the applicable appendix to 31 CFR part 1, subpart C), within 35 days of the individual's receipt of the initial denial of the requested correction.

(3) An appeal must be marked ''Privacy Act Amendment Appeal'' and specify:

(a) The records to which the appeal relates,

(b) The date of the initial request made for correction of the records, and

(c) The date the initial denial of the request for correction was received.

(4) An appeal must also specify the reasons for the requester's disagreement with the initial denial of correction and must include any applicable supporting evidence.

RECORD SOURCE CATEGORIES:

The individual concerned, his/her supervisor, or an official of the individual's firm or agency.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/BPD .005

SYSTEM NAME:

Employee Assistance Records-Treasury/BPD.

SYSTEM LOCATION:

Bureau of the Public Debt, 200 Third Street, Parkersburg, WV. This system covers Public Debt employee assistance records that are maintained by another Federal, State, or local government, or contractor under an agreement with Public Debt directly or through another entity to provide the Employee Assistance Program (EAP) functions. The address of the other agency or contractor may be obtained from the system manager below.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Public Debt employees and former employees who will be or have been counseled, either by self-referral or supervisory-referral regarding drug abuse, alcohol, emotional health, or other personal problems. Where applicable, this system also covers family members of these employees when the family member utilizes the services of the EAP as part of the employee's counseling or treatment process.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains records of each employee and, in some cases, family members of the employee who have utilized the Employee Assistance Program for a drug, alcohol, emotional, or personal problem. Examples of information which may be found in each record are the individual's name, social security number, date of birth, grade, job title, home address, telephone numbers, supervisor's name and telephone number, assessment of problem, and referrals to treatment facilities and outcomes.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 7361, 7362, 7904; 44 U.S.C. 3101.

PURPOSE(S):

To provide a history and record of the employee counseling session.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records may be disclosed to:

(1) An entity under contract with Public Debt for the purpose of providing the EAP function;

(2) Medical personnel to the extent necessary to meet a bona fide medical emergency in accordance with the Confidentiality of Alcohol and Drug Abuse Patient Records regulations (42 CFR part 2);

(3) Qualified personnel for the purpose of conducting scientific research, management audits, financial audits, or program evaluation, provided individual identifiers are not disclosed in any manner, in accordance with the Confidentiality of Alcohol and Drug Abuse Patient Records regulations (42 CFR part 2);

(4) A third party upon authorization by an appropriate order of a court of competent jurisdiction granted after application showing good cause therefor, in accordance with the Confidentiality of Alcohol and Drug Abuse Patient Records regulations (42 CFR part 2);

(5) The Department of Justice or other appropriate Federal agency in defending claims against the United States when the records are not covered by the Confidentiality of Alcohol and Drug Abuse Patient Records regulations at 42 CFR part 2.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records in this system are stored on paper, microform, or in electronic media.

RETRIEVABILITY:

These records are retrieved by the name and social security number or other assigned identifier of the individual on whom they are maintained.

SAFEGUARDS:

Records are maintained in a secure room in a locked file cabinet, safe, or similar container when not in use. Automated records are protected by restricted access procedures. Access to records is strictly limited to agency or contractor officials with a bona fide need for the records. When Public Debt contracts with an entity for the purpose of providing the EAP functions, the contractor shall be required to maintain Privacy Act safeguards with respect to such records.

RETENTION AND DISPOSAL:

The retention period is three years after termination of counseling or until any litigation is resolved. Then the records are destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Human Resources Division, Bureau of the Public Debt, 200 Third Street, Parkersburg, WV 26106–1328.

NOTIFICATION PROCEDURE:

Individuals may submit their requests for determination of whether the system contains records about them or for access to records as provided under ''Records Access Procedures.'' Requests must be made in compliance with the applicable regulations (31 CFR part 1, subpart C). Requests which do not comply fully with these procedures may result in noncompliance with the request, but will be answered to the extent possible.

RECORD ACCESS PROCEDURES:

After you contact the contractor, following are the steps which will be required:

(1) A request for access to records must be in writing, signed by the individual concerned, identify the system of records, and clearly indicate that the request is made pursuant to the Privacy Act of 1974. If the individual is seeking access in person, identity may be established by the presentation of a single official document bearing the individual's photograph or by the presentation of two items of identification without the photograph but showing a name and signature. If the individual is seeking access by mail, identity may be established by presenting a signature, address, and one other identifier such as a photocopy of an official document bearing the individual's signature. The contractor reserves the right to require additional verification of an individual's identity.

(2) Submit requests to the contractor. For information about how to contact the contractor, write to the appropriate office as shown under ''System Manager and Address'' above.

(3) The request must state whether the requester wishes to be notified that the record exists or desires to inspect or obtain a copy of the record. If a copy of the record is desired, the requester must agree to pay the fees for copying the documents in accordance with 31 CFR 1.26(d)(2)(ii).

CONTESTING RECORD PROCEDURES:

Initial amendment requests: After you contact the contractor, following are the steps that will be required:

(1) A request by an individual contesting the content of records or for correction of records must be in writing, signed by the individual involved, identify the system of records, and clearly state that the request is made pursuant to the Privacy Act of 1974. If the request is made in person, identity may be established by the presentation of a single official document bearing the individual's photograph or by the presentation of two items of identification without the photograph but instead showing a name and signature. If the request is made by mail, identity may be established by the presentation of a signature, address, and one other identifier such as a photocopy of an official document bearing the individual's signature. The contractor reserves the right to require additional verification of an individual's identity.

(2) Submit requests to the contractor. For information about how to contact the contractor, write to the appropriate office as shown under ''System Manager and Address'' above.

(3) The request must specify:

(a) The dates of records in question,

(b) The specific records alleged to be incorrect,

(c) The correction requested, and

(d) The reasons therefor.

(4) The request must include available evidence in support of the request.

Appeals from an initial denial of a request for correction of records:

(1) An appeal from an initial denial of a request for correction of records must be in writing, signed by the individual involved, identify the system of records, and clearly state that it is made pursuant to the Privacy Act of 1974. If the individual is making an appeal in person, identity may be established by the presentation of a single official document bearing the individual's photograph or by the presentation of two items of identification without the photograph but showing a name and signature. If the individual is making an appeal by mail, identity may be established by the presentation of a signature, address, and one other identifier such as a photocopy of an official document bearing the individual's signature. The Bureau of the Public Debt reserves the right to require additional verification of an individual's identity.

(2) Appellate determinations will be made by the Commissioner of the Public Debt or the delegate of such officer. Appeals should be addressed to, or delivered personally to: Chief Counsel,

Bureau of the Public Debt, 999 E Street, NW, Room 501, Washington, DC 20239–0001 (or as otherwise provided for in the applicable appendix to 31 CFR part 1, subpart C), within 35 days of the individual's receipt of the initial denial of the requested correction.

(3) An appeal must be marked ''Privacy Act Amendment Appeal'' and specify:

(a) The records to which the appeal relates,

(b) The date of the initial request made for correction of the records, and

(c) The date the initial denial of the request for correction was received.

(4) An appeal must also specify the reasons for the requester's disagreement with the initial denial of correction and must include any applicable supporting evidence.

RECORD SOURCE CATEGORIES:

Information in this system of records comes from the individual to whom it applies, the supervisor of the individual if the individual was referred by a supervisor, or the contractor's staff member who records the counseling session.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/BPD .006

SYSTEM NAME:

Health Service Program Records-Treasury/BPD.

SYSTEM LOCATION:

Bureau of the Public Debt, 200 Third Street, Parkersburg, WV.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Bureau of the Public Debt employees who receive services under the Federal Employee Health Services Program from the Public Debt Health Unit in Parkersburg, West Virginia.

(2) Federal employees of other organizations in the Parkersburg, West Virginia vicinity who receive services under the Federal Employee Health Services Program from the Public Debt Health Unit in Parkersburg, West Virginia.

(3) Non-Federal individuals working in or visiting the buildings, who may receive emergency treatment from the Public Debt Health Unit in Parkersburg, West Virginia.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system is comprised of records developed as a result of an individual's utilization of services provided under the Federal Government's Health Service Program. These records contain information such as: Examination, diagnostic, assessment and treatment data; laboratory findings; nutrition and dietetic files; nursing notes; immunization records; blood donor records; CPR training; First Aider; names, social security number, date of birth, handicap code, addresses, and telephone numbers of individual; name, address, and telephone number of individual's physician; name, address, and telephone number of hospital; name, address, and telephone number of emergency contact; and information obtained from the individual's physician; and record of requested accesses by any Public Debt employee (other than Health Unit personnel) who has an official need for the information.

Note: This system does not cover records related to counseling for drug, alcohol, or other problems covered by System No. Treasury/BPD .005-Employee Assistance Records. Medical records relating to a condition of employment or an on-the-job occurrence are covered by the Office of Personnel Management's System of Records No. OPM/GOVT–10–Employee Medical File System Records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 7901.

PURPOSE(S):

These records document an individual's utilization on a voluntary basis of health services provided under the Federal Government's Health Service Program at the Health Unit at the Bureau of the Public Debt in Parkersburg, West Virginia. Data is necessary to ensure proper evaluation, diagnosis, treatment, and referral to maintain continuity of care; a medical history of care received by the individual; planning for further care of the individual; a means of communication among health care members who contribute to the individual's care; a legal document of health care rendered; a tool for evaluating the quality of health care rendered.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records may be disclosed to:

(1) Medical personnel under a contract agreement with Public Debt;

(2) A Federal, State, or local public health service agency as required by applicable law, concerning individuals who have contracted certain communicable diseases or conditions. Such information is used to prevent further outbreak of the disease or condition;

(3) Appropriate Federal, State, or local agencies responsible for investigation of an accident, disease, medical condition, or injury as required by pertinent legal authority;

(4) The Department of Justice in connection with lawsuits in which the Department of the Treasury is a party or has an interest;

(5) A Federal agency responsible for administering benefits programs in connection with a claim for benefits filed by an employee;

(6) 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;

(7) A court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, or in response to a subpoena or in connection with criminal law proceedings.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records in this system are stored on paper, microform, or in electronic media.

RETRIEVABILITY:

These records are retrieved by the name or other assigned identifier of the individual to whom they pertain.

SAFEGUARDS:

These records are maintained in a secured room with access limited to Health Unit personnel whose duties require access. Medical personnel under a contract agreement who have access to these records are required to maintain adequate safeguards with respect to such records.

RETENTION AND DISPOSAL:

Records are maintained in accordance with National Archives and Records Administration retention schedules. Paper and microform records ready for disposal are destroyed by shredding or maceration. Records in electronic media are electronically erased using accepted techniques.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Administrative Services, Bureau of the Public Debt, Parkersburg, WV 26106–1328.

NOTIFICATION PROCEDURE:

Individuals may submit their requests for determination of whether the system contains records about them or for access to records as provided under ''Records Access Procedures.'' Requests must be made in compliance with the

applicable regulations (31 CFR part 1, subpart C). Requests which do not comply fully with these procedures may result in noncompliance with the request, but will be answered to the extent possible.

RECORD ACCESS PROCEDURES:

(1) A request for access to records must be in writing, signed by the individual concerned, identify the system of records, and clearly indicate that the request is made pursuant to the Privacy Act of 1974. If the individual is seeking access in person, identity may be established by the presentation of a single official document bearing the individual's photograph or by the presentation of two items of identification without the photograph but showing a name and signature. If the individual is seeking access by mail, identity may be established by presenting a signature, address, and one other identifier such as a photocopy of an official document bearing the individual's signature. The Bureau of the Public Debt reserves the right to require additional verification of an individual's identity.

(2) Submit requests to the appropriate office as shown under ''System Manager and Address'' above.

(3) The request must state whether the requester wishes to be notified that the record exists or desires to inspect or obtain a copy of the record. If a copy of the record is desired, the requester must agree to pay the fees for copying the documents in accordance with 31 CFR 1.26(d)(2)(ii).

An individual who requests access to a Health Service Program Record shall, at the time the request is made, designate in writing the name of a responsible representative who will be willing to review the record and inform the subject individual of its content. This does not permit the representative to withhold the records from the requester. Rather, the representative is expected to provide access to the records while explaining sensitive or complex information contained in the records.

CONTESTING RECORD PROCEDURES:

Initial amendment requests: (1) A request by an individual contesting the content of records or for correction of records must be in writing, signed by the individual involved, identify the system of records, and clearly state that the request is made pursuant to the Privacy Act of 1974. If the request is made in person, identity may be established by the presentation of a single official document bearing the individual's photograph or by the presentation of two items of identification without the photograph but instead showing a name and signature. If the request is made by mail, identity may be established by the presentation of a signature, address, and one other identifier such as a photocopy of an official document bearing the individual's signature. The Bureau of the Public Debt reserves the right to require additional verification of an individual's identity.

(2) Submit requests to the appropriate office as shown under ''System Manager and Address'' above.

(3) The request must specify:

(a) The dates of records in question,

(b) The specific records alleged to be incorrect,

(c) The correction requested, and

(d) The reasons therefor.

(4) The request must include available evidence in support of the request.

Appeals from an initial denial of a request for correction of records: (1) An appeal from an initial denial of a request for correction of records must be in writing, signed by the individual involved, identify the system of records, and clearly state that it is made pursuant to the Privacy Act of 1974. If the individual is making an appeal in person, identity may be established by the presentation of a single official document bearing the individual's photograph or by the presentation of two items of identification without the photograph but showing a name and signature. If the individual is making an appeal by mail, identity may be established by the presentation of a signature, address, and one other identifier such as a photocopy of an official document bearing the individual's signature. The Bureau of the Public Debt reserves the right to require additional verification of an individual's identity.

(2) Appellate determinations will be made by the Commissioner of the Public Debt or the delegate of such officer. Appeals should be addressed to, or delivered personally to: Chief Counsel, Bureau of the Public Debt, 999 E Street, NW, Room 501, Washington, DC 20239–0001 (or as otherwise provided for in the applicable appendix to 31 CFR part 1, subpart C), within 35 days of the individual's receipt of the initial denial of the requested correction.

(3) An appeal must be marked ''Privacy Act Amendment Appeal'' and specify:

(a) The records to which the appeal relates,

(b) The date of the initial request made for correction of the records, and

(c) The date the initial denial of the request for correction was received.

(4) An appeal must also specify the reasons for the requester's disagreement with the initial denial of correction and must include any applicable supporting evidence.

RECORD SOURCE CATEGORIES:

Information in this system of records comes from the individual to whom it applies; laboratory reports and test results; Health Unit physicians, nurses, and other medical technicians who have examined, tested, or treated the individual; the individual's personal physician; other Federal employee health units; and other Federal agencies.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/BPD .007

SYSTEM NAME:

Gifts to Reduce the Public Debt-Treasury/BPD.

SYSTEM LOCATION:

Bureau of the Public Debt, 200 Third Street, Parkersburg, WV.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Donors of gifts to reduce the public debt.

CATEGORIES OF RECORDS IN THE SYSTEM:

Correspondence; copies of checks, money orders, or other payments; copies of wills and other legal documents; and other material related to gifts to reduce the public debt, received on or after October 1, 1984, by the Bureau of the Public Debt either directly from the donor or through the donor's Congressional or other representative.

Note: This system does not cover gifts to reduce the public debt received prior to October 1, 1984, when this function was handled by the Financial Management Service. This system of records does not cover gifts sent to other agencies, such as gifts sent with one's Federal income tax return to the Internal Revenue Service. This system does not include any other gifts to the United States.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C. 3113.

PURPOSES:

These records document the receipt from donors of gifts to reduce the public debt. They provide a record of correspondence acknowledging receipt, information concerning any legal matters, and a record of depositing the gift and accounting for it.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records may be used to:

(1) Disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing a statute, rule, regulation, order, or license;

(2) Disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, or in response to a subpoena, or in connection with criminal law proceedings;

(3) Provide information to a Congressional office in response to an inquiry made at the request of the individual to whom the record pertains;

(4) Disclose information to agents or contractors of the Department for the purpose of administering the public debt of the United States;

(5) Disclose information to a legal representative of a deceased donor for the purpose of properly administering the estate of the deceased;

(6) Disclose information to the Internal Revenue Service for the purpose of confirming whether a tax-deductible event has occurred;

(7) Disclose information to the Department of Justice in connection with lawsuits in which the Department of the Treasury is a party or has an interest.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records in this system are stored on paper, microform, or in electronic media.

RETRIEVABILITY:

These records are retrieved by the name of the donor; amount of gift; type of gift; date of gift; social security number of donor, if provided; control number; check number; State code; or other assigned identifier.

SAFEGUARDS:

These records are maintained in controlled access areas. Automated records are protected by restricted access procedures. Checks and other payments are stored in locked safes with access limited to personnel whose duties require access.

RETENTION AND DISPOSAL:

Records of gifts to reduce the public debt are maintained in accordance with National Archives and Records Administration retention schedules. Paper and microform records ready for disposal are destroyed by shredding or maceration. Records in electronic media are electronically erased using accepted techniques.

SYSTEM MANAGERS AND ADDRESS:

Branch Manager, Current Income and Transactions Accounting Branch, Division of Accounting Services, Securities Operations, Bureau of the Public Debt, Parkersburg, WV 26101.

NOTIFICATION PROCEDURE:

Individuals may submit their requests for determination of whether the system contains records about them or for access to records as provided under ''Records Access Procedures.'' Requests must be made in compliance with the applicable regulations (31 CFR part 1, subpart C). Requests which do not comply fully with these procedures may result in noncompliance with the request, but will be answered to the extent possible.

RECORD ACCESS PROCEDURES:

(1) A request for access to records must be in writing, signed by the individual concerned, identify the system of records, and clearly indicate that the request is made pursuant to the Privacy Act of 1974. If the individual is seeking access in person, identity may be established by the presentation of a single official document bearing the individual's photograph or by the presentation of two items of identification without the photograph but showing a name and signature. If the individual is seeking access by mail, identity may be established by presenting a signature, address, and one other identifier such as a photocopy of an official document bearing the individual's signature. The Bureau of the Public Debt reserves the right to require additional verification of an individual's identity.

(2) Submit requests to the appropriate office as shown under ''System Manager and Address'' above.

(3) The request must state whether the requester wishes to be notified that the record exists or desires to inspect or obtain a copy of the record. If a copy of the record is desired, the requester must agree to pay the fees for copying the documents in accordance with 31 CFR 1.26(d)(2)(ii).

CONTESTING RECORD PROCEDURES:

Initial amendment requests: (1) A request by an individual contesting the content of records or for correction of records must be in writing, signed by the individual involved, identify the system of records, and clearly state that the request is made pursuant to the Privacy Act of 1974. If the request is made in person, identity may be established by the presentation of a single official document bearing the individual's photograph or by the presentation of two items of identification without the photograph but instead showing a name and signature. If the request is made by mail, identity may be established by the presentation of a signature, address, and one other identifier such as a photocopy of an official document bearing the individual's signature. The Bureau of the Public Debt reserves the right to require additional verification of an individual's identity.

(2) Submit requests to the appropriate office as shown under ''System Manager and Address'' above.

(3) The request must specify:

(a) The dates of records in question,

(b) The specific records alleged to be incorrect,

(c) The correction requested, and

(d) The reasons.

(4) The request must include available evidence in support of the request.

Appeals from an initial denial of a request for correction of records: (1) An appeal from an initial denial of a request for correction of records must be in writing, signed by the individual involved, identify the system of records, and clearly state that it is made pursuant to the Privacy Act of 1974. If the individual is making an appeal in person, identity may be established by the presentation of a single official document bearing the individual's photograph or by the presentation of two items of identification without the photograph but showing a name and signature. If the individual is making an appeal by mail, identity may be established by the presentation of a signature, address, and one other identifier such as a photocopy of an official document bearing the individual's signature. The Bureau of the Public Debt reserves the right to require additional verification of an individual's identity.

(2) Appellate determinations will be made by the Commissioner of the Public Debt or the delegate of such officer. Appeals should be addressed to, or delivered personally to: Chief Counsel, Bureau of the Public Debt, 999 E Street, NW, Room 501, Washington, DC 20239–0001 (or as otherwise provided for in the applicable appendix to 31 CFR part 1, subpart C), within 35 days of the individual's receipt of the initial denial of the requested correction.

(3) *An appeal must be marked ''Privacy Act Amendment Appeal'' and specify:*

(a) The records to which the appeal relates,

(b) The date of the initial request made for correction of the records, and

(c) The date the initial denial of the request for correction was received.

(4) An appeal must also specify the reasons for the requester's disagreement with the initial denial of correction and must include any applicable supporting evidence.

RECORD SOURCE CATEGORIES:

Information in this system of records comes from the individual to whom it applies, executors, administrators, and other involved persons.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/BPD .008

SYSTEM NAME:

Retail Treasury Securities Access Application-Treasury/BPD.

SYSTEM LOCATION:

Records are maintained at the following Public Debt locations:

(1) 200 Third Street, Parkersburg, WV;

(2) Park Center, 90 Park Center, Parkersburg, WV;

(3) H.J. Hintgen Building, 2nd and Avery Streets, Parkersburg, WV;

(4) United Building, 5th and Avery Streets, Parkersburg, WV; and

(5) 999 E Street, NW, Washington, DC.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Records cover those individuals who own or make inquiries concerning United States Treasury securities.

CATEGORIES OF RECORDS IN THE SYSTEM:

The types of personal information collected/used by this system are necessary to ensure the accurate identification of individuals doing business with Public Debt or to provide personalized service to these individuals. The types of personal information presently include or potentially could include the following:

(a) Personal identifiers (name, including previous name used; social security number; physical and electronic addresses; telephone, fax, and pager numbers);

(b) Authentication aids (personal identification number, password, account number, shared-secret identifier, digitized signature, or other unique identifier);

(c) Customer demographics (age, gender, marital status, income, number in household, etc.); and

(d) Customer preferences (favorite color, hobby, magazine, etc.; preferred sources for information, such as television, newspaper, Internet, etc.; or dates of importance to the customer, such as birth, anniversary, etc.).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 31 U.S.C. 3101, *et seq.*

PURPOSE(S):

The purpose of this system of records is to support Public Debt business processes, process electronic services to the public (E-government), and improve service to investors in Treasury securities.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records may be disclosed to:

(1) Appropriate Federal, State, local, or foreign agencies or other public authority responsible for investigating or prosecuting the violations of, or for enforcing or implementing a statute, rule, regulation, order or license where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation;

(2) A court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, or in response to a court-ordered subpoena, or in connection with criminal law proceedings where relevant or potentially relevant to a proceeding;

(3) A Congressional office in response to an inquiry made at the request of the individual to whom the record pertains;

(4) Agents or contractors who have been engaged to assist the Bureau of the Public Debt in the performance of a service related to this system of records and who need to have access to the records in order to perform the activity;

(5) The Department of Justice when seeking legal advice or when

(a) The Department of the Treasury (agency) or

(b) The Bureau of the Public Debt, or

(c) Any employee of the agency in his or her official capacity, or

(d) Any employee of the agency in his or her individual capacity where the Department of Justice has agreed to represent the employee, or

(e) The United States, where the agency determines that litigation is likely to affect the agency or the Bureau of the Public Debt, is a party to litigation or has an interest in such litigation, and the use of such records by the Department of Justice is deemed by the agency to be relevant and necessary to the litigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on electronic media, multiple client-server platforms that are backed up to magnetic tape, microform, or other storage media, and/or hard copy.

RETRIEVABILITY:

Records may be retrieved by name, alias names, social security number, account number, or other unique identifier.

SAFEGUARDS:

Public Debt has sophisticated Internet firewall security via hardware and software configurations as well as specific monitoring tools. Records are maintained in controlled access areas. Identification cards are verified to ensure that only authorized personnel are present. Electronic records are protected by restricted access procedures, including the use of passwords, sign-on protocols, and user authentication that are periodically changed. Only employees whose official duties require access are allowed to view, administer, and control these records.

RETENTION AND DISPOSAL:

Public Debt is in the process of requesting approval of a new records schedule that will permit records to be maintained for not more than 90 calendar days after the business relationship with the customer ends. These records will not be destroyed until we receive such approval. Paper and microform records ready for disposal are destroyed by shredding or maceration. Records in electronic media are electronically erased using accepted techniques.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Commissioner and Chief Information Officer, Office of Information Technology, Bureau of the Public Debt, 200 Third Street, Parkersburg, WV 26101.

NOTIFICATION PROCEDURE:

Individuals may submit their requests for determination of whether the system contains records about them or for access to records as provided under ''Records Access Procedures.'' Requests must be made in compliance with the applicable regulations (31 CFR part 1, subpart C). Requests which do not comply fully with these procedures may result in noncompliance with the request, but will be answered to the extent possible.

RECORD ACCESS PROCEDURES:

(1) A request for access to records must be in writing, signed by the individual concerned, identify the system of records, and clearly indicate that the request is made pursuant to the Privacy Act of 1974. If the individual is seeking access in person, identity may be established by the presentation of a single official document bearing the individual's photograph or by the presentation of two items of identification without the photograph but showing a name and signature. If the individual is seeking access by mail, identity may be established by presenting a signature, address, and one other identifier such as a photocopy of an official document bearing the individual's signature. The Bureau of the Public Debt reserves the right to require additional verification of an individual's identity.

(2) Submit requests to the appropriate office as shown under ''System Manager and Address'' above.

(3) The request must state whether the requester wishes to be notified that the record exists or desires to inspect or obtain a copy of the record. If a copy of the record is desired, the requester must agree to pay the fees for copying the documents in accordance with 31 CFR 1.26(d)(2)(ii).

CONTESTING RECORD PROCEDURES:

Initial amendment requests: (1) A request by an individual contesting the content of records or for correction of records must be in writing, signed by the individual involved, identify the system of records, and clearly state that the request is made pursuant to the Privacy Act of 1974. If the request is made in person, identity may be established by the presentation of a single official document bearing the individual's photograph or by the presentation of two items of identification without the photograph but instead showing a name and signature. If the request is made by mail, identity may be established by the presentation of a signature, address, and one other identifier such as a photocopy of an official document bearing the individual's signature. The Bureau of the Public Debt reserves the right to require additional verification of an individual's identity.

(2) Submit requests to the appropriate office as shown under ''System Manager and Address'' above.

(3) *The request must specify:*

(a) The dates of records in question,

(b) The specific records alleged to be incorrect,

(c) The correction requested, and

(d) The reasons.

(4) The request must include available evidence in support of the request.

Appeals from an initial denial of a request for correction of records: (1) An appeal from an initial denial of a request for correction of records must be in writing, signed by the individual involved, identify the system of records, and clearly state that it is made pursuant to the Privacy Act of 1974. If the individual is making an appeal in person, identity may be established by the presentation of a single official document bearing the individual's photograph or by the presentation of two items of identification without the photograph but showing a name and signature. If the individual is making an appeal by mail, identity may be established by the presentation of a signature, address, and one other identifier such as a photocopy of an official document bearing the individual's signature. The Bureau of the Public Debt reserves the right to require additional verification of an individual's identity.

(2) Appellate determinations will be made by the Commissioner of the Public Debt or the delegate of such officer. Appeals should be addressed to, or delivered personally to: Chief Counsel, Bureau of the Public Debt, 999 E Street, NW, Room 501, Washington, DC 20239–0001 (or as otherwise provided for in the applicable appendix to 31 CFR part 1, subpart C), within 35 days of the individual's receipt of the initial denial of the requested correction.

(3) An appeal must be marked ''Privacy Act Amendment Appeal'' and specify:

(a) The records to which the appeal relates,

(b) The date of the initial request made for correction of the records, and

(c) The date the initial denial of the request for correction was received.

(4) An appeal must also specify the reasons for the requester's disagreement with the initial denial of correction and must include any applicable supporting evidence.

RECORD SOURCE CATEGORIES:

Information is provided by the individual covered by this system of records or, with their authorization, is derived from other systems of records.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 01–12823 Filed 5–21–01; 8:45 am]

BILLING CODE 4810–39–P

DEPARTMENT OF VETERANS AFFAIRS

Privacy Act of 1974; Report of Amended Matching Program

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

Notice is hereby given that the Department of Veterans Affairs (VA) intends to conduct a recurring computer matching program matching Office of Personnel Management (OPM) records with VA pension and parents' dependency and indemnity compensation (DIC) records.

The goal of this match is to compare income status as reported to VA with records maintained by OPM.

VA plans to match records of veterans and surviving spouses and children who receive pension, and parents who receive DIC from VA with OPM benefit records maintained by OPM. The match with OPM will provide VA with data from OPM civil service benefit records.

VA will use this information to update the master records of VA beneficiaries receiving income dependent benefits and to adjust VA benefit payments as prescribed by law. Otherwise, information about a VA beneficiary's receipt of OPM benefits is obtained from reporting by the beneficiary. The proposed matching program will enable VA to ensure accurate reporting of income.

Records To Be Matched

The VA records involved in the match are the VA system of records, VA Compensation, Pension and Education and Rehabilitation Records—VA (58 VA 21/22) first published at 41 FR 924 (March 3, 1976), and last amended at 63 FR 37941 July 14, 1998, with other amendments as cited therein. The OPM records involved in the match are from the OPM Civil Service Retirement Pay File identified as OPM Central–1, Civil Service Retirement and Insurance Records, published as 64 FR 54930, October 8, 1999, as amended May 3, 2000 (65 FR 25775). In accordance with Title 5 U.S.C. 552a(o)(2) and (r), copies of the agreement are being sent to both Houses of Congress and to the Office of Management and Budget.

This notice is provided in accordance with the provisions of the Privacy Act of 1974 as amended by Public Law 100–503.

The match will start no sooner than 30 days after publication of this Notice in the **Federal Register**, or 40 days after copies of this Notice and the agreement of the parties are submitted to Congress and the Office of Management and

Budget, whichever is later, and end not more than 18 months after the agreement is properly implemented by the parties. The involved agencies' Data Integrity Boards (DIBs) may extend this match for 12 months provided the agencies certify to their DIBs, within three months of the ending date of the original match, that the matching program will be conducted without change and that the matching program has been conducted in compliance with the original matching program.

ADDRESSES: Interested persons are invited to submit written comments, suggestions, or objections regarding the proposal to conduct the matching program to the Director, Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Avenue, NW., Room 1154, Washington, DC 20420. All written comments received will be available for public inspection in the Office of Regulations Management, Room 1158, 810 Vermont Avenue, NW., Washington, DC 20420, between 8 a.m. and 4:30 p.m., Monday through Friday except holidays.

FOR FURTHER INFORMATION CONTACT: Paul Trowbridge (212A), (202) 273–7218.

SUPPLEMENTARY INFORMATION: This information is required by Title 5 U.S.C. subsection 552a(e)(12), the Privacy Act of 1974. A copy of this notice has been provided to both Houses of Congress and the Office of Management and Budget.

Approved: May 7, 2001.

Anthony J. Principi,

Secretary of Veterans Affairs.

[FR Doc. 01–12762 Filed 5–21–01; 8:45 am]

BILLING CODE 8320–01–P

Federal Register

Tuesday,
May 22, 2001

Part II

Environmental Protection Agency

40 CFR Part 260 et al.

Hazardous Waste Management System; Modification of the Hazardous Waste Manifest System; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 260, 261, 262, 263, 264, 265, 271

[FRL–6932–4]

RIN 2050–AE21

Hazardous Waste Management System; Modification of the Hazardous Waste Manifest System

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: Today, the Environmental Protection Agency (EPA) proposes to revise the Uniform Hazardous Waste Manifest regulations and the manifest form used to track hazardous waste from a generator's site to its site of ultimate disposition.

EPA proposes three major revisions to the manifest system: First, EPA proposes to further standardize the content and appearance of the current manifest form (8700–22 and 22a), to make the form available from a greater number of sources. Second, EPA proposes manifest tracking procedures for the follow-up manifesting of TSDF-rejected RCRA hazardous waste shipment loads, and follow-on shipments of non-empty waste containers containing waste residues. Lastly, EPA proposes giving waste handlers required to use the form the option to complete, send, and store the manifest information electronically. For waste handlers choosing this option, the proposed rule would require the use of a standardized electronic data interchange (EDI) format that facilitates the exchange of data between waste handlers, the use of digital signature technology to sign the manifest, and the use of a standard set of computer security standards for the transmission and storage of manifest data.

EPA proposes these changes to reduce paperwork burden related to the hazardous waste manifest provisions, and in response to many requests for a streamlined and up-to-date hazardous waste tracking system. If finalized, EPA also expects these proposed changes to improve the ''cradle-to-grave'' hazardous waste tracking system and to ensure that waste reaches its destination without causing harm to human health or the environment.

DATES: Written comments on this proposed rule must be submitted on or before August 20, 2001.

ADDRESSES: Commenters must send an original and two copies of their comments referencing docket number F–2000–UWMP–FFFFF to: RCRA Docket Information Center, Office of Solid Waste (5305W), U.S. Environmental Protection Agency Headquarters (EPA, HQ), Ariel Rios Building, 1200 Pennsylvania Ave., NW., Washington, DC 20460. Hand deliveries of comments should be made to the Arlington, VA, address below. Comments may also be submitted electronically to: rcra-docket@epa.gov. Comments in electronic format should also be identified by the docket number F–2000–UWMP–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 Ave., NW., Washington, DC 20460. Public comments and supporting materials are available for viewing in the RCRA Information Center (RIC), located at Crystal Gateway One, First Floor, 1235 Jefferson Davis Highway, Arlington, VA 22202. 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 document at no cost. Additional copies cost $0.15 per page. The index and some supporting materials are available electronically. See the Supplementary Information section for information on accessing them.

FOR FURTHER INFORMATION CONTACT: For general information, contact the RCRA Hotline at (800) 424–9346 or TDD (800) 553–7672 (hearing impaired). In the Washington, DC, metropolitan area, call (703) 412–9810 or TDD (703) 412–3323. For more detailed information on specific aspects of this rulemaking, contact Richard Lashier (5304W), Office of Solid Waste, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, (703) 308–8796, lashier.rich@epa.gov.

SUPPLEMENTARY INFORMATION:

Internet Availability

This rule is available on the Internet. Using a World Wide Web (WWW) browser, type *http://www.epa.gov/epaoswer/hazwaste/gener/manifest/index.htm*

The official record for this action is in a paper format.

Outline

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I. Authority

These regulations are proposed under the authority of sections 2002, 3001 through 3007, and 3009 of the Solid Waste Disposal Act of 1970, as amended by the Resource Conservation and Recovery Act of 1976 (RCRA), as amended by the Hazardous and Solid Waste Amendments of 1984 (HSWA), 42 U.S.C. 6912, 6921 through 6927, 6929 and 6930.

II. Request for Comments

The Agency requests comment on the proposed changes to the manifest form, the proposed procedures for using the form, and on the proposed option for electronic manifests, as described in this document. The manifest system includes both the Uniform Hazardous Waste Manifest (EPA Form 8700–22) and the Uniform Hazardous Waste Manifest Continuation Sheet (EPA Form 8700–22A). The continuation sheet includes many of the same data elements as the manifest form, and merely adds additional fields to identify additional transporters or waste streams which could not fit on the manifest. While this document, for simplicity, discusses the proposed manifest system revisions primarily in the context of the manifest form, it is EPA's intent to implement these revisions with respect to both the manifest and the corresponding data fields found on the continuation sheet. Therefore, those commenting on today's proposal should consider the proposed form revisions, procedures, and electronic manifest options as affecting both the manifest form and the continuation sheet.

To assist in compiling and responding to comments, the Agency requests that commenters include a heading for each issue addressed in their comment which identifies the section(s) of this preamble in which the issue is discussed (and/or the regulatory citation(s) the comment addresses). In addition to hard copies of their comment, the Agency further requests that, if possible, commenters provide an electronic copy of their comment on disk, preferably in ASCII avoiding the use of special characters and any form of encryption. Please identify the software package used to develop the document.

III. Background

A. History of Manifest System

Subtitle C of the Resource Conservation and Recovery Act (RCRA) required to establish a manifest system to track shipments of hazardous waste from a generator's site to the site where the hazardous waste is sent to be managed (that is, cradle-to-grave). EPA published regulations for a manifest system on February 26, 1980. (See 45 FR 12724, February 26, 1980.) The central element of the manifest system is the paper trail—a document showing who is in the control of the hazardous waste at a given time and where the waste is destined for its ultimate disposition. The manifest also identifies the waste in terms of its toxicity (that is, hazard potential) and quantity and therefore, in case of an emergency or waste release, makes the emergency response personnel aware of the potential for human health and environmental hazards the waste may pose.

EPA's authority to establish requirements for a manifest system stems primarily from RCRA Section 3002(a)(5). (See also RCRA Sections 3003(a)(3) and 3004.) Regulations are found in 40 CFR Part 262 (Generators), Part 263 (Transporters), and Part 264 and 265 (Treatment, Storage and Disposal facilities).

DOT regulations at 49 CFR 172.205 state that ''No person may offer, transport, transfer, or deliver a hazardous waste (waste) unless an EPA Form 8700–22 and 8700–22A (when necessary) hazardous waste manifest (manifest) is prepared in accordance with 40 CFR 262.70 and is signed, carried, and given as required of that person by this section.'' In the pre-RCRA days, the Department of Transportation (DOT) requirements for shipping papers were applicable for tracking the movement of industrial and chemical waste. (See 49 CFR 171.3 and 171.8) DOT did not require a specific form but required each transport vehicle to carry required information such as hazardous material name and hazard class. In the 1980 manifest rule, EPA only required that certain information must accompany hazardous waste shipments. EPA believed that this approach would allow the regulated community to adapt its use of shipping papers which are required by DOT's Hazardous Materials Regulations (49 CFR parts 171–180) to accommodate the new EPA requirements. In addition, any State that desired a manifest form was allowed to develop one to satisfy its needs, as long as the State form provided the minimum information requirements of the 1980 rule (45 FR 12729, February 26, 1980). The 1980 manifest rule retained flexibility inherent to the DOT regulations so that the manifest would also be able to serve as the shipping papers required by DOT's hazardous materials transportation regulations. This approach, however, was short-lived.

Soon after the 1980 regulations became effective, more than 20 States developed and required their own manifest forms. These forms met the minimal Federal requirements but also required additional State information. Significant confusion and compliance difficulties resulted from the differing manifest requirements. Often, it was necessary for generators to prepare multiple manifests for interstate shipments to satisfy the requirements of the States through which the hazardous waste traveled. Therefore, EPA and DOT in coordinated rulemaking, with significant assistance from the Association of State and Territorial Solid Waste Management (ASTSWMO) and the Hazardous Materials Advisory Council (HMAC), proposed and later promulgated a Uniform Hazardous Waste Manifest form and procedures for its use. (See 47 FR 9336, March 8, 1982 (proposed rule), and 49 FR 10490, March 20, 1984 (final rule)). This Uniform Hazardous Waste Manifest system remains in place today. The Uniform Hazardous Waste Manifest was designed to eliminate the burden for generators, transporters, and other waste handlers who may have been subject to

several versions of waste tracking system with duplicate information. It also was designed to enable generators and transporters to meet both DOT and EPA regulatory requirements. Under this system, generators and transporters are required to use the Uniform Hazardous Waste Manifest, and States may not require a different manifest in its place. However, the Uniform Hazardous Waste Manifest has State blocks which allow States, at their option, to require the entry of additional specific information to serve their State's regulatory needs. EPA expected that both the States and generators would benefit from this approach since the additional State information requirements could be met on the Uniform Manifest form, and the need for generators to prepare separate manifests for each State entered would be eliminated (49 FR 10499, March 20, 1984). The Uniform Hazardous Waste Manifest requirements, however, do not preclude a State from requiring a generator to send other information under separate cover under the EPA rule (49 FR 10492) or directly to the appropriate agency of a State under the DOT rule (49 FR 10508).

The manifest system in place for the past 20 years has improved the management and enforcement of the national hazardous waste program where it serves several primary purposes:

(1) To serve as a tracking device which creates clear lines of accountability among the participants in the hazardous waste system;

(2) To serve, together with the other EPA and DOT requirements, to protect human health and the environment during the transportation of hazardous waste by providing information on the waste to persons handling the waste and to emergency response personnel; and

(3) To provide the principal basis for EPA's recordkeeping and reporting requirements (45 FR 12728, February 26, 1980).

The hazardous waste manifest was developed to meet both RCRA and HMTA requirements. As a form of DOT-required ''shipping paper'' the manifest conveys essential emergency information required during transportation, specifically the proper shipping name, hazard class, phone numbers enabling responders to obtain additional information, when necessary. These essential information requirements negated the need of having another set of separate papers, namely shipping paper.

However, the revised form has not entirely mitigated consistency and uniformity problems that occurred with the old manifest requirements primarily because confusion about different State manifest requirements associated with the state optional fields still exist. Also, the existing regulations describe a specific, multi-copy paper form which must be physically carried among waste handlers, and which must be hand-signed as custody of waste shipment changes, making it difficult to integrate the form with computer technologies. (See section VII.D for further discussion related to impediments to automation of the waste tracking system.) Consequently, EPA received further complaints from the regulated community and States. Further discussion regarding these and other problems with the uniform manifest follow.

B. Problems Associated With Uniform Manifest Form

1. Variability

Under the current regulations more than 20 states print the manifest form in accordance with the format specified in federal regulations. As mentioned previously, the manifest form was designed to allow states to continue to meet their individual information needs. However, the different manifest requirements among State Manifest programs have drawn complaints from the regulated community about manifest inconsistency. Most complaints have come from large generators and TSDFs who helped generators prepare forms as part of their business' service. These manifest users have expressed frustration with the uniform manifest because they still found it difficult to complete the state optional portions of the form without first collecting and keeping track of requirements from each state in which they did business. For example, some states have assigned additional generator identification numbers, transporter identification numbers, facility identification numbers, or some combination of the three, while others have not assigned these numbers. Under the current manifest requirements, a state may require any combination of these boxes to be completed in addition to the federally required blocks on the manifest. Thus, a generator who sends waste to multiple states needs keep track of which states require this information on the manifest and ensure that each manifest is filled out correctly for its destination state.

Generators also have expressed their frustration with optional Blocks I ''Waste No.'' and K ''Handling Codes . . .'' because the inconsistencies among states can make it very labor-intensive for generators to complete those blocks. For example, with respect to completion of Block I, a generator who sends wastes to different states must determine which codes the states require the generator to use in Block I and under which circumstances the generator may use the codes (e.g., when a code is required for hazardous waste being sent to a recycler).

Other manifest variability issues that have caused much vexation for manifest users are the different state manifest copy distribution schemes and the hierarchical manifest acquisition system (See Section IV.A for details on the manifest acquisition system and copy distribution scheme). Specifically, states that require generators to use their state manifest form generally use a 6-part form or an 8-part form. A state that receives hazardous wastes may require both the generator and the TSDF to submit a copy of the manifest to the state so that copies can be matched. In other states, only the generator is required to submit a copy of the form to the state. Often, a person who needs manifest forms from several states cannot obtain them from one location. As a result, a person must contact each state separately to request the state-specific form.

2. State Difficulties

States that collect the manifest have also experienced difficulty with processing the paper manifest form. They may collect hundreds of forms in a month, and either place the manifests in files, or manually enter the information on the forms into a state database system. Manual data entry often results in errors and delay, which could be avoided if the manifest were prepared and transmitted to the states electronically. Also, it is difficult to exchange manifest information between the generator's state and the receiving facility's state because often, their information systems are incompatible, and unable to accept transfers of data from one state to another.

C. Efforts To Improve the Hazardous Waste Manifest System

In 1985, manifest officials in several State environmental agencies formed an Interstate Hazardous Waste Manifest Coordinators Group (IHWMCG) to address manifesting issues and to increase uniformity among State manifest programs. During 1988, the IHWMCG served on the Association of State and Territorial Solid Waste Management Officials (ASTSWMO) Manifest Revisions Task Force to develop regulatory recommendations to EPA to increase effectiveness, efficiency

and consistency of the national hazardous waste manifest system. The Task Forces's recommendations for specific modifications to the Uniform Hazardous Waste Manifest were submitted to EPA as a rulemaking petition on January 8, 1990.

In 1992, EPA embarked upon a negotiated rulemaking effort in an attempt to take advantage of the near consensus already reached by States in the ASTSWMO petition. The Negotiated Rulemaking committee reached agreement on recommendations for revisions to the manifest form. The Negotiated Rulemaking committee recommended that essentially all optional fields on the current manifest form should become mandatory Federal fields. In addition, the Negotiated rulemaking committee recommended several procedures for using the manifest when hazardous waste shipments are rejected by the designated facility, or when the designated facility cannot render containers ''RCRA empty.'' The committee also agreed to expand requirements for imported waste shipments. The final agreement document can be found in the regulatory docket for today's action.

However, before EPA completed the Negotiated rulemaking process, it implemented its reinvention strategy to fulfill the Administration's commitment to reinventing environmental protection. In March 1995, President Clinton, Vice President Gore, and the EPA Administrator put forth an ambitious agenda to reinvent environmental protection as part of the larger goal of creating a federal government that works more efficiently and costs less. The Administration and the Agency have been committed to the goal of reducing the paperwork burden resulting from environmental regulations by at least 25% (Current information about regulatory reinvention is available on EPA's World Wide Web site at *http://www.epa.gov/reinvent/annual97/intro.htm/*). In addition, the Office of Management and Budget (OMB) extended the approval of the manifest ICR for only two years in 1994, with the expectation that EPA would, in the interim, adopt manifest revisions that would address regulatory burden issues surrounding the existing system. In 1996, OMB extended approval of the Manifest ICR, but with the expectation that EPA would explicitly address, among other things, innovative approaches as a way to streamline and reduce the burden of manifest reporting requirements. For example, OMB suggested that EPA develop and pilot test the electronic submission and tracking of manifests. As of 1999, EPA estimates that the paperwork burden (from federal requirements) of the manifest system is 2.92 million hours, making it one of the highest paperwork burdens imposed under RCRA.

Based on the aforementioned factors, EPA reexamined its efforts on the Negotiated rulemaking to determine if they comported with the Administration and Agency's burden reduction initiative. Based on its review, the Agency determined that the negotiated rule, as written, would have increased the annual paperwork burden hours significantly, since the rule adopted most of the Negotiated Rulemaking committee's recommendations which advocated, among other things, including essentially all state optional fields on the current manifest form as mandatory Federal fields. As a result, EPA determined that the Negotiated Rulemaking committee's recommendations could not be implemented without significantly undercutting the Agency's burden reduction goals. In 1996, EPA established an Agency workgroup charged with building upon the recommendations of the negotiated rulemaking effort, as well as meeting the Agency's burden reduction goals. This proposal reflects what the Agency believes to be an appropriate balance between the Negotiated Rulemaking committee recommendations and the Agency's burden goals.

D. To Whom Would These New Regulations Apply?

The table below identifies 45 economic sectors which would likely be affected by the revisions to the RCRA hazardous waste manifest system, as proposed today. EPA derived the list of sectors from data contained in the Office of Solid Waste's 1996 ''National Hazardous Waste Constituent Survey,'' for the sector identity of waste shippers. Because of the numerous sectors at the four-digit SIC level (i.e., six-digit NAICS level), the respective two- and three-digit levels are presented in the table below for many sectors.

LIST OF ECONOMIC SECTORS WHICH ARE LIKELY AFFECTED BY THE PROPOSED REVISIONS TO THE RCRA HAZARDOUS WASTE MANIFEST SYSTEM

Item	SIC Code	NAICS Code	Sector description
1	1794	23593	Construction excavation work.
2	20	311	Food and kindred products manufacturing.
3	2295	31332	Coated fabrics manufacturing.
4	24	321	Lumber and wood products manufacturing.
5	25	337	Furniture and fixtures manufacturing.
6	26	322	Pulp and allied products manufacturing.
7	27	511	Printing and publishing.
8	28	325	Chemicals and allied products manufacturing.
9	29	324	Petroleum and coal products manufacturing.
10	30	326	Rubber and miscellaneous plastic products manufacturing.
11	32	327	Stone, clay and glass products manufacturing.
12	33	331	Primary metal manufacturing industries.
13	34	332	Fabricated metal products manufacturing.
14	35	333	Industrial machinery and equipment manufacturing.
15	36	335	Electronic and other electric equipment manufacturing.
16	37	336	Transportation equipment manufacturing.
17	38	334	Instruments and related products manufacturing.
18	39	339	Miscellaneous manufacturing industries.
19	4111	485	Local and suburban passenger transit.
20	4173	48849	Terminal and service facilities for vehicle transport.
21	42	484	Trucking and warehousing.
22	4212	562112	Hazardous waste collection services.

LIST OF ECONOMIC SECTORS WHICH ARE LIKELY AFFECTED BY THE PROPOSED REVISIONS TO THE RCRA HAZARDOUS WASTE MANIFEST SYSTEM—Continued

Item	SIC Code	NAICS Code	Sector description
23	4491	4883	Marine cargo handling.
24	4512	48111	Air transportation.
25	4613	48691	Refined petroleum pipelines.
26	4789	488999	Transportation services n.e.c.
27	4813	5133	Telephone communications.
28	49	2211	Electric, gas and sanitary services.
29	4953	562211	Hazardous waste treatment and disposal.
30	4959	562910	Hazardous waste remediation services.
31	50	421	Wholesale trade (durable goods).
32	51	422	Wholesale trade (nondurable goods).
33	5912	44–45	Drugstores and proprietary retail stores.
34	6552	23311	Subdividers and developers.
35	7216	81232	Dry cleaning plants.
36	73	541	Business services.
37	7532	811121	Top, body and upholstery repair and paint shops.
38	7699	561	Repair shops and related services n.e.c.
39	8062	62211	General medical and surgical hospitals.
40	8221	61131	Colleges and universities.
41	87	541	Engineering and management services.
42	8999	541	Services n.e.c.
43	95	924–925	Environmental quality and housing administration (state government offices).
44	9661	92711	Space research and technology.
45	9711	92811	National security (e.g. military bases).

The following table presents EPA's estimate of more than 92,000 entities which would potentially be affected by today's proposed rule. Because one of the three proposed revisions to the RCRA manifest system is voluntary (i.e., the proposed use of an electronic manifest form), EPA anticipates that facilities involved in RCRA manifesting activities in these sectors would be differentially affected by the proposed rule, depending upon voluntary adoption rate. Furthermore, affected entities play at least four different roles in the RCRA manifest system: (1) Waste generators who ship wastes off-site, (2) waste transporters (truck, barge, rail operators), (3) waste receivers who treat, store and/or dispose of shipped wastes, and (4) state governments which provide manifest forms, and which also may collect manifest data (although not required under the Federal RCRA manifest program). The sources of these estimates are presented in the ''Economics Background Document'' (dated 15 May 2000), available from the RCRA Docket.

NUMBER OF ENTITIES WHICH MAY BE AFFECTED BY TODAY'S PROPOSED RULE

Item No. and role of affected entities in manifest system	Entity count
1. Waste generators who may ship wastes off-site (shippers)	89,826
2. Waste transporters (truck, barge, rail operators)	500
3. Waste receivers (treatment, storage, disposal facilities)	2,024
4. State governments (which collect manifest data)	24
Total	92,350

E. How Much Burden and Cost Reduction Does EPA Expect From the Proposed Manifest Form Revisions?

Although there are up-front and annual recurring costs to states and to the private sector associated with all three components of today's proposed rule, EPA designed this rule so that it would have an overall net savings impact on affected entities, primarily associated with anticipated reduction in the annual labor burden for the existing paper-based manifest system. While the proposed rule includes both ''regulatory'' and ''de-regulatory'' features, the overall net impact should be a reduction in compliance burdens and costs.

In order to estimate the potential burden reduction for this proposed rule, EPA prepared two separate, but complementary, burden and cost savings estimation documents: (1) An ICR document for the proposed rule (''Information Collection Request 801.#'', (ICR), 19 July 2000) as required by OMB under the Paperwork Reduction Act of 1995, for the purpose of officially tracking paperwork burden hours, and (2) an ''Economics Background Document,'' (EBD), 12 May 2000), which applied a relatively broader, economic analysis approach to assessing potential burden reduction savings. (EPA also prepared a third economic study which examined the benefits and costs associated with the electronic equipment automation component of today's proposed rule, which is summarized elsewhere in this preamble).

Compared to the methodology of the ICR, the EBD includes other types of economic costs associated with the RCRA manifest system. For example, the EBD includes burden and costs associated with both Federal and State manifest information collection

requirements, whereas the ICR only covers Federal manifest information collection requirements. Consequently, the EBD estimates a larger baseline annual manifest burden, but it also estimates a larger annual burden savings than the ICR document.

EPA's analysis indicates that all of the components of today's proposed revision to the RCRA manifest system are expected to reduce administrative paperwork burden among all RCRA industrial hazardous waste handlers. The ''Information Collection Request Nr.801.#'' document estimates that all components of today's proposed revision to the RCRA manifest system, would achieve a reduction of 593,500 hours in national annual burden, representing 25% reduction in burden compared to the 2.335 million hour burden baseline as estimated in the ICR.

In comparison, the ''Economics Background Document'' (EBD) for this proposed rule suggests that the resultant reduction in waste manifesting burden from all of the proposed revisions combined, is expected to reach 1.241 million hours annually, consisting of 1.162 million hour reduction to waste handlers, and 79,000 hours to state agencies. Compared to the baseline annual RCRA hazardous waste manifest burden of 4.615 million hours as estimated in the EBD, this reduction in burden hours represents 27% annual burden savings. These estimates represent a 50% manifest adoption rate scenario in the EBD, which assumes for simplicity that 50% of manifests become automated in the first year after the today's rule is promulgated.

However, EPA realizes that the projected savings resulting from this rule will more likely be phased in over several years. EPA estimates that the paperwork burden reduction from this rule could eventually be 730,000 to 1.2 million hours per year, depending on the requirements actually promulgated in the final rule, and on the rate of adoption of electronic manifest systems. The actual timing of these burden reductions is therefore uncertain. The burden reduction (190,000 hours) associated with the manifest form revisions would occur over a two-year phase-in period for the new form after the final rule is promulgated. The remaining savings (540,000 to one million hours) could take several more years to realize. The timing of these savings would depend on whether or not EPA would need to issue supplemental proposals addressing manifest automation; the availability of the necessary software and hardware; and the willingness of states and waste handlers to adopt the electronic manifest approach.

F. Effective Date of Final Rule

The effective date of the rule is proposed to be six months after promulgation of the final rule. Upon the effective date of the rule, we are proposing a two-year ''delayed compliance date'' to allow manifest users to phase-in use of the new form. That is, for that two-year period, manifest users would be allowed to use either the old manifest form or the new manifest form. The Agency is proposing this phase-in period to allow time for vendors, states and waste handlers to get approval to assign manifest tracking numbers and to print forms, as well as to allow time for users to use up existing stocks and find new supplies.

If you use the old manifest form during this two-year period, the two-year delayed compliance date would also apply to proposed regulatory amendments that are directly related to use of the new form (i.e., form printing, manifest tracking numbers, and instructions for filling out the new manifest form) as it would be difficult for a waste handler to comply with these requirements if they are not using the new form. Waste handlers using the old form during this time period would have to comply with all other proposed regulatory requirements, but would continue to comply with the current manifest requirements directly related to use of the old form (i.e., acquisition hierarchy, manifest instructions). For example, a TSD rejecting a shipment of hazardous waste would have to contact the generator for a decision regarding an alternative facility but could use an old form (prepared in accordance with the current instructions for filling out the manifest) to manifest the rejected load.

If you do choose to use the new manifest form during the two-year period, you would be required to comply with the proposed requirements for form printing, manifest tracking numbers, and instructions for filling out the new manifest form. Once the two-year period ends, all manifest users would be required to use only the new manifest form and would also be required to comply with the requirements for form printing, manifest tracking numbers, and instructions for filling out the new manifest form.

The two-year delayed compliance date would not apply to any proposed regulatory amendments related to the electronic manifest proposal. Upon the effective date, waste handlers who opt to use an electronic manifest for a hazardous waste shipment would be required to comply with all the requirements associated with use of the electronic manifest at that time.[1] This would also include the proposed requirements for manifest tracking numbers, and instructions for filling out the new manifest form. EPA does not believe that a phase-in period would be necessary for the electronic manifest because use of the electronic manifest would be optional. Waste handlers would be able to use the paper system until they are prepared to implement the electronic manifest. In addition, waste handlers would probably not opt to use the electronic manifest system unless they were prepared to implement it in accordance with the final requirements.

EPA requests comment on whether a two-year delayed compliance date for the use of the revised uniform Hazardous Waste Manifest (and the proposed requirements directly related to use of the revised manifest) is sufficient. EPA also requests comment on whether a delayed compliance date would be appropriate for the electronic manifest system.

The Agency also requests comments from states on whether they need to make legislative changes to adopt the new manifest or the automation option and if so, how much time is necessary to complete such changes. See Section IX of this preamble for a detailed explanation of how the proposed regulatory changes would be administered and enforced in the States.

IV. The Revised Manifest Form

A. Manifest Form Acquisition

1. How Is EPA Changing the Way Manifest Forms Are Acquired?

EPA proposes to allow manifest users to obtain the form from a greater number of sources for use in any state. In particular, EPA proposes to allow State agencies, waste handlers (generators, transporters, and TSDFs) and commercial business form printers to print the form. EPA is proposing to require those who would print the new manifest to first register with the Agency. The purpose of the registry would be twofold: (1) to ensure that the forms are printed according to the prescribed federal printing specification (i.e., the standardized revised form) and (2) to ensure that a unique number for each manifest would be preprinted on

[1] In authorized states, whether or not a waste handler would be able to use an electronic manifest system would be determined by the RCRA authorized state program. We are tentatively proposing not to require States to adopt the proposed electronic manifest option as part of their authorized program. See Section IX for further discussion.

the form. Thus, generators could register to print manifest forms, or they could obtain a manifest form from any registered source of manifest forms.

Under these new proposed regulations, both the current printing arrangements and the acquisition requirements for manifest would change. Currently, authorized States are the primary source of manifests, and States either print these forms themselves or contract with printers to print the form according to the States' specifications. While States that currently print and distribute manifests are required to follow the Uniform Manifest format, the current regulations allow some variability among State manifests, particularly with respect to including and providing instructions for optional fields used in each State, minor formatting variations, and for describing copy submission and mailing requirements. As a result, there are now 24 different State variations of the Uniform Manifest. The current manifest acquisition regulation generally requires that generators obtain their manifests from a State agency, and determines which State manifest must be used. Under the procedures proposed today, State, waste handlers, and commercial form printers could register to print manifests, and the manifests printed by any registered printer could be used in any state.

2. Why Is EPA Proposing this Change?

EPA is proposing a new system for obtaining manifest forms, to reduce the burden that waste handlers currently encounter in obtaining manifests from multiple States, and to reduce or eliminate the variability among states on what forms to use, what is printed on them, and how to use them.

Under the current regulations, a hazardous waste generator must check at least two different State agencies' manifest requirements to determine how and where to obtain a manifest. The current manifest acquisition requirements are set forth in 40 CFR 262.21, which contains a hierarchical scheme for determining which state's manifest should be used for a particular waste shipment. EPA and DOT developed this approach in the 1984 Uniform Manifest Rule, in order to accommodate States that wished to collect and track manifest data, while avoiding conflicts between States' requirements. EPA explained in the 1984 rulemaking that it did not intend to print and supply manifest forms, and the hierarchy approach resulted from the Agency's efforts to effectively arrange the distribution of manifests by the States. 49 FR 10490 at 10495 (March 20, 1984).

The § 262.21 acquisition hierarchy requires a generator to first look to the manifest requirements of the consignment (i.e., the state in which the hazardous waste shipment will be transported to, and subsequently managed in that state) State. If this State supplies a manifest and requires its use, then the consignment State's manifest must be used for the waste shipment. If, however, the consignment State does not supply a manifest, but the generator's State does supply a manifest and requires its use, then the generator must use the manifest required by the generator's state. If neither the consignment nor generator State supplies a manifest, then the generator may obtain the manifest from any source. When EPA announced this hierarchy regulation in 1984, the Agency explained that this approach would serve two important interests: (1) It would help consignment States inform out-of-State generators of requirements to submit manifest copies to the consignment States (i.e., the form would contain a notice to this effect); and (2) it would allow consignment States to pre-print a State manifest document number on each manifest, to aid in tracking the manifest in the States' tracking systems. 49 FR at 10496. The acquisition hierarchy establishes a preference for obtaining the form from the consignment State, as EPA determined in 1984 that a consignment State's interest in overseeing waste management within its borders outweighed any convenience that would result to generators if they were allowed to obtain manifests from a single source. Id.

EPA believes that the current acquisition hierarchy puts unnecessary administrative burden on certain waste handlers, particular those who conduct business in multiple states that require the use of their state manifest. For example, if a waste handler conducts business in multiple states, then he/she must make arrangements to acquire manifest forms from each state or keep stocks of inventory of the varying manifest formats. In addition, waste handlers must become familiar with instructions for the different forms to ensure that they complete the manifests correctly. Removing the current acquisition system, eliminates the aforementioned inconveniences, since the form supplied by states and other manifest sources would be the same.

EPA believes that the factors relied upon in 1984 to support the current acquisition hierarchy would not be significant under the revised manifest proposed today. EPA is proposing to eliminate all but two optional fields (waste codes and handling codes), and EPA believes that most manifests would include these ''optional'' data as the normal practice. The 6-copy form with unique, pre-printed manifest tracking numbers under the Federal specification would satisfy many of the needs States have previously identified as reasons for controlling the distribution of the manifest. Also, information on State-only wastes, use of optional fields, and State-specific copy submission requirements can be obtained by contacting the States directly, or through published or on-line sources. State contact information and telephone numbers can be found, for example, on the Internet at EPA's website (http://www.epa.gov/epaoswer/osw/stateweb.htm).

EPA believes that the informational purposes served by allowing States to distribute the manifests under the acquisition hierarchy can be met adequately by other means. There would be little, if any, variability remaining in the proposed revised manifest form, and information describing State-specific requirements can be obtained through other means than distribution of the form. In addition, EPA believes that the States' interest in ensuring that unique tracking numbers are provided for each manifest can be met by the proposed printing registry approach.

The proposed change regarding the printing and distribution of the paper form would also be consistent with the changes proposed to implement the electronic manifest system. Thus, the Agency believes that both the electronic and paper formats would be distributed more efficiently and with less burden under the approach proposed today. While the remainder of this discussion focuses on the registry and acquisition requirements for the paper form, the Agency points out that as with the printers of paper manifests, waste handlers who originate an electronic manifest would have to register to get an approved tracking number system.

3. How Much Burden Reduction Does EPA Expect From the Proposed Manifest Form Revisions?

EPA's analysis indicates that today's proposed revision to the RCRA hazardous waste manifest form is expected to reduce administrative paperwork burden among all RCRA industrial hazardous waste handlers who ship wastes off-site. The ''Economics Background Document'' (12 May 2000) for this proposed rule estimates that the resultant reduction in

waste manifesting burden from the proposed revisions to the manifest form, would be 188,000 hours annually to RCRA hazardous waste handlers. This reduction in burden hours is expected to account for between 16% and 26% of the annual burden hour savings to waste handlers expected from all of the RCRA manifest system revisions proposed today.

4. Where Would a Waste Handler Get Paper Manifest Forms?

Generators and other waste handlers needing the manifest would be able to register with EPA and print their own manifests. Generators could also obtain their manifests from other sources, however. The proposal would allow waste generators to obtain blank copies of the manifest from any of the following sources:

- Any state hazardous waste agency that registers as a printer and prints manifests;
- Commercial business forms printers who register to print the form; and
- Transporters and TSDFs who register to print the form. These companies often provide the manifest as a service to their generator customers.

5. Must a Generator Still Contact the State?

Yes, you would still need to contact the consignment state periodically to determine which of the state-only blocks of information on the manifest you are required to fill out. Also, as mentioned above, EPA determined that while it was not necessary to impose a federal requirement that generators submit copies of each completed manifest form to a State or to EPA, the Agency recognized that states could impose a more stringent manifest system that could involve the submission by generators of copies of every completed manifest form. This proposal does not affect the ability of a state to require the submission of manifests. However, states would no longer be able to print a notice of such requirements on the manifest form. To continue to give states the ability to track manifested shipments of waste, it is still necessary to contact your state to see what they require in terms of state-required information on the manifest and in terms of submitting manifest copies to states.

6. What Special Requirements Would Apply to the Printers of the Universal Manifest?

- You would be required to register with EPA as a forms printer to get your manifest tracking number system approved and to ensure that you adhere to Federal printing specifications and procedures;
- No additional boxes could be added;
- No existing boxes could be deleted;
- You would be required to print a form that had at least the following six copies:

—Copy 1: TSDF to destination State (if required);
—Copy 2: TSDF to generator State (if required);
—Copy 3: TSDF to Generator;
—Copy 4: TSDF's signed file copy
—Copy 5: Transporter's file copy
—Copy 6: Generator's initial copy.

- You would be required to print the form so that the manifest dimensions are 8½×11 inches;
- You would be required to print the form in black ink so that it can be photocopied or faxed;
- You would be required to provide the standardized instructions outlined below;
- You would be required to follow the same copy naming structure as outlined below; and

7. What is the Naming Convention for the Different Copies of the Manifest?

Page 1 (top copy): ''Designated facility to consignment State'' (if required);
Page 2: ''Designated facility to generator State'' (if required);
Page 3: ''Designated facility to generator'';
Page 4: ''Designated facility copy'';
Page 5: ''Transporter copy''; and
Page 6 (bottom copy): ''Generator's initial copy.''

If the generator is required to submit a copy of the manifest to the generator state, the generator should make a photocopy of the manifest to supply this additional copy. Also, note that a completed manifest may contain fewer pages if the state does not require submission of forms; however, the printer would be required to print a 6-copy form. Under certain circumstances (e.g., exports, imports, additional transporters, exception reporting, and/or states requiring additional copies), more than 6 copies of a manifest may be necessary. In these cases, the generator or transporter should photocopy the most legible copy of the form available to ensure that the extra manifest copies are legible.

8. How Would the Acquisition Regulation Change?

EPA is proposing to replace the current acquisition hierarchy in § 262.21 with a simple requirement that a generator may print its own manifest if it has registered with EPA to do so, or a generator may use a manifest obtained from any commercial printer, state, or other waste handler that has registered with EPA to print the manifest. In addition to amending 40 CFR 262.21, the provisions currently found at 40 CFR 271.10 for States that print manifests and/or require completion of state optional fields would be revised accordingly.

9. How Would Manifest Tracking Numbers be Changed by the Proposal?

Under this proposal, the current fields for the generator's manifest document number (i.e., the generator's U.S. EPA ID number plus a unique 5-digit number that the generator assigns to each manifest) and the state manifest document number would be replaced with one mandatory field that would be called the manifest tracking number (Item 3). Note, that the generator's EPA ID number would still appear on the form; however, it would not be part of the manifest tracking number. The manifest tracking number would be a unique pre-printed number that would be supplied by a registered manifest printer. A waste generator could register with EPA to print its own manifests and assign its own manifest tracking numbers, or, the generator could obtain manifest tracking numbers from other registered sources who print for the generator, including States, transporters, TSDFs, or commercial business form printers.

An entity that wants to print manifests would register with EPA and demonstrate that they have a system in place to ensure that unique, pre-printed numbers would be assigned to each manifest. Similarly, entities implementing an electronic manifest system would register with EPA to ensure that their electronic system would apply a unique manifest tracking number to each electronic manifest.

The advantage of this manifest tracking number requirement is that it would allow waste handlers to acquire uniquely numbered manifests from numerous sources, without having to obtain a different set of forms from each State in which it does business. The proposal would eliminate an ''optional'' field from the current manifest, and a new mandatory field would replace two existing fields on the manifest. Also, waste handlers with significant involvement in hazardous waste activities would be able to register and print their own manifests for use within their own sites or for use by their multi-state customers. Multi-state operations would benefit especially, as they would no longer need to stock multiple state formats of the manifest.

10. Could States Still Require Use of Only Their Manifests?

When EPA adopted the acquisition hierarchy in 1984, we recognized the need for a regulation that would arbitrate possible conflicts between State manifest requirements for generators located in one state, but disposing of their waste in another. The acquisition hierarchy in current § 262.21 arbitrates such conflicts by establishing a rule that one State manifest is always sufficient for any hazardous waste shipment, and by designating which state's manifest must be used.

With today's proposal, it is still EPA's intent that only one manifest need be obtained to accompany any off-site shipment. Under the revised Uniform Manifest proposed today, variability in the form would be eliminated, and the source of the manifest form used would be immaterial. So, when today's proposed approach becomes effective, States would not be allowed to require use only of a manifest form printed or distributed by the State. States would, of course, be eligible to register and distribute manifests, but State laws which purport to require use only of a form distributed by the State would be deemed inconsistent under 40 CFR 271.4. Otherwise, waste handlers could be required to obtain multiple manifests to satisfy conflicting and duplicative State law requirements for their specific manifests. This result would, in EPA's view, frustrate the accomplishment of our objective to introduce a truly standard manifest form, and amount to an unreasonable burden on the free movement of waste in commerce.

11. Request for Comments

EPA requests comments on the new approach proposed today for printing and obtaining manifests. Would the proposed approach be effective in eliminating burden and variability in the manifest system, or, would it more likely cause disruption to arrangements that are well understood and work well? Is the proposed registry approach the most efficient means for EPA to ensure a standard manifest with pre-printed, unique tracking numbers? Would many waste handlers find it advantageous to print manifests for their own use or the use of their customers? How would the proposal affect these firms' burdens, costs, and manifest operations? Would States that currently derive revenue from the distribution of manifests be disadvantaged unduly by the proposal? Would some States face statutory obstacles to altering their current manifest distribution requirements? Comments addressing these issues would be helpful to the Agency.

EPA also requests comments on an alternative option that would retain the proposed Federal printing specification, but not the proposed registry. Under the alternative option, States would still be the primary source of manifests, and the current acquisition hierarchy would be retained to determine from which State the manifest must be obtained. This option would retain the benefits of the standard manifest format, without disrupting current arrangements for obtaining manifests from States. However, as with the current system, waste handlers would not generally be able to print their own manifests as allowed under the proposed option.

B. International Shipments

1. What is EPA Proposing With Respect to Manifests for Imports and Exports?

EPA is proposing to amend slightly the manifest requirements and the manifest form to provide more clear information on the manifest about import or export shipments. Under today's proposal, the manifest would contain a new ''International Shipments'' Block. In this new block, the primary exporter or importer of a hazardous waste shipment would be required to check whether a shipment is an export or import and to note the port of exit or entry. In addition, space would be provided in this block for the transporter of an export shipment to sign and date the manifest to indicate when the shipment left the United States. For imports, the transporter would be required to leave a copy of the manifest at U.S. Customs, as is currently required for exports.

2. Why is EPA Proposing This Change?

Under the current regulations for exports, transporters are required to leave a copy of the manifest at U.S. Customs. The current regulations and manifest instructions further require that export manifests include information in the ''Special Handling Block'' identifying the port of exit, as well as the transporter's signature attesting to the date when the export shipment left the U.S. According to a national transporters' association, the current rules are not well understood, and this has resulted in inadvertent violations by transporters. In part, this is because the manifest form itself is not sufficiently clear on how this information is to be entered. In addition to hindering compliance by transporters, this lack of clarity has also resulted in incomplete submissions that impair EPA's ability to accurately track exports of hazardous waste. To address these concerns, the Agency is proposing to make the existing export tracking requirements more clear in the regulations and on the manifest form itself, which would include an International Shipment Block for collecting the data.

In addition, the Agency is proposing new requirements in connection with imports of hazardous waste. First, the importer would be required to indicate on the new International Shipment Block of the manifest whether a shipment is an import and the port of entry. Second, the transporter bringing import shipments into the U.S. would be required to leave a copy of the manifest with U.S. Customs. Currently, a manifest is required to accompany waste shipments that enter the U.S., but transporters are not required to leave a manifest copy with U.S. Customs for imports. Several ports have nevertheless encouraged the collection of import manifests, and all of the ports collect the export manifests which transporters are currently required to leave with U.S. Customs. Moreover, for international shipments of hazardous waste for recovery within the Organization for Economic Cooperation and Development (OECD), of which the U.S. is a member, a facility in the U.S. receiving an import covered by regulations at 40 CFR Part 262, Subpart H must send a copy of the OECD tracking form to EPA. By requiring that transporters leave a copy of import manifests with U.S. Customs, EPA would achieve better consistency with the current requirements in 40 CFR Part 262, Subpart H that require tracking information on import shipments to be provided to the Government. These import manifests would aid EPA's oversight of waste imports, as the manifests collected by Customs could be turned over to EPA's Import/export program for tracking purposes.

3. How Would the Manifest and the Regulations Change?

To make the requirements more clear, the Agency is proposing to add an International Shipment Block to the manifest. This block would contain checkboxes to indicate whether the shipment is an export or an import, and space to enter the port of exit or entry. For export shipments only, the block would include space for transporters to sign and date the manifest to indicate when a shipment has left the U.S. This block would provide more explicit direction for entering data with respect to exports and imports.

In addition, the regulations at 40 CFR 262.54, 262.60, and 263.20 would be

changed to clarify that primary exporters and importers are to fill out the International Shipment block on the manifest and that transporters of both exports and imports are to leave a copy of the manifest with the U.S. Customs official at the port of exit from the U.S. or at the port of entry to the U.S. EPA would also modify § 271.11(c), since a waste handler who imports waste shipments into the U.S. would be required to leave a copy of the manifest with U.S. Customs.

C. Bulk Packaging

1. How is EPA Changing Its Regulations Related to Bulk Containers?

EPA proposes to change its regulations that relate to bulk containers to be consistent with the DOT definition for bulk packaging which includes any container with a capacity greater than 119 gallons (0.45 cubic meters, 450 liters, or 15.9 cubic feet) or more. Because of this change some containers currently considered bulk under EPA's regulations would no longer be considered bulk. Current RCRA regulations treat as ''bulk'' containers which hold more than 110 gallons. Under this proposal, a container which holds 119 gallons or less would no longer be considered bulk, including containers of 110 gallons.

The 110 gallon standard was based on DOT requirements which, at the time, defined bulk packaging as 110 gallons or more (47 FR 36092; August 18, 1982). DOT revised these standards [2] in 1991 to make U.S. standards more consistent with international requirements. (See 55 FR 52471, December 21, 1990.) Today's notice proposes to revise RCRA regulations pertaining to bulk containers to be consistent with the DOT definition of bulk packaging.

2. Why is EPA Changing Its Rules Related to Bulk Packaging?

This change would bring EPA into conformity with the standard already used by DOT and the international community, and would increase uniformity in manifesting practices. Generators would be able to use the same standard measurement for bulk containers for all shipments of hazardous materials.

3. How Would This Affect Me?

If you:

(1) handle residues of hazardous waste in containers according to the provisions at § 261.7(b),

(2) are a generator who sends bulk containers of hazardous wastes off-site (see 262.32(b)),

(3) are a transporter who transports bulk shipments by water (see 263.20(e)), or

(4) are a TSDF who receives bulk shipments for management (see 264.71(b)), then: you would have to confirm whether the containers you are managing would still be considered bulk. If the containers you are managing do not meet DOT's definition of bulk, then you would no longer be allowed to handle the waste as bulk under EPA regulations.

4. How Would the Regulations Change?

First, the regulations at 40 CFR 261.7 Residues of hazardous waste in empty containers would change slightly to incorporate DOT's definition of bulk packaging. 40 CFR 261.7 discusses how much hazardous waste may remain in a container that is empty. Among other things, these regulations require that a container must be emptied using the practices commonly employed to remove material from that type of container e.g., pouring, pumping, and aspirating, and that no more than a specified amount of waste must be left in the container. One method of determining whether a container is RCRA ''empty'' is based on whether the container is greater or less than 110 gallons total capacity.

For containers less than 110 gallons, the regulations at 40 CFR 261.7(b)(1)(iii)(A) state that a container is empty if: ''No more than 3 percent by weight of the total capacity of the container remains in the container or inner liner if the container is less than or equal to 110 gallons in size * * *''

If the container is greater than 110 gallons, the regulations at 40 CFR 261.7(b)(1)(iii)(B) state that a container is empty if: ''No more than 0.3 percent by weight of the total capacity of the container remains in the container or inner liner if the container is greater than 110 gallons in size.''

This proposal would modify the regulations so that 40 CFR 261.7(b)(1)(iii) would define a container as empty if:

(A) No more than 3 percent by weight of the total capacity of the container remains in the container or inner liner if the container is less than or equal to 119 gallons in size, or (B) No more than 0.3 percent by weight of the total capacity of the container remains in the container or inner liner if the container is greater than 119 gallons in size.

Second, the regulations for generators at 40 CFR 262.32 Marking would change slightly to incorporate DOT's definition of bulk packaging. 40 CFR 262.32(b) requires a generator to mark each container of 110 gallons or less used in transportation with the words ''HAZARDOUS WASTE -Federal Law prohibits Improper Disposal. If found, contact the nearest police or public safety authority or the U.S. Environmental Protection Agency,'' and write the generator's name, address, and the manifest tracking number on the container. Under the proposed revisions, this marking requirement would apply to containers of 119 gallons or less.

Third, the regulations which refer to ''bulk shipment'' would not change. The term ''bulk shipment'' is used in 40 CFR 262.23, 263.20, and 264.71. Where the regulations use the term, these regulations would apply to shipments of a capacity of more than 119 gallons, rather than shipments of more than 110 gallons. Therefore, you would no longer be able to manage a container of between 110 gallons and 119 gallons as a bulk container.

Please note, other than to incorporate the DOT definition for bulk packaging, EPA is not reconsidering, reopening, or requesting comment on the provisions described above.

D. Use of Fractions

1. What Is EPA Changing With Respect to the Use of Fractions in the Quantity Description on the Manifest?

EPA is clarifying that generators and others completing the quantity description for waste being shipped (see Item 13) should use whole numbers to describe non-bulk shipments (less than or equal to 119 gallons) of hazardous waste and that bulk shipments (greater than 119 gallons) may be described using whole numbers where possible, or fractions if necessary.

2. Why is this clarification necessary?

EPA's regulations are silent on the use of fractions on the manifest. EPA has in the past stated that no fractions or decimals should be used and continues to prefer that the quantity description should not include fractions. In March 20, 1984, EPA stated that it ''. . . does not believe that the quantity description should include fractions. Rather, the Agency believes that the quantity description should be the most accurate

[2] In 49 CFR 171.8, DOT defines ''bulk packaging'' to mean ''a packaging, other than a vessel or a barge, including a transport vehicle or freight container, in which hazardous materials are loaded with no intermediate form of containment and which has: (1) A maximum capacity greater than 450 (119 gallons) as a receptable for a liquid; (2) A maximum net mass or greater than 400 kg (882 pounds) and a maximum capacity greater than 450 L (119 gallons) as a receptable for a solid; or (3) A water capacity greater than a 454 kg (1000 pounds) as a receptable for a gas as defined in § 173.115 of this subchapter.''

possible without using fractions or decimals.''[3]

Despite this past statement, states have experienced an increase in the number of manifests containing descriptions with fractions. State databases may have difficulty accepting numbers such as 30.5 pounds, making the data entry process more difficult. To minimize this, states asked EPA to require that generators and others preparing the manifest only use whole numbers when indicating quantities of waste on the manifest.

While this is a workable solution for non-bulk shipments, the Agency realizes that bulk shipments of hazardous waste may be transported in large containers such as tank trucks, and that fractions may be the best way to accurately describe the contents of the container. Because there would be a significant discrepancy in the amount of hazardous waste recorded on the manifest if one ton were used to describe a container with 0.5 tons of waste, EPA believes that the use of fractions is warranted in bulk containers. Thus, EPA is clarifying that whole numbers should be used for non-bulk shipments of hazardous waste, and that fractions may be used for bulk shipments where necessary.

3. What Would Change?

EPA is proposing to include in the manifest instructions (item 12) a statement that generators and others completing the form must use whole numbers for non-bulk shipments of hazardous waste, except that fractions may be used for bulk shipments where necessary.

E. Emergency Response Phone Number

1. What Is EPA Proposing Related to Emergency Response Phone Numbers on the Manifest?

EPA proposes to designate one space on the manifest for Emergency Response information. DOT currently requires you to use an Emergency Response phone number for most shipments of hazardous materials including all hazardous wastes that are manifested. (See 49 CFR 172.604) While hazardous waste shipments must be shipped with an Emergency Response phone number, the current manifest does not contain a separate block for this information. DOT requires an emergency response phone number in addition to other information to identify the waste. This information is important in aiding emergency responders in dealing with an emergency involving hazardous wastes.

The emergency response phone number must:

- be the number of the generator or the number of an agency or organization who is capable of and accepts responsibility for providing detailed information about the shipment;
- reach a phone that is monitored 24 hours a day at all times the waste is in transportation (including transportation related storage); and
- must reach someone who is either knowledgeable of the hazardous waste being shipped and has comprehensive emergency response and spill cleanup/incident mitigation information for the material being shipped or has immediate access to a person who has that knowledge and information about the shipment.

Currently, you may place this number in the Special Handling Instructions and Additional Information Block (Item 15), in the Generator's Phone Number Block (Item 4), and in some cases in the margin or on the back of the form. Some generators place this information in the DOT description box, especially if more than one emergency response phone number is needed.

2. Why is EPA Proposing These Changes?

Because there are no explicit directions on the manifest to supply an emergency response phone number, and because there is no designated space for this number, some generators may not be aware that this is a requirement, and emergency responders may not be able to quickly find this information on the form. EPA is proposing to make it more clear that the emergency response phone information is required on the form, and make this information easier to find by designating one space on the manifest for emergency response contact information.

EPA expects that this additional instruction and the removal of other redundant or unnecessary waste handler phone numbers (see discussion below in Section IV.G) would reduce paperwork burden and facilitate the emergency response process by making it clearer which number is to be used in an emergency.

3. How Would This Change Affect the Regulations?

The manifest form would be modified by adding a box specifically for emergency response information, and the instructions would be modified to reflect the addition of this box.

F. Generator Certification

1. How Would the Generator Certification Statements on the Manifest Be Modified?

This proposal would modify the wording of the ''shippers certification'' and the appearance of the ''waste minimization certification'' statements. The changes proposed today, however, would not modify the current requirement that generators must sign these certifications on the manifest form each time a manifest is prepared.

2. What Are the Current Requirements to the Generator Certification?

Generators must sign the Generator's Certification found on the manifest form each time a manifest is prepared. The ''Generator's Certification'' consists of a signature attesting to a statement that the shipment has been properly prepared for transportation (a shipper's certification) and a statement that the generator has a program in place to reduce the volume and toxicity of waste generated (the waste minimization certification). Today's proposal does not modify the requirement that generators make these certifications on the manifest each time a manifest is prepared

The shipper's and waste minimization certification statements are found in Block 16 of the current Uniform Hazardous Waste Manifest followed by space for a single signature (i.e., a single signature is used to attest to both certifications). The content of the shipper's certification statement is as follows:

> I hereby declare that the contents of this consignment are fully and accurately described above by proper shipping name and are classified, packed, marked, and labeled, and are in all respects in proper condition for transport by highway according to applicable international and national government regulations.

Today's proposal would slightly modify this statement. The content of the waste minimization certification statement is as follows:

> If I am a large quantity generator, I certify that I have a program in place to reduce the volume and toxicity of waste generated to the degree I have determined to be economically practicable and that I have selected the practicable method of treatment, storage, or disposal currently available to me which minimizes the present and future threat to human health and the environment; OR, if I am a small quantity generator, I have made a good faith effort to minimize my waste generation and select the best waste management method that is available to me and that I can afford.

Today's proposal would not modify the waste minimization certification

[3] See the March 20, 1984 **Federal Register** (49 FR 10498) for this discussion.

statement, but the complete text of this certification statement would no longer appear on the manifest. The single signature in Block 16 would still attest that the signatory certifies both statements.

3. How Would EPA Modify the Language of the Shipper's Certification?

EPA proposes to update the first part of the shipper's certification statement so that it conforms to the DOT shipper's certification (49 CFR 172.204). On December 29, 1994 (59 FR 67487), DOT slightly changed the wording of the Shipper's Certification found at 49 CFR 172.204(a). These changes appear in bold in the following text:

I hereby declare that the contents of this consignment are fully and accurately described above by the proper shipping name, and are classified, packaged, marked and labelled/placarded, and are in all respects in proper condition for transport according to applicable international and national governmental regulations.

In addition, EPA proposes to delete the words ''by highway'' from the shipper's certification statement. Currently, if a transportation mode other than highway would be used, generators are instructed to line out the words ''by highway'' and insert the appropriate mode of transport (i.e., rail, water, or air). EPA does not believe it necessary for the mode of transport to be specified as part of the shipper's certification (see DOT's shipper's certification which does not specify the mode of transport) and eliminating the words ''by highway'' from this certification would eliminate the need for generators to modify the statement when other forms of transportation are utilized.

EPA currently requires primary exporters to add at the end of the first sentence of the shipper's certification statement the words ''and conforms to the terms of the EPA Acknowledgment of Consent to the shipment.'' EPA is not proposing to change this requirement.

The new shipper's certification statement on the manifest would read as follows:

I hereby declare that the contents of this consignment are fully and accurately described above by the proper shipping name, and are classified, packaged, marked and labelled/placarded, and are in all respects in proper condition for transport according to applicable international and national governmental regulations.

4. How Would EPA Change the Appearance of the Waste Minimization Certification Statement?

EPA proposes to replace the current waste minimization certification statement on the manifest with the following statement of certification: I certify that the waste minimization statement identified in 40 CFR 262.27(a) (if I am a large quantity generator) or (b) (if I am a small quantity generator) or authorized equivalent state regulations is true with respect to this shipment. Section 262.27 would read as follows:

A generator who initiates a shipment of hazardous waste must certify to one of the following statements in Item 16 of the uniform hazardous waste manifest:

(a) ''I am a large quantity generator. I have a program in place to reduce the volume and toxicity of waste generated to the degree I have determined to be economically practicable and I have selected the practicable method of treatment, storage, or disposal currently available to me which minimizes the present and future threat to human health and the environment'; or

(b) ''I am a small quantity generator. I have made a good faith effort to minimize my waste generation and select the best waste management method that is available to me and that I can afford.''

5. Why Is the Agency Proposing this Change to the Appearance of the Waste Minimization Certification Statement?

EPA is proposing these changes because they are necessary to ensure that other proposed form changes such as the inclusion of new fields for rejected loads, container residues, and international shipments would fit on the form. The text of the generator waste minimization statement currently occupies a significant amount of space on the manifest form. Leaving the statement as is, along with the proposed additions to the manifest form would cause the form to exceed a single page. EPA would prefer to maximize the space of the current one page 8½ by 11″ form rather than make it a multiple page form, because we do not want to increase the volume of paper that manifest users already keep on file. In order to accommodate the addition of new fields to the 8½ by 11″ form (i.e., fields for rejected loads, container residues, and international shipments), EPA proposes to remove the full text of the waste minimization statement from the form. The waste minimization certification would still be made on the manifest form, with the waste minimization statements located in the regulations for reference.

G. Elimination of Certain State Optional Boxes

1. Why Is EPA Proposing To Reduce the Number of State Optional Boxes?

EPA proposes to eliminate certain State Optional Boxes to (1) reduce the amount of time spent completing the manifest form, and (2) to reduce the amount of duplicate information. EPA also proposes to remove certain optional fields that might have some significance to certain States, but reportedly do not have wide use and information provided in these fields can be readily obtained elsewhere.

Currently, the Manifest contains eleven Optional blocks (Block A–K). EPA does not require that you complete these blocks. States, however, may require that you complete these blocks to collect specified additional information about the waste that is being shipped, and about those who handle the waste listed on the form.

2. Which Boxes Would Be Eliminated?

EPA proposes to remove the following nine blocks from the manifest form:

Block No.	Name of block
Item A	State Manifest Document Number.
Item B	State Generator's ID.
Item C	State Transporter's ID.
Item D	Transporter's Phone.
Item E	State Transporter's ID.
Item F	Transporters Phone.
Item G	State Facility's ID.
Item H	Facility's Phone.
Item J	Additional Descriptions.

3. Why Is EPA Proposing To Remove Each of These Boxes?

When EPA promulgated the uniform hazardous waste manifest in 1984, it believed that the uniform manifest would reduce regulatory burden on generators and transporters by providing a uniform format for information necessary for the transportation of hazardous waste. The Agency also believed that inclusion of blocks A through J would provide states with space on the form to substantially meet the information needs of their hazardous waste program. In fact, the 1984 rule indicates that the Agency had chosen the optional spaces based on received comments, including recommendations from the (Hazardous Materials Advisory Council) HMAC and ASTSWMO joint task group. However, since the promulgation of the joint EPA/DOT uniform manifest rule EPA has received a number of complaints from the regulated community regarding the burden associated with variability among states manifest requirements. In addition, ASTSWMO created a Task Force (the Task Force consisted of several State hazardous waste program managers), which in 1990 submitted a petition to EPA with recommendations to modify existing manifest regulations, including recommendations to remove certain optional fields from the manifest form entirely. The ASTSWMO petition indicated that the primary objective for

the recommended changes to the nation's hazardous waste management system is to increase uniformity among States. EPA agrees that the manifest form and certain manifest requirements should be modified and that the proposed revisions discussed in today's rule would increase the effectiveness of the manifest system, through the standardization of required and optional fields on the form.

The Agency notes, however, that today's action does not reflect all recommendations provided in the ASTSWMO petition and some of the modifications proposed today conflict with some of the recommendations (e.g., removal of optional field H, Facility phone number). The Agency believes, however, these changes are necessary because, among other reasons, EPA has proposed to include additional blocks on the form for special shipment waste (i.e., emergency response information, rejected loads, container residues, and international shipments) to better track these shipments from cradle to grave. (See sections VI of this preamble for container residues, rejected loads, and section IV.B for international shipments.)

Since the regulated community, including some of the participants of the ASTSWMO petition prefer a one page 8½ by 11″ manifest form (see page 35 of the ASTSWMO petition), the inclusion of these elements on the proposed new form would make it extremely difficult to ensure that these additions, which the Agency believes needs to be added, as well as other proposed changes to the form would fit the one page 8½ by 11″ format. The Agency believes, however, that today's proposed rule is consistent with the goal of the ASTSWMO petition's recommended changes. Further explanations regarding the removal of blocks A through K from the form and combining block J with Item 15 are provided below.

Item A—State Manifest Document Number. EPA proposes to remove the State Manifest Document Number and replace it with a mandatory federal field entitled ''Manifest Tracking Number.'' EPA understands the importance of a unique tracking number for States that actively track manifests and therefore, would provide a single block in which a unique number would be placed. EPA proposes to delete the old federal document number (which consisted of the generator's EPA ID number and a five-digit number assigned by the generator) and the old Item A and replace it with a single federal block called the Manifest Tracking Number. Printers of the manifest would be required to preprint a unique tracking number on each manifest. Forms printers would register with EPA for approval of a unique prefix and of their (sequential) numbering system. Although EPA is removing the state manifest document number, its replacement would allow states to continue to request additional information about the shipment. See section IV.A for further details.

Item B—State Generator's ID. EPA proposes to remove the State Generator's ID block because EPA believes that most States no longer use the State Generator ID number. The ASTSWMO petition supports this and indicates that while some states do use state ID's, the use of the State ID number is limited and has no meaning in other states. The Agency believes that those States that currently use information from the State ID Block can obtain equivalent information with the generator's EPA ID number. The two numbers provide equivalent information about the generators identity, presumably a State could use the EPA ID number to obtain generator information by linking into the Resource Conservation Recovery Information System [4] (RCRIS) with the EPA ID. Therefore, a State that uses the State Generator ID number for tracking purposes should be able to use an EPA ID number as the site specific identifier, by converting their current database system to EPA ID numbers. The ASTSWMO petition also states that the ''wave of the future'' would be toward converting to EPA ID numbers as site specific identifiers.'' EPA agrees that the EPA ID number provides site-specific information and believes that the EPA ID should replace the State ID number on the manifest form.

Item C—State Transporter's ID and Item E—State Transporter's ID (for second transporter). EPA proposes to remove Items C and E (State Transporters ID for first and second transporters) from the form for the same reasons mentioned above regarding generator EPA ID numbers. The manifest instructions also require a transporter to enter his/her EPA ID number on the form. Since hazardous waste transporters are required also to enter EPA ID numbers on the manifest form, States should be able to use the EPA ID number as a transporter identifier instead of the State Transporter ID number.

In addition, EPA is proposing to remove the Transporter ID number from the form because it believes that a large number of States use the State Transporter ID number field for purposes other than its original use. The ASTSWMO petition indicates that many States require waste handlers to record the license plate numbers of transporter vehicles in the Transporter ID. number block.

Item D—Transporter's Phone and Item F—Transporter's Phone (for second transporter). EPA proposes to remove the transporter's phone number blocks for a few reasons. First, the generator and the TSDF both have direct contact with the transporter and would likely have other means of obtaining this information. In addition, a State could obtain the name and phone number of a company contact person from RCRIS. Third, the ASTSWMO petition indicates that the Transporter phone number is most important for emergency response purposes. However, the number typically provided in this block may not be manned 24 hours a day, and thus, is not appropriate as an emergency contact number. As mentioned in Section IV.E. of this preamble, EPA is proposing to designate one space on the manifest for Emergency Response information which would require an emergency response phone number. Therefore, the Agency believes that the transporter phone number is no longer needed on the manifest.

Item G—State Facility ID. EPA proposes to remove the State Facility ID number because the number duplicates information provided by the federal requirement to enter the EPA ID number on the manifest. The TSDF's EPA ID number provides information regarding the TSDF's identity, location, and waste management practices and this information can be accessed from RCRIS by using the federal EPA ID number. The Agency believes that States that currently use the State Facility number to gather information about the TSDF

[4] Under the Resource and Recovery Act (RCRA), generators, transporters, treaters, storers, and disposers of hazardous waste as defined by the federally recognized hazardous waste codes, are required to provide information concerning their activities to state environmental agencies, who in turn provide the information to Regional and National U.S. EPA office. The Resource Conservation and Recovery Information System (RCRIS) is a national program management and inventory system of RCRA hazardous waste handlers and is used by the EPA to support its implementation of RCRA, as amended by the Hazardous and Solid Waste Amendments of 1984 (HSWA). The system is primarily used to track a handler's permit or closure status, compliance with Federal and State regulations, cleanup activities, waste handler inventory, and environmental program progress assessment. Handlers can be characterized as fitting one or more of the following categories: treatment, storage, and disposal facilities (TSDFs), large quantity generators, small quantity generators, and transporters. RCRIS information is available from ENVIROFACTS at EPA Headquarters Web Pages: http:/www.epa.gov/enviro/html/rcris/rcris__overview.html.

could get this information from RCRIS. The accessibility of information about receiving facility reduces the need for the State Facility ID number on the manifest form.

Item H—Facility Phone. EPA proposes removing the facility phone number block from the manifest form. Both the ASTSWMO petition and the Negotiated Rulemaking committee supported keeping this phone number on the manifest form because the generator may need it to follow up with the TSDF about lost shipments, etc. However, the Agency believes that the phone number is not necessary on the manifest because the generator can easily obtain this information from company phone lists and business cards. The transporter is also expected to have regular contact with the TSDF and customarily devises a mapping plan separate from the manifest containing directions and telephone numbers. Further, by adding an emergency response information block to the form (See discussion in section IV.E) and retaining the generator's phone number, vital information about the shipment can be readily obtained, eliminating the need for the Facility Phone number block.

Item J—Additional Descriptions for Materials Listed Above & Item 15—Special Handling Instructions and Additional Information. EPA is proposing: (1) To remove item J and to combine information normally entered in Item J with the Special Handling Instructions and Additional Information Block (Item 15); (2) to modify the Special Handling Instructions and Additional Information Block by designating it as Item 14 on the new form; and (3) to modify the manifest instructions for Item 15, allowing for information normally placed in Item J to be placed in new Item 14. The new block would be renamed Additional Descriptions and Special Handling Instructions are currently provided in the Appendix to 40 CFR Part 262. The Agency believes these changes are necessary because they result in a form with more space to accommodate new fields without significantly reducing the ability to provide additional information on the manifest.

Today's proposal removes the instruction, for international shipments, that requires generators to enter the point of departure (City and State) for those shipments destined for treatment, storage, or disposal outside the jurisdiction of the United States. This requirement is no longer necessary because EPA has added separate space on the form, Block 16, to enter export information. (See Section IV.B for further detail).

In addition, today's proposal removes the instruction that prohibits states from requiring additional, new, or different information in the old Block 15. The removal of this instruction is necessary since the proposal would allow information previously entered in Item J (a state optional block normally used for additional state optional information) to be entered in the new Item 14. Today's rule does not change the current manifest instruction under Item 15, which states that the space under Item 15 may be also used to indicate special transportation; treatment, storage, or disposal information; and/or bill of lading information. Today's action merely moves this instruction to Item 14 of the new form. This instruction would be applied to new Item 14, and an addition made to allow state information to also be entered. The proposal would restrict, however, the types of information that States could require generators to enter in Item 14. A State would only be allowed to require generators to enter into Item 14, information relevant to the waste shipment for which there is no specific space on the manifest. Thus, generators may use Item 14 to record information such as chemical names, constituent percentages, physical state, and waste management method. With the exception of information that States might require, generators may only use Item 14 to enter the following information:

- Universal waste shipments;
- Additional waste codes;
- Alternate facility designation;
- Name, address, and phone number of any person other than the person identified in Item 4 (Generator's Name, Mailing Address, and Phone Number) preparing the manifest;
- Name, address, phone number, and EPA identification number of any person who shares generator responsibilities (i.e., co-generators) with the person identified in Item 4 (Generator's Name, Mailing Address, and Phone Number); and
- To reference the ''old'' manifest tracking number.

The new Additional Descriptions and Special Handling Instructions block may also be used by transporters to indicate that they have combined or divided loads at transfer facilities and to document new or combined manifests and other transportation related information.

4. Why Is EPA Proposing To Amend Items 15 & J of the Old Form?

EPA is proposing to combine Items 15 & J because the proposed additional elements to the form such as Item 16 (International Shipments), necessitate that EPA restructure the form so that it does not exceed the one page 8½ by 11″ format. In addition, the ASTSWMO petition recommended that EPA combine the two optional fields into one block. Also, combining the two boxes reduces the number of spaces provided for narrative information that is not consistently entered and that cannot be easily entered into a computer database.

5. What Regulations Would be Affected by Reducing the Number of State Optional Blocks and Combining Items J and 15 To Create New Item 14?

EPA would revise § 271.10(h) to conform to the proposed revisions mentioned above. These revisions include:

- Modifying § 271.10(h)(1);
- Incorporating paragraph § 271.10(h)(1)(v) in § 262.21(d)(5);
- Modifying and renumbering paragraphs §§ 271.10(h)(2)(v) and (vi) as §§ 271.10(h)(1)(i) and 271.10(h)(1)(ii), respectively;
- Adding new paragraph § 271.10(h)(1)(iii);
- Removing paragraphs § 271.10(h)(2)(i), § 271.10(h)(2)(ii), and § 271.10(h)(2)(iii);
- Removing paragraph § 271.10(h)(2)(iv).
- Modifying and renumbering paragraph § 271.10(h)(2)(vii) as § 271.10(h)(2);
- Adding new paragraph § 271.10(h)(4); and
- Adding new paragraph § 271.10(h)(5).

In addition, today's rule modifies 40 CFR 271.10(j)(1) to conform to the changes made to the Waste Minimization certification. For further details on this revision, please refer to section IX of this preamble.

6. EPA Invites Comment on Today's Proposal to Reduce the Number of State Optional Fields on the Manifest

EPA is specifically requesting comment on the following issues:

- EPA has always required the generator's mailing address on the manifest form. Some states have expressed interest in requiring the physical site address of the generator on the manifest, where that address differs from the mailing address. However, EPA is not inclined to add mailing address information because of increased burden, redundancy with the generator's EPA identification number (i.e., states should be able to obtain the physical site address using the EPA identification number), and lack of space on the manifest form. The Agency is requesting comments on whether the

site address should be added to the manifest form and if so, whether it should be used in addition to or in lieu of the mailing address.

• With the elimination of most of the state optional fields, the only state optional fields that would continue to be included on the manifest are (1) federal and state waste codes (new Block A—see Section I below for an explanation), and (2) BRS system type codes (new Block B—see Section H below for an explanation). The Agency requests comment on whether it would be easier on the regulated community, states, etc. to make these two fields mandatory instead of continuing to use them as state optional fields. If so, would further standardizing the manifest in this way offset any burden increase from making those two fields mandatory? The Agency also requests comment on whether generators complete these two fields regardless of whether States require it as part of their State program?

H. Block K Coding System

1. How Would the Requirements for the Codes Used in Block K (Handling Codes) Change?

(Note that the form would be renumbered and Block K (Handling Codes) become Block B (renamed Biennial Report System Type Codes) and be moved to the bottom of the manifest to the section that is filled out by the designated facility.)

Today's rule proposes to use Biennial Report system (BRS) type for the completion of new Block B and to change the name of new Block B to Biennial Report System Type Codes (currently Block K—Handling Codes). This block would only be completed if required by the generation or receiving state. Under RCRA, large quantity generators and TSDFs are required to report every two years on the hazardous waste they generate and manage. One of the elements that generators and TSDFs report in this Biennial Report is the System Type Code, which describes the way in which a waste is managed. System type codes are mandatory data elements on the GM (Generation and Management) and WR (Waste Received) Forms, which must be submitted by Large Quantity Generators (LQGs) and TSDFs for each RCRA hazardous waste generated on-site in a given year. States or EPA regional offices enter the data from the GM Form into a computer database that is eventually assembled into the Hazardous Waste Report (also known as the Biennial Report). The EPA Regions check the quality of the data by comparing the system type code information on a GM Form to manifest data. These comparisons allow Regions to:

• Identify or resolve discrepancies;

• Target LQGs or TSDFs that did not make a BR submission;

• Identify LQGs or TSDFs that need assistance in improving their facility plan;

• Examine waste minimization activities.

Block K (new Block B) is a state optional element of the manifest and EPA proposes that it remain so (we request comment on this issue below); however, the codes used in this box would no longer vary depending on your state, as is the case under the current manifest regulations. Currently, states which require the submission of information in this box also provide the instructions for the codes that should be entered, and these codes differ across the country. Under this proposed rule, there would be no state-specific instructions on how to complete Block B. Instead, only the standardized federal version of the instructions would be used if states require the submission of information in this box.

This standardization should reduce the burden related to completing the manifest by selecting one set of codes that would be used in every state, rather than having the regulated community learn several different coding systems. By proposing to use the System Type Codes found in the Biennial Report instructions as the codes for Block B, this proposed change would increase consistency with the Biennial Report requirements, thus, aiding in the completion of the Biennial Report and reducing the burden associated with the Biennial Report.

Also as part of the proposed change to the manifest, EPA is proposing to change the Block B heading to ''Biennial Report System Type Codes for Wastes Listed Above.'' This would avoid confusion that might arise if the old handling code heading (''Handling Codes for Wastes Listed Above'') were to remain with the new instructions for submission of BRS system type codes. The Biennial Report list is comprised of 65 system type codes. These codes indicate the type of management a waste receives (i.e., metals recovery or incineration sludge treatment).

2. What Are the Biennial Report System Type Codes That EPA Proposes To Use?

EPA plans to develop a new list of system type codes for inclusion in the 2001 Biennial Report. This Biennial Report will be published about Fall 2000. Shown below is the full list of system type codes found in the 1999 Hazardous Waste Report Instructions and Forms. Any changes made to those codes during subsequent Biennial Report periods would be adopted accordingly.

List of System Type Codes

Metals Recovery (For Reuse)

M011 High temperature metals recovery
M012 Retorting
M013 Secondary smelting
M014 Other metals recovery for reuse: e.g., ion exchange, reverse osmosis, acid leaching
M019 Metals recovery—type unknown

Solvents Recovery

M021 Fractionation/distillation
M022 Thin film evaporation
M023 Solvent extraction
M024 Other solvent recovery
M029 Solvents recovery—type unknown

Other Recovery

M031 Acid regeneration
M032 Other recovery: e.g., waste oil recovery, nonsolvent organics recovery
M039 Other recovery—type unknown

Incineration Treatment

M041 Incineration—liquids
M042 Incineration—sludges
M043 Incineration—solids
M044 Incineration—gases
M049 Incineration—type unknown

Energy Recovery (Reuse as Fuel)

M051 Energy recovery—liquids
M052 Energy recovery—sludges
M053 Energy recovery—solids
M059 Energy recovery—type unknown

Fuel Blending

M061 Fuel blending

Aqueous Inorganic Treatment

M071 Chrome reduction followed by chemical precipitation
M072 Cyanide destruction followed by chemical precipitation
M073 Cyanide destruction only
M074 Chemical oxidation followed by chemical precipitation
M075 Chemical oxidation only
M076 Wet air oxidation
M077 Chemical precipitation
M078 Other aqueous inorganic treatment: e.g., ion exchange, reverse osmosis
M079 Aqueous inorganic treatment—type unknown

Aqueous Organic Treatment

M081 Biological treatment
M082 Carbon adsorption
M083 Air/steam stripping
M084 Wet air oxidation
M085 Other aqueous organic treatment
M089 Aqueous organic treatment—type unknown

Aqueous Organic and Inorganic Treatment

M091 Chemical precipitation in combination with biological treatment
M092 Chemical precipitation in combination with carbon adsorption
M093 Wet air oxidation
M094 Other organic/inorganic treatment
M099 Aqueous organic and inorganic treatment—type unknown

Sludge Treatment

M101 Sludge dewatering
M102 Addition of excess lime
M103 Absorption/adsorption
M104 Solvent extraction
M109 Sludge treatment—type unknown

Stabilization

M111 Stabilization/chemical fixation using cementitious and/or pozzolanic materials
M112 Other stabilization
M119 Stabilization—type unknown

Other Treatment

M121 Neutralization only
M122 Evaporation only
M123 Settling/clarification only
M124 Phase separation (e.g., emulsion breaking, filtration) only
M125 Other treatment
M129 Other treatment—type unknown

Disposal

M131 Land treatment/application/farming
M132 Landfill
M133 Surface impoundment (to be closed as a landfill)
M134 Deepwell/underground injection
M135 Direct discharge to sewer/POTW
M136 Direct discharge to surface water under NPDES
M137 Other disposal

Transfer Facility Storage

M141 Transfer facility storage—waste was shipped off site without any on-site treatment, disposal, or recycling activity

3. What are the Problems with the Current Coding Systems Used to Complete Block K?

There are two main problems associated with the use of the current coding system:

(1) Handling Code Information Submitted in Block K is Non-standardized. Different States request waste handlers to complete Block K with different information. Some States refer to 40 CFR Parts 264 and 265, Appendix I, Table 2 (i.e., Handling Codes for Treatment, Storage and Disposal Methods) and others refer to state-created codes. The problem of non-standardized codes submitted in Block K is compounded when there is interstate travel of hazardous waste. When more than one State has its own form, the manifest form of the destination state is required instead of the manifest form of the destination state. Generators may be required to learn and use multiple coding systems on the manifest on a regular basis because their wastes may cross state lines and their operations may be located in more than one state.

(2) Differences in Terms Creates Problems Converting from State Codes to System Type Codes. There are a number of differences and similarities among handling codes, state-created codes and system type codes. Some states reference or list both handling codes and state-created codes when they provide instructions for completing Block K. Although the different coding systems may be converted to system type codes for the completion of the Biennial Report, the conversion process may be difficult and labor-intensive for waste handlers and States because of inconsistencies between the different lists of codes and because numerous codes may be listed. Attempts to reconcile lists of codes may result in code matches that are greater than one-to-one, because some states may use more than one handling code to describe the waste management method used on a particular waste stream. The conversion process is further complicated when wastes travel between states and industry, and states are not familiar with the coding systems required by other states. Also, the use of different coding systems may impede state and federal inspections.

4. How Can the Biennial Report System Type Codes Help Resolve the Problems?

The Agency believes the BRS system type codes are useful because the regulated community is already familiar with these codes, and that this familiarity should increase the accuracy of data supplied by the facility owner or operator. In addition, some states have indicated to EPA that any single coding system would be an improvement over the current multiple coding systems that must be converted to system type codes by LQGs, TSDFs and states to assist them with completion of Biennial Report forms. In December of 1997 and January of 1998, EPA held public meetings on the hazardous waste manifest proposed rulemaking. Industry and State participants both suggested, among other things, that EPA should consider combining the manifest data collection activities with the Biennial Reporting System (BRS) data collection activities. Further, some participants suggested that as a first step to integrate BRS and manifest data collection, EPA should consider requiring manifest users to use BRS system type codes to complete Block K on the current manifest, instead of the handling codes currently found in Table 2, Appendix I of Part 264. These participants further stated that a combination of manifest and BRS reporting requirements, rather than separated data collection programs, may result in streamlined reporting and significant burden reductions.

5. Where Would I Find a List of the Codes to be Used in Block B?

EPA would publish the system type codes in the following places:

—in the electronic and hard copy versions of 40 CFR Part 262 Appendix 2-Biennial Report system type codes (full list of the system type codes); and

—in the instructions for completing the Biennial Report—(full list).

In addition, in the manifest instructions for completing Block B, EPA would refer users to the full list of system type codes in Appendix 2 of 40 CFR Part 262 and in the Biennial Report instructions. When the list of system type codes change in the Biennial Report instructions, 40 CFR 262, Appendix 2 would also be changed. This information would also be available on EPA manifest website.

6. Who Would Be Affected by the Proposal To Change Block K to Block B?

States, generators and TSDFs may be affected by this proposal. The proposed instructions would specify who would be required to complete Block B. Because TSDFs are the most familiar with the processes that best describe the way in which a waste is managed at their facility, EPA is proposing that TSDFs be responsible for completing Block B. EPA's preference is for TSDFs to assume this role due to their technical expertise and because circumstances may warrant the need for TSDFs to change their decisions on how to store, treat or dispose of the hazardous wastes they receive from generators. Additionally, the first TSDF (sometimes referred to as the interim TSDF if the waste is to be stored or treated and then sent on to another TSDF) that receives the shipment should be responsible for filling out Block B because the original manifest is often terminated at this point and a new manifest is generated. The Agency specifically requests comment on whether the TSDF should be responsible for filling out Block B of the manifest (where required).

7. How Would Block B Be Filled Out?

One system type code per waste is proposed to be used in Block B. Each system type code in Block B should be clearly linked to the waste it describes in Item 10, ''U.S. DOT Description (Including Proper Shipping Name, Hazard Class, ID Number, and Packing Group).'' Specifically, the BRS system type code entered in ''field a'' of Block B should correspond to the U.S. DOT description information provided in ''item 10a'' of the form. Similarly, BRS system type codes entered in ''fields b, c, and d'' of Block B should correspond to the U.S. DOT description information entered in ''fields 10b, c, d,'' respectively. If the space in Block B is insufficient for listing system type

codes, then new Item 14, ''Special Handling Instructions and Additional Information,'' may be used.

Block B should be completed as follows:

B. Biennial Report System Type Codes for Wastes Listed Above
a. (enter system type code for first waste code listed in Block 10a)
b. (enter system type code for second waste code listed in Block10b)
c. (enter system type code for third waste code listed in Block 10c)
d. (enter system type code for fourth waste code listed in Block 10d)

8. How Would the Regulations Change?

The manifest form would be changed to include a new box entitled ''Biennial Report System Type Codes,'' and the manifest instructions in the Appendix to Part 262 would be changed to instruct the TSDF to use the Biennial Report system type codes. New instructions would be added instructing those TSDFs completing Block B to use Biennial Report codes and a list of the Biennial Report system type codes would be added to 40 CFR part 262 as Appendix 2.

The Agency is also considering two alternatives to today's proposal. The first alternative considers using a new list of codes instead of the full list of system type codes from the existing Biennial Report System. EPA could develop a new simplified list of codes that are similar to the current categories for system type codes found in the Biennial Report. Current BRS system type codes describe the type of hazardous waste management system used to treat or dispose a hazardous waste. One example of system type codes for a hazardous waste management category is ''Solvents Recovery,'' which has within it, a set of unique codes for fractionalization/distillation, thin film evaporation, solvent extraction, other solvent recovery, and solvent recovery. The alternative system would only include the general category found in the system codes list and if ''solvent recovery'' is taken as the example, would omit the unique codes within ''Solvent Recovery.'' Thus, a facility using solvent extraction to treat a hazardous waste, would only enter ''Solvent Recovery.''

The second alternative approach EPA is considering would be to require the generator to complete new Block B of the manifest, rather than the TSDF. The Agency is considering whether the information provided by the generator is of greater use than similar information provided by the TSDF.

9. EPA Invites Comment on Today's Proposal and Also Welcomes New Ideas for Manifest and System Type Code Burden Reduction

EPA is specifically requesting comment on the following issues

(a) As an alternative to today's proposal of using the full list of system type codes from the existing Biennial Report System, would industry, states, and other stakeholders prefer a new list of codes that are similar to the current categories for system type codes? (Examples of categories include ''Solvents Recovery'' and ''Incineration.'')

(b) As an alternative to requiring the TSDFs to complete Block B of the manifest, should EPA require the generators to complete that section? If so, what are the advantages? How would generator accountability for wastes from ''cradle-to-grave'' and completion of the Biennial Report be impacted? What other impacts would be expected?

(c) Would industry, states, and other stakeholders prefer standardizing the handling codes from Table 2 of Appendix I, Part 264 and use the standardized handling codes for the completion of new Block B?

(d) Should the entry of information in new Block B of the manifest remain an optional field as proposed, or should it be mandatory?

(e) In looking at manifest and Biennial Report burden together, could an increase in manifest burden lead to or be offset by Biennial Report burden reduction? (For example, if Block B were to change from a state optional element to a mandatory federal element, would manifest burden increase in the short run and Biennial Report burden decrease in the long run?) Which areas of the manifest and Biennial Report should EPA consider or further analyze to achieve net burden reduction in the long run?

I. Block I Waste Code System

1. How Would the Requirements for the Codes Used in Block I Change?

(Note, that the form would be renumbered and Block I (Waste No.) become new Block A (Waste Codes).)

EPA proposes to provide additional space in this optional block so that waste handlers can enter state and federal waste codes in separate locations under new Block A. EPA is also proposing to change the name of this block.

Block A would be divided into two sections—a section for entering federal waste codes and another for entering state waste codes. The top section of Block A would allow reporting of three federal waste codes and the bottom section would allow reporting of three state waste codes. If states require the completion of Block A, then the waste handler must enter Federal waste codes in the appropriate section of Block A according to a hierarchy, with the highest toxicity waste appearing first to alert users of the manifest of their presence.

EPA believes that in most cases six waste codes would be sufficient to adequately describe the waste in Block A. However, it also may be appropriate at times to report more than six codes for a particular waste (for example, a lab pack could contain more than 6 waste codes). For these specific circumstances, the generator would use both Item 10, ''U.S. DOT Description (Including Proper Shipping Name, Hazard Class, ID Number, and Packing Group)'' and proposed Item 14, ''Special Handling Instructions and Additional Information,'' to describe such a waste.

EPA is also changing the title of Block I from Block I ''Waste No.'' to Block A ''Waste Codes'' to more accurately reflect what should be entered in this block and more commonly used terminology. This block would need to be completed only if a state required it.

The proposed format for Block A is shown below:

A. WASTE CODES

Federal Waste Code, four partitions	Federal Waste Code, four partitions	Federal Waste Code, four partitions.
State Waste Code, four partitions	State Waste Code, four partitions	State Waste Code, four partitions.

2. What Is the Problem With Current Block I Reporting Procedures?

Under the current manifest system, waste handlers can use the manifest form for shipments where hazardous and non-RCRA wastes are a part of the same shipment. This may occur because some states regulate non-RCRA waste as hazardous waste and prefer that generators indicate state regulated hazardous waste shipments on the same manifest form. Also, these states may

require that waste handlers enter the federal waste codes for the RCRA regulated wastes and state waste codes for the State-only regulated hazardous waste in Item I of the current form.

Federal and state waste codes are important because they provide a range of useful information about waste shipments and assist states with enforcement, generators with describing a hazardous substance in accordance with DOT regulations, and TSDFs with determining whether a waste can be accepted under its permit. However, under current reporting procedures, such benefits are diminished due to the format of Block I and the lack of clear, uniform instructions. Block I does not distinguish between federal and state sections, nor does it make clear that both federal and state waste codes may be reported. Also, states provide varying instructions, if any, on how to fill out Block I. The ASTSWMO petition addressed this issue and considered, among other things, an option for states to create a separate manifest for reporting ''non-RCRA regulated waste'' but the petition did not recommend this option. Explanations provided in the petition for not creating a separate manifest rationalized that one manifest ensures uniformity and that a separate manifest would cause confusion for generators because a separate form would require a separate set of instructions, numbering, etc. Further, waste handlers would have to become familiar with several manifest forms, if states required a separate manifest. The Agency agrees with these reasons and also believes that generators would prefer completing one manifest instead of two for combined shipments of hazardous and state-regulated nonhazardous wastes.

3. Who Would Be Affected by This Proposal?

States and waste handlers (i.e., generators) would be affected by this proposal. Block A is a state optional element of the manifest and would remain so, but there would no longer be a need for state-specific manifests with varying instructions on how to complete Block A. The federal manifest would contain standardized instructions for submission of federal and state waste codes in Block A. Generators would complete Block A when required by the generator state, the destination state or both states. EPA believes that this change would not reduce the state's ability to collect this information, and the standardized format (along with the elimination of state-specific manifests) would reduce the time required to complete this block.

4. How Would Block A Be Filled 0ut?

When the generator state, the destination state or both states require completion of Block A, several reporting scenarios may apply, including use of Item 10 and Item 14. In general, Block A should be used first. Examples follow:

Reporting Waste Codes in Item 10 of the manifest: ''US DOT Description (Including Proper Shipping Name, Hazard Class, and ID Number)'' and in Item 14: ''Special Handling Instructions and Additional Information''. Federal waste codes (either the listed waste code or the code for a hazardous waste characteristic) would be reported in Block A, as applicable. Federal waste codes also may be reported in Item 10 if the generator wants to include that information in Block 10. If more space is needed to report federal waste codes, then Item 14 may be used. Also, Item 14 may be used to report additional state waste codes.

Reporting Federal Waste Codes According to Toxicity. Federal waste codes would be reported according to a hierarchy of the highest toxicity waste appearing first and less toxic wastes appearing thereafter. The proposed hierarchy reflects the Negotiated rulemaking committee's recommendation that wastes with the highest toxicity should be listed first (i.e., acutely hazardous wastes) to alert users of the manifest to their presence. The hierarchy is listed below:

- All acutely hazardous wastes, including all P listed wastes and all acutely hazardous F listed wastes;
- U listed wastes (toxic);
- K listed wastes (specific sources);
- Non-acute F listed wastes (non-specific sources); and
- D wastes (characteristic).

Although today's proposal would require waste handlers to enter waste codes in Block A according to the proposed hierarchy, EPA understands that wastes that are ignitable or reactive may be better described (for safety reasons) if the waste codes for these characteristics are listed first in the hierarchy. Therefore, the Agency proposes that if a state requires waste handlers to complete the new Block A on the manifest, then waste handlers must enter Federal waste codes in block A in accordance with the hierarchical system, unless the wastes in question are ignitable or reactive. In such situations, the Federal waste codes for the ignitable or reactive wastes may be entered first in Block A, if the state allows the generator to do so.

EPA notes that the proposed hierarchical system would apply to Federal waste codes only. EPA did not propose the hierarchical system for state waste codes because it had insufficient information about state waste codes. Therefore, the Agency believes that it would not be appropriate to propose a standardized coding system for state-regulated wastes and believes that it is more appropriate for generators to contact States directly, if necessary, regarding the assignment of state waste codes for a particular state-regulated waste. The Agency would place, however, a list of waste codes for each state on its EPA website so that waste handlers can obtain state waste code information quickly. EPA, however, recommends that generators contact both its state and the consignment state to obtain further instructions to complete Block A.

Reporting Federal Waste Codes According to Toxicity. Hazardous waste that is described by more than one federal waste code within one of the P, U, K, F and D categories would be listed according to toxicity. EPA believes that on occasion, some hazardous waste shipments may contain waste codes from the same hierarchy category. In such cases, the waste handler should list waste codes from the same category in the order which he/she believes is most representative of the waste's attributes. The Agency requests comment on whether the hierarchy approach is the most appropriate method to listing wastes in Block A.

Reporting State Waste Codes. EPA is proposing that the first state box would represent waste regulated by the generator state and the second state box would represent waste regulated by the destination state. State waste codes would be reported as follows:

- If the waste is regulated by the generator state or the destination state, then enter the generator state waste code in the state box and the destination state waste code in the second box:

A. WASTE CODE

(Generator State Waste Code)	(Destination State Waste Code)	

If additional space is needed to report state waste codes, use Item 14, ''Special Handling Instructions and Additional Information.''

5. How Would the Regulations Change?

The instructions for the manifest found in the 40 CFR 262 Appendix would change to include the Federal waste code hierarchy and the instructions for completing Block A. Also, Block A would be relabeled ''Waste Codes'' on the manifest form.

6. EPA Invites Comment on the Following Questions Related to the Proposed Changes to Block A.

- Under today's proposal, would the quality of waste code reporting improve, while keeping manifest burden to a minimum?
- Are the proposed format of Block A (i.e., space for 4-digit waste codes) and new standardized procedures for reporting waste codes clear? Are there alternatives that EPA should consider?
- Although today's rule does not propose to establish generic waste codes for lab packs, spent carbon, and incinerator ash, EPA may pursue this in the future as resources permit and welcomes comment on codification of such codes.
- **What alternatives to the proposed toxicity hierarchy would you suggest**

Unmanifested Waste Reporting

1. How Is EPA Changing the Way TSDFs Report Unmanifested Waste?

Today's rule proposes changes in the way a TSDF may submit the ''Unmanifested Waste Report'' to the EPA Regional Administrator, which is required within 15 days after accepting the waste at a TSDF. Currently, EPA requires TSDFs who accept unmanifested waste to prepare an ''Unmanifested Waste Report'' (form 8700–13B) for waste that should normally be shipped using a manifest. (See 40 CFR 264.76 and 265.76) Under this proposal, a typed, handwritten, or electronic note may be submitted instead of this report. The typed, handwritten, or electronic note must be legible, and must contain the following information:

(a) The EPA identification number, name, and address of the facility;

(b) The date the facility received the waste;

(c) The EPA identification number, name, and address of the generator and the transporter, if available;

(d) A description and the quantity of each unmanifested hazardous waste the facility received;

(e) The method of treatment, storage, or disposal for each hazardous waste;

(f) The certification signed by the owner or operator of the facility or his authorized representative; and

(g) A brief explanation of why the waste was unmanifested, if known.

2. What Is Unmanifested Waste?

Unmanifested waste is hazardous waste that a TSDF accepts from an off-site source without the required accompanying manifest or shipping paper (in the case of rail and some water shipments). Regulations governing unmanifested waste found at 40 CFR 264.76 and 265.76 should not be confused with similar reporting requirements under regulations for manifest discrepancies found at 40 CFR 264.72 and 265.72 and exception reporting found at 40 CFR 262.42.

3. What Is the Problem With Current Requirements for Unmanifested Waste Reporting?

Current regulations found at 40 CFR 264.76 and 265.76 require TSDFs to submit EPA form 8700–13B, which must be designated ''Unmanifested Waste Report.'' However, EPA announced in the January 28, 1983 *FR* that it was deleting EPA form 8700–13B and its predecessor, EPA form 8700–13, which had appeared in the May 19, 1980 *FR.* Although both forms were linked to annual reporting requirements at that time and were supposed to be adapted for unmanifested waste reporting, EPA deleted them due to the change from annual to biennial reporting. EPA never published a new form for unmanifested waste reporting and the form now required for biennial reporting, EPA form 1300–A/B, ''Hazardous Waste Report Instructions and Forms,'' is not adaptable for unmanifested waste reporting. Although EPA never published a replacement form for reporting unmanifested waste, the regulations still require this form which is generally unavailable to those seeking a copy.

4. How Do Regulations for the Unmanifested Waste, Manifest Discrepancies, and Exception Reporting Compare?

Some aspects of the reporting requirements are similar. See the table below for a comparison.

COMPARISON OF REGULATIONS—UNMANIFESTED WASTE REPORT, MANIFEST DISCREPANCIES, AND EXCEPTION REPORTING

Regulation	Description	Synopsis of reporting requirements
Unmanifested Waste Report 40 CFR 264.76 and 265.76.	Unmanifested waste is hazardous waste that a TSDF accepts without an accompanying manifest or shipping paper, and which is not exempt from the manifest requirement.	*Current:* TSDF must submit to the EPA Regional Administrator an unmanifested waste report on EPA form 8700–13B within 15 days after receiving the waste. *Proposed:* TSDF must submit an unmanifested waste report using a typed, handwritten, or electronic note submitted to the EPA Regional Administrator within 15 days after receiving the waste.
Manifest Discrepancies 40 CFR 264.72 and 265.72.	Manifest discrepancies are differences between the quantity or type of hazardous waste designated on the manifest or shipping paper and the quantity or type of waste actually received at a facility. We are proposing to include container residues and rejected loads as manifest discrepancies.	TSDFs that receive wastes with any significant manifest discrepancy must attempt to reconcile the discrepancy upon discovery and report the discrepancy to the EPA Regional Administrator if the discrepancy is not resolved within 15 days after receiving the waste. We are proposing that TSDFs that reject a load or send a residue off-site would have to prepare a new manifest as instructed under proposed §§ 264.72(c–d) and 265.72(c–d).

COMPARISON OF REGULATIONS—UNMANIFESTED WASTE REPORT, MANIFEST DISCREPANCIES, AND EXCEPTION REPORTING—Continued

Regulation	Description	Synopsis of reporting requirements
Exception Reporting 40 CFR 262.42	Exception reporting is required of LQGs and SQGs when they do not receive the return copy of the manifest signed by the TSDF within a specified time after the waste was accepted by the initial transporter.	A LQG who does not receive the return copy the manifest signed by the TSDF within 35 days after the waste was accepted by the initial transporter must contact the TSDF to inquire of the status of the waste. If the LQG does not receive the return copy of the manifest signed by the TSDF within 45 days of the date the waste was accepted by the initial transporter, the LQG must submit an exception report to the EPA Regional Administrator. A SQG who does not receive the return copy of the manifest signed by the TSDF within 60 days after the waste was date the waste was accepted by the initial transporter must also submit an exception report to the EPA Regional Administrator.

VI. Residues and Rejected Loads: How Must These Shipments be Manifested?

1. What are Residues and Rejected Loads?

Residues

A residue is the hazardous waste that remains in containers such as drums and in vehicles used for transport (such as tanker cars or box cars) after most of the contents of the container have been removed. These residues may be difficult to remove because the contents may have congealed and the receiving facility may not have the equipment to completely empty the container. As a result, the container may hold more than the regulatory threshold for meeting the RCRA definition of ''empty,'' that is, more than 3% of a hazardous waste in a container less than or equal to 119 gallons, or more than 0.3% of a hazardous waste in a container greater than 119 gallons, and must be managed as hazardous waste. (See section IV.C of this rule for a discussion of the proposed changes regarding the term ''bulk packaging.'')

Rejected Loads

A rejected load is a shipment of hazardous waste that a facility receives, but cannot accept, either because of restrictions in the facility's permit, or due to capacity limitations. A rejected load includes all shipments a facility rejects, in whole or in part, whether rejection occurs before or after the facility has signed the manifest. EPA does not view shipments that are undeliverable for reasons other than rejection by a party at the designated facility as being covered by the term ''rejected loads.'' At 40 CFR 263.21(b) of the current regulations, there is a provision that addresses hazardous waste shipments that cannot be delivered by the transporter. This provision was included in the regulations to deal with emergencies that prevented a delivery to a designated facility, such as a labor strike or fire that causes the designated facility to close. The current § 263.21(b) allows a transporter to deal with such emergency events by contacting the generator for further directions and then revising the manifest according to the generator's instructions. These ''undeliverable waste'' events that do not involve a rejection by the destination facility would continue to be addressed by the existing regulatory provision, which today's proposal would recodify as 40 CFR 263.21(b)(1). EPA is not reopening or reconsidering the current § 263.21(b) provisions for undeliverable waste; however, we are proposing a new section to § 263.21(b) to clarify the transporter's responsibilities for both ''undeliverable'' waste and ''rejected loads. This proposal would also clarify the procedures to be followed by the rejecting designated facility in connection with noting the rejection on the original manifest, and preparing a new manifest to direct the rejected shipment on to its next destination.

2. What Is EPA Proposing Related to Residues and Rejected Loads?

EPA proposes to improve the tracking of these hazardous waste shipments by adding new data elements on the manifest form for identifying rejected wastes and residues, and by clarifying the requirements and procedures for tracking these wastes with the manifest. The proposed rule addresses both the manifest procedures that would track rejected wastes and residues to alternative facilities, as well as the procedures for dealing with the rare occasions when a facility must return rejected wastes or container residues to the generator. In all such cases, the new regulations would require facilities to note information about the rejected waste or regulated residue on the original manifest, to sign the original manifest certification, and to issue a new manifest to continue the shipment of the rejected load or residue to another off-site destination. EPA is proposing to modify the discrepancy block on the manifest to provide more explicit tracking features for regulated residues and rejected wastes. Space would be provided to identify the material affected by the discrepancy and the reason for the discrepancy. In addition, the facility would cross-reference the manifest tracking number for the new shipment on a space provided for this purpose on the discrepancy block of the original manifest. On the new manifest, the facility would also reference the ''old'' manifest tracking number in the Special Handling Block. The discrepancy space and facility certification on the new manifest would be reserved for use by the next facility, if necessary (e.g., if the shipment is rejected a second time).

3. To Whom Do These New Requirements Apply?

The new requirements apply to you if you are:

- A ''designated facility'' that cannot completely ''empty'' a container to ''RCRA empty'' standards in § 261.7(a); and
- A TSDF or a hazardous waste recycler who must reject a shipment of hazardous waste, in full or in part; and

• A generator who must receive a returned shipment of a residue or rejected load when there is no alternate facility to which it may be sent.

4. Where Would the Proposed Requirements for Tracking Rejected Wastes and Residues Be Codified?

Today's proposal would result in modifications to several existing regulatory provisions. First, the proposal would modify 40 CFR 264.71 and 264.72 (40 CFR 265.71 and 265.72 for interim status facilities) so that these provisions provide more explicit requirements for tracking rejected wastes and regulated container residues. The proposal would accomplish this by clarifying in § 264.71(a) that a facility must sign the facility owner or operator certification on the manifest for both waste receipts and waste rejections. EPA emphasizes that the facility certification attests to the receipt of the hazardous wastes described on the manifest, except as noted in the discrepancy space. This proposal would clarify that residues and rejected wastes, including full or partial load rejections, are discrepancies to be reported on the discrepancy space. So, facilities would be required to sign the owner or operator certification on every manifest relating to shipments brought to a facility for delivery, either to acknowledge receipt of all the materials on the manifest, or to acknowledge that those materials identified in the discrepancy space (including rejected wastes and residues) were not received for management at the facility.

The proposal would modify § 264.72 (§ 265.72 for interim status facilities) to reflect the changes proposed to the discrepancy space of the manifest form. The form would be revised to include new data fields in the discrepancy space to track rejected wastes and residues. So, § 264.72(a) would be revised to clarify that the scope of the term ''manifest discrepancies'' would be broadened to include not only the significant differences in waste quantities or types that are the subject of the current discrepancy regulation, but also rejected wastes and regulated container residues. The current regulation's requirements for identifying, reconciling, and reporting ''significant discrepancies'' would be retained in proposed § 264.72(b) and (c), which would address these as ''significant differences'' in quantity or in type of wastes. The procedures for addressing rejected wastes or regulated container residues as manifest discrepancies would appear in new § 264.72(d) and (e) for permitted facilities, and in new § 265.72(d) and (e) for interim status facilities. For those instances where an alternative facility is not available to receive a rejected waste or residue shipment, proposed §§ 264.72(f) and 265.72(f) would add procedure governing the return of these wastes to generators. These procedures are discussed below in greater detail.

EPA is also proposing to amend 40 CFR 263.21(b), to add language clarifying the distinction between the transporter responsibilities for ''undeliverable'' wastes that are not deliverable because of emergencies that prevent delivery, and for rejected wastes. As we discussed above, EPA would retain as § 263.21(b)(1) the existing transporter requirements that apply to shipments that cannot be delivered because of an emergency, e.g., a strike, fire, or similar emergency event which closes the designated facility's or next transporter's operations or which otherwise precludes the transporter from delivering the waste. In such emergency cases, the transporter that cannot deliver the waste shipment to the designated facility, alternate designated facility, or next designated transporter, would still be required to contact the generator for further directions and to revise the manifest according to the generator's instructions. EPA is not reconsidering, reopening, or requesting comment on these existing requirements. The proposal would merely recodify this existing provision at § 263.21(b)(1).

Proposed § 263.21(b)(2) would specifically address transporters' responsibilities respecting rejected wastes. Transporters would be required under this proposal to obtain the facility owner's or operator's signed and dated certification on the manifest identifying the rejection. The transporter would also be required to retain one copy of this manifest, and to give any remaining copies of the manifest to the rejecting TSDF, so that they could be processed in accordance with the new procedures proposed for facilities rejecting wastes at § 264.71, 72.

5. Why Is EPA Proposing These Changes?

EPA is proposing these changes in response to stakeholder recommendations made during the prior Negotiated Rulemaking and an audit conducted by EPA's Office of Inspector General (OIG) in 1995. In the final agreement for the RCRA Manifest Regulatory Negotiation, several recommendations related to residues and rejected loads were made. For residues, the committee recommended that residues in cargo tanks and tank cars that are not RCRA-empty should be manifested as partially rejected loads by the facility that received the shipment. For rejected loads, the committee came up with different recommendations depending on whether the rejected load was rejected in full or in part, and whether the TSDF had signed the manifest or not. Generally, the committee recommended that rejections be noted in the discrepancy box, that rejected waste should in some instances be allowed to be returned to the generator, and that the generator should be involved in the decisions on where rejected wastes should be sent.

The OIG's audit identified several areas where the Agency could make changes to improve the manifest system so that the manifest system provides generators, EPA, or the states with the means to track hazardous waste shipments to their final destinations. The OIG audit provided two specific recommendations related to residues and rejected loads: (1) Require that original generators and manifest numbers be referenced on any new manifests created for reshipments of hazardous waste, and (2) ensure that generators be consulted when partial or full loads of hazardous wastes are rejected or when hazardous wastes remain in ''non-empty'' containers. EPA believes the changes suggested by the Negotiated Rulemaking stakeholders and the OIG would improve hazardous waste tracking. Specific reasons for making changes in these areas are discussed below.

Problems With Hazardous Waste Residues Left in Containers

Hazardous waste residues are sometimes left in containers such as drums and in vehicles such as tanker trucks or box cars after the waste has been removed from the containers by the designated facility. This can at times represent a significant amount of material. For example, a 6,000 gallon tank trunk that is emptied just to the 0.3% threshold for ''empty'' would still contain about 20 gallons of hazardous waste. Under current regulations, a hazardous waste container is considered ''empty,'' only if the waste has been removed so that no more than 2.5 centimeters (1 inch) of the waste (or 3% of the waste in containers of less than or equal to 110 gallons (see discussion regarding ''bulk'' packaging in Section IV.C), or 0.3% of the waste in containers greater than 110 gallons) remains in the container and all waste that can be removed by commonly employed practices has been removed. Containers holding acute hazardous wastes must be triple rinsed. Acute hazardous wastes are those waste that are considered

highly toxic by EPA and are given the hazard code ''H'' in the hazardous waste lists at 40 CFR 261.31 and 40 CFR 261.33 (i.e., all P-listed wastes and certain F-listed wastes).

When a facility cannot thoroughly clean the container, and is unable to manage the container properly, it must send the ''RCRA-regulated'' container to an alternate facility. Current regulations do not clearly define the appropriate manifest procedures for such a situation—i.e., it is unclear whether the facility should contact the generator and whether the original manifest, or a new manifest, is required to accompany the shipment to the next facility. States have developed different approaches to dealing with these situations. As a result, these shipments can impose significant burdens on facilities in terms of consulting with state regulatory authorities and sorting out applicable procedures. Also, a facility might complete a new manifest for the shipment to the alternate facility without consulting with the generator of the shipment. The generator might only receive the signed manifest returned by the first facility, but may not receive a copy of the second manifest indicating the ultimate disposition of the regulated container and residue. Thus, the generator may be left unaware of the final disposition of the hazardous waste. When this occurs, one of the main purposes of the manifest—to assist regulated entities and regulatory authorities in tracking hazardous waste from ''cradle to grave''—is impaired because there is no systematic approach for linking information about the second shipment to the original manifest and generator. The current regulations require only that the facility shipping the waste residues to the next destination facility be apprised of the disposition of the waste; the original generator is not in the loop for obtaining such information.

The changes to the manifest form and procedures proposed here would ensure that hazardous waste generators are informed of and involved in decisions concerning the ultimate disposition of their hazardous waste, so that regulated quantities of hazardous waste residues can be tracked from the original generating site to the site of ultimate disposition.

Problems With Rejected Loads

In most situations involving off-site transportation of hazardous waste, the hazardous waste shipment arrives at the designated facility without incident and is accepted and ultimately is managed at the designated facility. However, on rare occasions, the owner or operator of the designated facility cannot accept a waste shipment. For example, the TSDF might require the waste have a certain British Thermal Units (BTU) level in order to accept the waste for treatment. If the shipment of waste does not have the required BTU level, the TSDF might reject the waste shipment. Other reasons why a TSDF may not accept a hazardous waste shipment vary, but may include capacity restrictions at the time the waste arrives, equipment failure, or other unanticipated situations. The designated facility may reject a load at the time it arrives at the facility. The designated facility may also reject a load after it has signed the manifest and accepted delivery of the waste shipment, because current regulations allow the facility to sign for receipt of the waste and then test the waste at a later time and reject it if necessary. Current regulations do not clearly define the appropriate manifest procedures for either situation. As with container residues, it is unclear whether the facility should contact the generator and whether the original manifest, or a new manifest, is required to accompany the shipment to the next facility. In current practice, if the facility rejects all or part of a load after having already signed the original manifest, it may prepare a new manifest for the rejected waste and send it to an alternate facility without consulting with the generator. Thus, the original generator may be left unaware of the final disposition of its hazardous waste, because there is currently no consistent approach followed for tracking these shipments and linking the second shipment to the original manifest and generator. The changes to the manifest form and procedures proposed here would also ensure that hazardous waste generators are involved in decisions concerning the ultimate disposition of their hazardous waste and that rejected wastes can be tracked from the generating site to the site of ultimate disposition.

6. How Long Does the TSDF Have To Accept or Reject the Hazardous Waste Shipment?

While EPA does not intend that a TSDF must test the waste before signing the manifest, EPA expects that TSDFs would use good business practices and make a determination within a reasonable time whether to accept or reject all or part of a hazardous waste shipment. Additionally, EPA recognizes that some loads may be rejected after the designated facility has signed the manifest and taken delivery of the waste. The Agency recognizes that the facility's signature on the facility certification of receipt reflects the facts known to the facility at that time, and does not always mean that the TSDF has finally accepted the waste for treatment, storage or disposal.

7. Who Is Responsible for Deciding Where To Send a Residue or Load Rejected by the TSDF?

Because a hazardous waste generator has the most knowledge about its waste and is typically responsible for decisions about the disposition of its hazardous waste, EPA believes it is appropriate to require that the designated facility must contact the generator for his or her decision about the next destination for a rejected load or residue. This approach is consistent with the current manifest system, which generally places the burden on hazardous waste generators to ensure that hazardous waste shipments arrive at their proper destinations. See, e.g., 40 CFR 262.42 regarding ''exception reports.''

As part of obtaining the generator's decision, the facility should also work out with the generator how the waste should be transported to the next facility and who should be listed as the transporter on the new manifest. If it is not possible to locate in a timely manner an alternative facility that can promptly receive the waste, then the generator may instruct the facility to transport the hazardous waste shipment back to the generator. EPA expects that shipments would be returned to generators only on very rare occasions. The rejecting facility, in consultation with the generator, would first have to attempt to locate another facility that can appropriately manage the waste before resorting to a return shipment to the generator.

The facility rejecting hazardous wastes must ensure that secure custody of the hazardous waste is maintained while arrangements are being made to forward the waste to another facility. In many such situations, EPA expects that the transporter who attempted to deliver the rejected wastes would simply remain at the facility's premises and retain custody of the rejected waste until transportation resumes under the new arrangements made by the facility and generator. The transporter may assist the facility with the arrangements made for forwarding the rejected waste and preparing it for transportation. In those situations, however, where the delivering transporter does not remain on the facility's premises, the rejecting facility must take temporary custody of the waste, and hold it at a secure location until transportation of the waste continues under the new manifest.

8. Must TSDFs Who Reject Waste or Who Have a Regulated Residue Prepare a New Manifest For the Shipment to the Alternative Facility?

Yes. Today's rule clarifies that a TSDF who either rejects hazardous waste or has a regulated residue that must be sent off-site must prepare a new manifest for the shipment to the alternate facility. This clarifies conflicting policies that have arisen under the existing regulations. For example, differing policies have been followed in the past, based on distinctions between fully rejected loads and partially rejected loads, or on distinctions between rejections that occur at the time of attempted delivery of a shipment and those that occur after the original manifest was signed. In some instances, current policies allowed the original manifest to be amended, while in other instances, the policies suggested that a new manifest should be prepared. The work group developing today's proposal concluded that existing policies in this area were conflicting and very confusing. The work group recommended that one consistent approach should govern all rejected waste and residue shipments. Therefore, EPA is today proposing that a new manifest must be prepared in all cases involving a rejected waste or a residue shipment. The designated facility must in all cases close out the original manifest by noting the rejection or the regulated residue, and then prepare a new manifest to send the rejected waste or residue shipment to the alternate facility.

The designated facility would be required to: (1) Check the rejected load or residue box in the discrepancy block of the original manifest; (2) sign the facility certification on the original manifest to certify that the waste shipment was received except as noted (i.e., the rejected waste or residue) in the discrepancy block; (3) write the manifest tracking number of the new manifest on the space provided for this purpose in the discrepancy block of the original manifest; and (4) complete a new manifest for the rejected waste or residue. If the facility rejects all or part of a shipment, or discovers regulated residues, after the facility has signed and returned the original manifest, it would send the generator and delivering transporter an amended copy of the original manifest, revised to show the rejected waste or residue information in the discrepancy space, and showing a new signature certifying to the facts as amended and showing the date of the amendment. These amended manifest procedures would be included in § 264.72(g) and § 265.72(g) of today's proposal.

9. Whose Facility Information Would Go in the ''Generator'' Block of the Manifest?

Previous policies on tracking rejected loads and residues usually required the designated facility with rejected waste or residues to identify itself in the generator information block of the manifest for the second shipment to the alternate facility. Under this approach, the rejecting facility would provide its EPA ID Number in the Generator's EPA ID Number field, and provide its name and address information in the Generator information fields. When delivering the waste to the first transporter, the rejecting facility would also sign the Generator's Certification statement. However, this approach continues the problem of not keeping the original generator informed of the final disposition of its waste. This results because the alternative facility named as the designated facility on the second manifest would be required under § 264.71(a)(4) to send a copy of the manifest to the rejecting facility, and not the actual ''generator'' of the hazardous waste, when closing out the second manifest. To avoid this result, EPA is today proposing that in those cases where rejected waste is being forwarded to an alternate facility, and there has been no change in the form of the waste—i.e., the first designated facility performs no treatment and does little more than hold the waste (or repackage it) temporarily so that it may continue in transportation—then the original generator must be identified in the generator information block on the new manifest. As long as the form of the waste has not changed and the waste still carries the same DOT shipping descriptions that it carried when it was brought to the rejecting facility's site, a new waste has not been generated by the rejecting designated facility. The designated facility must, of course, consult with the generator, and once authorized by the generator to ship the rejected wastes or residues to another facility, the rejecting facility would sign the generator's certification to indicate that it has offered the hazardous waste in transportation.

If, however, the designated facility has treated the waste or otherwise managed the waste in such a way as to change its form, change the applicable DOT description for the waste, or generate a new waste, then this procedure would not apply to the second shipment. Instead, the designated facility would be identified on the manifest (Items 1 and 4) as the generator, and would sign the generator's certification in its capacity as a waste generator shipping its waste off-site.

In those instances where the designated facility must return a rejected waste or regulated residue to the generator, the proposal would not require the designated facility to list the actual generator's information in Items 1 and 4 of the manifest. In such instances, the proposal would require the designated facility to identify itself in the generator information section on the new manifest of the return shipment to the generator. This modification is important in order to ensure that the return shipment back to the initial generator can be verified. Under current RCRA requirements, the entity initiating the shipment of hazardous waste (typically the actual generator) is responsible for confirming that the shipment is received by the designated facility (see, 40 CFR 262.42). Thus, if the actual generator were to be identified on the new manifest as both the generator and the destination facility, the rejecting facility would not be able to verify that the waste was indeed received by the actual generator. By identifying the designated facility in the generator information section on the new manifest for the return shipment, the designated facility would be in a position to verify that the generator received the return shipment, or, file an exception report if verification is not received in a timely manner.

Under RCRA regulations, a RCRA ''generator'' is defined as a person whose act or process produces a hazardous waste, or whose act first causes the waste to be subject to regulation. See 40 CFR 260.10. In the great majority of cases, the person completing the manifest and signing the generator's certification statement is in fact a RCRA ''generator'' who produced the hazardous waste undergoing transportation. There are times, however, when our Subtitle C regulations require persons other than generators to prepare hazardous waste shipments for transportation. For example, a new manifest must be prepared in cases where a permitted storage facility consolidates wastes from various incoming shipments and later ships the consolidated wastes under a new manifest to another facility, or, when a hazardous waste transporter mixes wastes of different DOT descriptions in a single container. In each of these situations, the consolidating TSDF or transporter is responsible for a limited set of what are typically generator responsibilities, including preparing a manifest for the

shipment. These entities are not considered to be RCRA ''generators'' (e.g., their processes do not produce the waste), but they may need to complete a new manifest and sign the generator's certification statement in the course of discharging their responsibilities and offering the waste in transportation.

Similarly, today's proposal would clarify the requirements that designated facilities must follow when preparing a new manifest in order to offer rejected wastes or regulated residues in transportation. When a designated facility prepares a rejected waste or residue shipment for off-site transportation under these procedures, it would not assume under this proposal the role or general responsibilities of a RCRA ''generator.'' Rather, the rejecting facility would be responsible for a limited set of generator responsibilities, including the preparation of the new manifest in accordance with 40 CFR Part 262, Subpart B, and ensuring that the waste is properly packaged, marked and labeled in accordance with the current provisions (40 CFR 262.30–33) prescribing pre-transportation requirements that apply to hazardous wastes offered in transportation. Today's proposal would thus clarify how the generator information blocks (Items 1 and 4) and the generator's certification would be completed by a facility shipping these types of wastes.

First, in every case where a designated facility offers rejected waste or regulated residues in transportation, the facility must sign the generator's certification statement. This certification statement includes the ''shipper's certification'' language certifying that the shipment has been described accurately and prepared properly in all respects for transportation in accordance with national and international laws. The designated facility offering rejected wastes or residues in transportation is responsible for ensuring that the pre-transportation requirements have been complied with, and must certify to their proper execution as a final step in preparing the manifest and offering the wastes in transportation. While the generator's certification statement also includes a waste minimization certification, designated facilities that are not in fact RCRA ''generators'' of the waste being shipped would not be bound by the waste minimization statements when they sign the generator's certification statement.

Second, on every new manifest prepared by a designated facility for a rejected waste or residue shipment, the appropriate entity to receive back a copy of the manifest from the next designated facility must be identified in the generator information blocks (Items 1 and 4) of the manifest. For waste sent to an alternate facility, that entity would be the actual generator of the hazardous waste, and for waste sent back to the generator it would be the designated facility rejecting the waste. For rejected waste or residue shipments being forwarded to an alternate facility, EPA believes that the generator of the initial shipment should receive a copy of the new manifest from the alternative facility so that the generator would be informed of the fate of these wastes. For shipments being returned to the generator, EPA believes that the rejecting designated facility is the appropriate entity to be identified in Items 1 and 4 of the new manifest, so that the rejecting facility can verify the receipt of the returned shipment by the initial generator named as the designated facility on the new manifest. In this latter situation, EPA's goal of ensuring that the generator is informed of the ultimate disposition of its hazardous waste would be met because the generator would actually be receiving back its hazardous waste shipment. However, the generator is not in the ideal position to verify receipt of the shipment. Consistent with the current manifest requirements (e.g., 40 CFR 262.42), EPA would prefer that a party other than the party to whom the waste is being shipped be responsible for verifying receipt of the shipment. Thus, the proposal would require the rejecting facility to complete the generator information blocks on the new manifest. In every case, however, the proposal would require the rejecting facility preparing the new manifest to sign the generator's certification, as it would be offering the return shipment in transportation, and would be responsible for performing the pre-transportation requirements and certifying to their proper performance.

EPA requests comment on these proposed procedures for facilities to prepare new manifests when forwarding rejected wastes or regulated residues to alternate facilities or when returning such wastes to generators. EPA believes that TSDFs encountering rejected wastes or residues are in the best position to consult with generators on the disposition of these wastes, and to prepare the subsequent shipments in accordance with the generator's directions. The Agency believes that this proposed approach is preferable to requiring the initial generator or delivering transporter to complete a new manifest, since this could bring about unreasonable delays in shipping the waste to its next destination, and result in uncertain management responsibilities while arrangements for the next shipment are pending.

EPA requests comment as well on the proposed approach for completing Items 1 and 4 (the generator information) on the new manifest and for signing the generator's certification. Is it appropriate that the initial generator should be identified as the generator on the new manifest for wastes being forwarded to alternate facilities? For return shipments to generators, do commenters agree with the Agency's conclusion that the interest in tracking receipt of the return shipment requires the rejecting TSDF to complete the generator information (Items 1 and 4) on the new manifest?

Under the proposal, the rejecting facility forwarding or returning rejected wastes or residue shipments would always sign the generator's certification, since EPA believes that this facility would have firsthand knowledge of how the new shipment was prepared and would be in the best position to certify to these facts. So, the rejecting facility offering these wastes in transportation would sign the certification in its capacity as the one shipping or offering the wastes in transportation, and would be liable in this capacity for the truth of the ''shipper's certification'' language included in the generator's certification statement. Since the rejecting facility is not in fact a RCRA generator, it would not be bound by the waste minimization certification language, which applies only to generators of hazardous waste. EPA requests comment on whether the proposal properly allocates the liability for these pre-transportation acts to the rejecting facility.

Alternatively, EPA could require the rejecting facility to consult with the generator on the disposition of the rejected waste, and then sign the generator's certification ''on behalf of'' the initial generator. The alternative approach would result in the manifest otherwise being completed in the same manner (i.e., Items 1 and 4 and listing the destination facilities) as under the proposed approach. However, by signing the generator's certification ''on behalf of'' the initial generator, the generator would be bound by the rejecting facility's signature on the certification statement. The rejecting facility would sign the certification only as the generator's authorized agent, and the facility would not be liable itself for the proper execution of the pre-transportation acts included in the certification. Does this alternative have more merit than the proposed approach, or, is it not fair to hold the generator

liable for the proper execution of the pre-transportation acts which it authorizes the rejecting facility to perform, but cannot really supervise from a distance? The Agency requests comment on how best to allocate the shipper/offeror responsibilities included in the generator's certification between the generator and the rejecting facility.

10. What Would You Be Required To Do Under the New Regulations?

Residues Being Sent to an Alternate Facility

If you are a TSDF or hazardous waste recycler or other designated facility who cannot fully empty a container according to 40 CFR 261.7, and you are unable to manage the container yourself and have to send a container with a residue off-site to an alternate facility, you would be required to follow these directions:

- Sign the original manifest acknowledging receipt of the waste and identifying the residues in the Discrepancy block of the original manifest;
- Contact the generator for a decision about where and how to forward the hazardous waste from your facility, and for authorization to prepare a new manifest for the shipment;
- Write the generator's name, address and U.S. EPA ID number in the generator's name and mailing address box on the new manifest (Items 1 and 4);
- Write the name of the alternate designated facility and the facility's U.S. EPA ID number in the designated facility block (Item 9) of the new manifest;
- Copy the manifest tracking number found in Block A or Item 3 of the new manifest to the manifest reference number line in the Discrepancy Block of the old manifest (Item 20);
- Write the DOT description for the residue in the Item 10 (U.S. DOT Description) of the new manifest and write the container types, quantity, and volume(s) of waste;
- Indicate ''residue waste from Shipment No. * * *'' in the Special Handling block of the new manifest; and
- Sign the Generator's Certification to certify, as the offeror of the shipment, that the waste has been properly packaged, marked and labeled and is in proper condition for transportation.

Residues Being Sent Back to the Generator

If you are a TSDF or a hazardous waste recycler who cannot fully empty a container according to 40 CFR 261.7, and you have to send the residue back to the generator, you would be required to follow these directions:

- Sign the original manifest acknowledging the waste that was received, and noting the residue in the Discrepancy block of the manifest;
- Contact the generator for a decision about where and how to forward the hazardous waste from your facility;
- Write your name, address and U.S. EPA ID number in the generator's name and mailing address box (Items 1 and 4);
- Write the initial generator's name, address and U.S. EPA ID number in the designated facility block (Item 9);
- Copy the manifest tracking number found in Block A or Item 3 of the new manifest to the manifest reference number line in the Discrepancy Block of the old manifest (Item 20);
- Write the DOT description for the residue in Item 10 (U.S. DOT Description) of the new manifest and write the container types, quantity, and volume(s) of waste;
- Indicate ''residue waste from Shipment No. * * *'' in the Special Handling Block of the new manifest; and
- Sign the Generator's Certification to certify, as offeror of the shipment, that the waste has been properly packaged, marked and labeled and is in proper condition for transportation.

Rejected Loads Being Sent to an Alternate TSDF

If you are a TSDF or a hazardous waste recycler who rejects a load and receives instructions from the generator to send the load to an alternate TSDF, either in full or in part, you would be required to follow these directions:

- Sign the original manifest acknowledging any received waste, check the rejection box in the Discrepancy block, and describe the quantity and type of rejected waste and the reason for the rejection in the description line of the Discrepancy block;
- Contact the generator for forwarding information and for authorization to prepare a new manifest for the rejected waste;
- Write the generator's name, address and U.S. EPA ID number in the generator's name and mailing address box (Items 1 and 4);
- Write the name of the alternate designated facility and the facility's U.S. EPA ID number in the designated facility block (Item 9);
- Copy the manifest tracking number found in Block A or Item 3 of the new manifest to the manifest reference number line in the Discrepancy Block of the old manifest (Item 20);
- Write the DOT description for the rejected load in Item 10 (U.S. DOT Description) of the new manifest and write the container types, quantity, and volume(s) of waste.
- Indicate ''rejected waste from Shipment No. * * *'' in the Special Handling Block of new manifest;
- Sign the Generator's Certification to certify, as offeror of the shipment, that the waste has been properly packaged, marked and labeled and is in proper condition for transportation.

Rejected Loads Being Sent Back to the Generator

If you are a TSDF or a hazardous waste recycler who rejects a load and receives instructions to send the load back to the generator, either in full or in part, you would be required to follow these directions:

- Sign the original manifest acknowledging any received waste, check the rejection box in the Discrepancy block, and describe the quantity and type of rejected waste and the reason for the rejection in the description line of the Discrepancy block;
- Contact the generator for forwarding information;
- Write your name, address and U.S. EPA ID number in the generator's name and mailing address box (Items 1 and 4);
- Write the generator's name, address and U.S. EPA ID number in the designated facility block (Item 9);
- Copy the manifest tracking number found in Block A or Item 3 of the new manifest to the manifest reference number line in the Discrepancy Block of the old manifest (Item 20);
- Write the DOT description for the rejected load in Item 10 (U.S. DOT Description) of the new manifest and write the container types, quantity, and volume(s) of waste;
- Indicate ''rejected waste from Shipment No. * * *'' in the Special Handling Block of the new manifest; and
- Sign the Generator's Certification to certify, as offeror of the shipment, that the waste has been properly packaged, marked and labeled and is in proper condition for transportation.

11. What Conditions Would Apply to a Rejected Waste or Container Residue Shipment Once the Generator Receives It Back From the TSDF?

A generator would have up to 90 or 180 days (depending on his/her SQG or LQG status at the time the generator sent the rejected shipment or container residues to the TSDF) to send the rejected shipment or container residue to an alternate TSDF. Generators would not be required to obtain a RCRA permit for the period of time that the returned

waste is on-site as long as they comply with § 262.34(a) (for generators with 1000 kg or more on-site at time the waste is sent) or § 262.34(d) (for generators with less than 1000 kg on-site). Because EPA intends and expects that hazardous waste would be returned to the generator infrequently (only when an alternate facility is unavailable), the Agency decided not to propose a new time frame, or other requirements, to address these rare occurrences. We believe the simplest approach would be for generators to manage rejected wastes and residues within the existing framework for on-site accumulation, since generators are already set up to handle hazardous waste within 90 or 180 day time frames, and are familiar with managing waste in accordance with the provisions of § 262.34. Please note that small quantity generators would not be able to accumulate greater than 6,000 kg of hazardous waste on-site at any time. The Agency emphasizes that it is not reconsidering, reopening, or requesting comment on the provisions of § 262.34.

In addition, it is important to note that a generator would only be allowed to accumulate a rejected load or residue if that hazardous waste was originally sent to the designated facility with the understanding that the designated facility could accept the waste. In other words, this provision only covers generators who sent the hazardous waste to the designated facility in good faith. EPA would consider a range of factors—e.g., whether a generator has repeatedly sent waste off-site to TSDFs, only to have it rejected and returned, or whether the generator knew or should have known that the TSDF could not accept its waste—in determining whether a given shipment was in good faith or a sham.

12. On What Issues Would EPA Like To Receive Comments?

You are being asked to consider whether these proposed provisions for residues and rejected loads would improve hazardous waste tracking for these shipments. Specifically, EPA would like comments on the following:

- Should EPA require a TSDF to close out the original manifest and prepare a new manifest for all instances where waste is rejected or a regulated residue requires off-site management? Is it desirable to require facilities in all such cases to use the facility certification and discrepancy block to positively identify waste rejections and the reason for the rejection? Are there instances where it is more practical to revise the original manifest rather than generate a new manifest. Is there merit to EPA's proposal to follow one consistent approach (using a new manifest) for all rejection scenarios?
- Are the procedures clear on how rejecting TSDFs must complete the generator information spaces on the new manifest (Items 1 and 4) and sign the generator's certification? The proposal would have the rejecting TSDF responsible for ensuring that the pre-transportation requirements are properly performed with respect to rejected wastes and container residues. Is this an appropriate allocation of responsibility?
- How would transporters be affected by the proposed rejected waste and residue procedures? When a waste is rejected at the time of attempted delivery, is the transporter or the designated facility better suited to contact the generator to obtain instructions for forwarding waste to another facility? Would transporters be delayed unreasonably by the proposed procedures if they must wait for the designated facility to prepare a new manifest?
- What should be the designated facility's responsibility for managing rejected waste while it is awaiting shipment to an alternative facility?
- Do the proposed procedures for rejected loads and residues ensure generator notice and decision-making with respect to the disposition of rejected wastes and residues? Do generators want or need to be involved in decisions involving such wastes?
- Are the directions clear? If not, how can they be made more clear?
- Should a generator be allowed to received his/her own rejected shipment or container residues back from a TSDF? If yes, how long is reasonable for a generator to hold his/her rejected waste before sending it to on to an alternate TSDF? Should EPA allow the accumulation clock to run anew (as proposed), or limit the total time for accumulation to 90 or 180 days? Note: EPA is not reconsidering or requesting comment on the current provisions of § 262.34. We are only requesting comment on those provisions as they would apply to the accumulation of rejected loads or residues under this proposal.

VII. Automation of the Manifest System

A. Introduction

1. Summary of Today's Electronic Manifest Proposal

EPA is today proposing to allow waste handlers (generators, transporters, and treatment, storage or disposal facilities) the option of preparing, transmitting, signing, and storing their manifests electronically. EPA believes that electronic manifesting could greatly reduce the paperwork burdens of the current system, while improving the effectiveness of tracking waste shipments and managing data. In addition, in those states that collect manifests and maintain databases to track manifest data, the proposal would foster a consistent approach for submitting manifest copies electronically to the states. The proposal includes standardized electronic data interchange (EDI) formats and an Internet Forms format for the electronic manifest. These formats should permit the exchange of electronic manifests among waste handlers in a manner that ensures the compatibility and interoperability of these files. The standardized electronic formats should also facilitate the management of manifest data by state programs, as the standard formats would minimize the need for manual data entry or other time-consuming processing of the data prior to its import into the states' tracking databases.

The manifest automation standards in today's proposed rule include 3 major components: (1) the proposed EDI and Internet Forms file standards for the electronic manifest; (2) a proposed standard for electronically signing the manifest with electronic signatures; and (3) a proposed set of computer security standards for computer systems that would create, process, and store electronic manifest records. EPA believes that standards in these 3 areas are essential to the successful implementation of an automated manifest.

In addition to proposing the electronic manifest standards summarized above, this proposed rule would eliminate impediments to an electronic system in the current regulations. Thus, explicit references in the current regulations to the use of specific paper forms and the use of ''by hand'' signatures would be amended to allow for their electronic equivalents. Likewise, regulatory provisions that now require all manifest copies to be physically carried with the waste shipment would be expanded to allow manifest copies to be transmitted electronically. Moreover, the current record retention requirements would be amended to clarify that the storage and use of electronic records bearing the required electronic signatures would have the same legal effect under RCRA as retaining and using paper copies signed with conventional pen-and-ink signatures. Generally, RCRA regulations require that manifest records be retained for three years from the date of a

shipment, but in many cases, facilities may retain these records indefinitely in order to address potential liabilities for future site cleanups.

2. Why Is EPA Proposing These Changes?

EPA is proposing an electronic approach for manifesting hazardous waste, because the Agency believes that information technologies present tremendous potential for reducing the significant paperwork burdens of the current manifest system. EPA's Regulatory Impact Analysis for this rulemaking estimates that the current manifest system imposes a total paperwork burden on waste handlers and States of more than 4.6 million hours annually, and results in costs of more than $193 million. We discuss the potential burden reduction from the electronic manifest later in this preamble section (see heading 5). We also believe that electronic manifests would give rise to the exchange of higher quality manifest data, and to more timely and efficient access to this data. Data would be of a higher quality, because the direct import of waste shipment and receipt data between electronic manifests and facilities' and states' data bases would give rise to fewer data transposition and interpretation errors than occur now when manifest data must be manually processed from paper forms. As a result, both the tracking of hazardous waste shipments by waste handlers and the management of state hazardous waste programs should be more effective.

Further, this action is consistent with the requirements of the Government Paperwork Elimination Act (GPEA). GPEA generally mandates that agencies accept, by October 2003, electronic documents and electronic signatures for the transactions that agencies conduct with the public and with regulated parties.

While the transition to fully electronic systems would take some time to implement, the Agency is motivated by a desire to transform the manifest system quite dramatically from its current paper-based approach to one that supports paperless manifest completion and transmission. The Agency further desires to establish an ''open'' or non-proprietary set of standards that would allow the information technology community broad latitude to develop innovative hardware and software solutions. We believe that our proposed approach to manifest automation would allow electronic options to develop for both large and small facilities, so that many may benefit from the greater efficiencies available with an electronic system. EPA emphasizes, of course, that the electronic manifest would be an option available to those who wish to use it; it is not the Agency's intent to mandate its use. Those entities that are more comfortable with the paper form would still be able to obtain and use the paper manifest form to track their hazardous waste shipments.

This approach is consistent with EPA's efforts across all its environmental programs to promote the adoption of electronic reporting, and to ensure implementation in a consistent manner that is compatible with current practices in the private sector. EPA is evaluating all of its programs for regulatory and procedural barriers to the use of electronic records and reports. Thus, this proposal aims at both eliminating impediments to an electronic manifest in the current regulations, and at developing standards that would promote consistent and widespread implementation of an electronic waste tracking system.

3. Who Would Be Affected by These Changes?

EPA anticipates that the electronic manifest would affect all types of hazardous waste handlers, including large and small quantity generators, transporters, and treatment, storage, and disposal facilities (TSDFs). State hazardous waste agencies that collect manifests would also see a large impact on the procedures and resources they use to process manifest copies and enter manifest data into their tracking systems. Currently, about 24 states collect manifests and track this data. States and waste handlers have also expressed support for using electronic manifest data for preparing more easily their submissions to EPA's Biennial Reporting System.

The Agency developed this proposal to ensure that electronic manifesting would be accessible to all types of waste handlers. For example, large generators and TSDFs may find it convenient and economical to extend EDI systems that may already be in place for financial/purchasing information to their waste management departments. These larger facilities may adopt a traditional EDI model that involves transmitting the standard EDI formats across secure Value Added Networks or VANs, or choose to deploy a non-traditional EDI model which uses secure E-mail technology or Secure Socket Layer (SSL) transmissions to pass EDI transaction sets over the Internet. Mid-sized firms and some small entities may find it more practical to implement the electronic manifest as a web form which they access and complete while connected to the Internet. Finally, this proposed approach should also be accessible to many other small generators, who would not otherwise find it practical or efficient to obtain or use their own computer equipment to transmit only a handful of manifests. The proposed rule would clarify that, as with the existing paper manifest system, a generator may authorize another person (e.g., a contractor, transporter or TSDF) to complete and sign the manifest on the generator's behalf. Alternatively, transporter personnel picking up shipments could use remote, portable devices to obtain a generator's electronic signature on an electronic manifest.

4. What Manifest Automation Is Already Occurring?

Existing efforts to automate the manifest can be characterized as limited and uncoordinated. For example, at the ''front end'' of the manifest system, a variety of customized as well as commercial software products are in place or available to assist generators in tracking their hazardous materials and hazardous waste inventories. Several of these products support the automated preparation of manifests, and the development of manifest templates to be completed in connection with commonly encountered waste streams and shipment profiles. However, consistent with current manifest requirements, these products generate a manifest document which must be printed and signed, and the paper copies then travel with the shipment in the conventional manner. So, any paperwork burden reduction achievable now is limited primarily to the manifest preparation effort.

Similarly, at the ''back end'' of the manifest system, several states have encouraged their higher volume reporting facilities to submit manifest copies to states in electronic formats. Several states have specified ''flat file'' standards which are peculiar to each state's database platform and structure, and which define the content fields for each data element in a record strictly according to its physical position in the file. Other states have attempted to use scanners and optical character recognition (OCR) technology to convert paper copies they receive to electronic files that can then be more readily manipulated. More recently, a few states have tried in the past to establish pilot programs allowing their larger waste facilities to submit electronic copies using an EDI approach. These initial pilots were hampered by certain regulatory impediments to a complete

electronic manifest system, and by the small volume of manifests involved, which did not justify investment by waste handlers or state agencies in EDI software and infrastructure.

These limited efforts to date at reporting manifest data electronically have primarily benefitted the state agency receiving the data, by eliminating the resource intensive process of manually re-keying the data from the forms to the tracking system. While these initial efforts have led to some modest improvements in preparing and processing manifests, they have not been sufficiently comprehensive in their scope nor coordinated enough to bring about more meaningful paperwork burden and cost reductions. A preferred approach would be one that would enable a manifest to be initiated electronically, transmitted and signed electronically, stored electronically, and where necessary, reported to states electronically, without the need to convert between paper and electronic formats. This approach would be more effective, because it would eliminate (with minor exceptions) the inefficiency of maintaining both paper and electronic copies for the same shipments, and it would eliminate the manual and burden-intensive processes needed to convert between paper and electronic formats. In addition, if a standard electronic file format were specified as part of this approach, the regulated community could avoid a situation where they would be required to support multiple file formats prescribed by the various states. Thus, this proposal aims at establishing standards for electronic manifesting that could extend to nearly all aspects of the manifest cycle. This proposal would not, however, affect DOT's shipping paper requirements, including the requirement that a paper copy of the manifest or a shipping paper be carried on the transport vehicle. In other limited instances (e.g., a transporter unable to participate in an electronic system), additional paper copies might also be necessary. However, the proposal would promote as far as possible the elimination of paper manifest copies and their related paperwork burdens.

5. How Much Reduction in Burden and Cost Would Be Achieved by Automation?

EPA's analysis suggests that automation of manifest activities would reduce paperwork burdens substantially among all waste handlers. The baseline paperwork burden imposed on waste handlers from all current Federal and State requirements is estimated to exceed 4.4 million burden hours annually. These Federal and State requirements impose compliance costs on waste handlers exceeding $187 million per year. The Regulatory Impact Analysis for this proposal suggests that the reduction in waste handler burden from the electronic manifest would range between 488,000 hours and 938,000 hours annually, assuming that all States would eventually recognize the validity of electronic manifests. This reduction in burden hours from automation is expected to account for between 69% and 82% of the total savings expected from all the manifest system revisions proposed today. In terms of cost reductions, EPA projects that manifest automation could produce between $14.4 million and $26.6 million in cost savings to waste handlers.

In addition, among the States that collect manifest copies and track manifest data, EPA's Regulatory Impact Analysis estimates that these States collectively incur about 200,000 burden hours each year as a result of processing manifests. We further estimate that the submission of electronic copies in standardized electronic formats could reduce these states' manifest processing burden by as much as 79,000 annual hours. Overall, states could realize a cost reduction of about $1.5 million (roughly 25% of current costs) annually in operating their manifest programs, because of reduced data processing costs. Initially, these cost reductions would be offset somewhat by costs which the states would incur as they establish the capability to receive inbound electronic manifests, revise their data bases to reflect the proposed form revisions, and map the electronic documents to their particular information systems.

6. What Other Benefits Would Result From an Electronic Manifest System?

In addition to the significant paperwork burden and cost reductions summarized above, EPA believes that a successful implementation of an electronic manifest system would produce other benefits for waste handlers and state oversight agencies. First, waste handlers could determine in nearly ''real time'' the status of their waste shipments. A generator could receive nearly immediate electronic confirmation of the receipt of their waste at the designated waste management facility, rather than waiting a month or more (as the current regulations allow) for a written confirmation to arrive in the mail. This could afford waste shippers a level of tracking service that is similar to that already available from commercial package delivery services. This level of tracking is not available under the current paper-based system, which assumes that clerical staff would need several days or weeks to review, mail, and respond to paperwork related to their hazardous waste shipments.

Second, both waste handlers and state agencies could receive more immediate notice of problems that arise during the transportation of a waste shipment. TSDFs could report to generators any significant discrepancies in waste types or amounts or rejected loads within moments of discovering the problem. Likewise, generators would be likely to spot and try to reconcile ''exceptions'' (occasions when a signed manifest confirming receipt of a shipment by the TSDF is overdue) more quickly than is possible under the current paper-based system, which requires a generator to wait for 35 days to pass before inquiring about the status of a shipment for which written confirmation of receipt is lacking. The current system delays notification of discrepancies and exceptions, because it loads into the notification process the time needed for facility personnel to review their paper files and then mail verifications or other notices to generators. Conceivably, an electronic system would allow this information to be transmitted at or near the time the problem was discovered (i.e., at the time the manifest was signed by a TSDF's receiving personnel), rather than waiting for clerical staff to catch up with several days or weeks of accumulated paperwork.

Third, the proposal should produce higher quality manifest data, since there would be fewer data entry steps that would otherwise invite errors from data interpretation or transposition. State personnel and waste handlers receiving electronic copies would not be as likely to be confronted with illegible manifests, which occur with some frequency with handwritten manifests and carbon copies that do not print clearly. Since electronic forms could be entered into state tracking systems upon receipt at the state agency, access to this data would also be more timely. Many states have advised us that it may take several weeks or even months for data entry personnel to enter data from paper forms into their tracking systems. Therefore, reports generated from electronic systems would be based on more accurate and up-to-date information, and fewer resources would be required to manage the data.

Fourth, when fully implemented, enforcement officials could conduct electronic record searches that would more efficiently target enforcement

activities. Not only would electronic searches of files more quickly focus inspection resources on transactions of interest, but it is conceivable that the record inspections could be conducted off-site in advance of on-site activities. So, on-site inspection efforts could be directed more closely at a discussion of significant issues disclosed by the records previously reviewed, rather than exhausting substantial time and resources examining file drawers of paper manifests at the facility.

7. What Are the Concerns Associated With Automated Systems?

There are several potential concerns involved with the transition to an electronic waste manifest system. An emphasis of this proposed rule is to establish requirements for security and data integrity that would minimize these problems. EPA has considered each of these concerns in the course of developing this proposal, and has attempted to address them with appropriate controls. The proposed controls and security requirements that deal with each of these concerns are discussed in section VII.F. of this preamble. We request your comments on these and alternative options to ensure secure transactions, accountability, and data integrity.

a. *Inadvertent or deliberate corruption of records.* Computer software applications manipulate data extremely efficiently, but the power of these programs can also pose serious consequences for data integrity when problems arise. By accident or by design, an individual operating such software could delete or substantially alter their files. For example, hundreds of records stored on a hard disk drive or on floppy disks can be lost if the operator instructs the operating system to format or erase the disk. Also, an original record could be mistakenly or purposefully overwritten by a replacement file that is stored under the same name. So, safeguards must be established to minimize the threat of data loss or corruption. With some digital media, data could be altered without leaving the traceable evidence of alteration that is commonly found with paper erasures and ''white-outs.'' Thus, investigators and prosecutors alike are concerned that it may be more difficult to detect and prosecute at least some cases of computer fraud and forgery. These concerns are balanced, however, by the recognition that using properly designed and implemented electronic systems for processing data can also reduce the likelihood of data loss and the potential for fraud. This results because records can be authenticated electronically and more readily stored in multiple locations. Today's proposal would include electronic signature standards that preclude the alteration of documents after they are signed, the requirement of backup copies to deal with accidents or disasters that cause electronically stored documents to be lost or corrupted, and audit trail requirements to identify the date, time, and source of all operator entries that would create or alter a document. The digital signature method discussed later in this preamble is one effective way to guard against this concern, since digitally signed documents are much less (if at all) susceptible to data alterations than documents signed with other methods.

b. *Unauthorized access to systems or data.* The press has publicized broadly tales of ''hackers,'' that is, individuals who have penetrated computer systems to conduct theft, sabotage, espionage, or other mischief. However, in many instances, the greater threat may be posed not by outsiders, but by insiders who should not have been granted access to the system. A related risk is the danger that persons who create electronic records may rely on the perception that electronic systems are vulnerable to unauthorized access to repudiate documents they have created. Typically, passwords and personal identification numbers (PINs) are employed to control access, and to limit system use to those with a need to know the data. Today's proposal would require electronic systems to use authority checks to limit system access (including access to input or output devices) to authorized persons. Electronic systems would need to be designed to detect attempts at unauthorized access as well as invalid or altered records.

c. *Limited human involvement and speed with which transactions are executed.* With an automated system, information can be created and sent to the recipient in an instant, perhaps without adequate human oversight over data quality. The immediacy and irrevocability of electronic transactions thus require much care on the part of users. At the same time, computer systems are able to perform automatic quality control on transactions quickly, while integrating multiple sources of information. So, in many instances, computer systems may detect problems or data entry errors far more readily than is possible with paper-based systems.

d. *Natural disasters and system failures.* Floods, fires, and earthquakes can quickly wipe out an information system and all its stored records, unless safeguards have been followed and back-up systems and records created. Moreover, networks may ''go down,'' and system crashes can interrupt electronic systems unless they are promptly serviced or backed up with other equipment. On the other hand, paper records are susceptible to many of these same problems, especially where natural disasters are concerned. Paper records may also become useless if they are not indexed or filed properly. Today's proposal would require electronic systems to be designed to protect records from intentional or accidental damage, and to produce secure back-up copies or provide for data recovery in the event of a loss. In addition, as with the current paper-based manifest system, electronic manifest copies would be sent to multiple entities involved with handling the waste or tracking the receipt of waste, including generators, transporters, TSDFs, and states. This redundancy in distributing manifest copies would provide additional protection against loss or undetected data alteration.

e. *Software defects and interoperability issues.* Our increasing reliance on information technology has given rise to the development and use of software applications that are very complex and which are frequently updated or replaced. Even software products that have been heavily tested and widely distributed have been found to contain hidden defects or ''back doors'' that have hindered their use or have allowed security features to be overridden. As more products become available to support a function, concerns arise about the interoperability of different systems and whether data can be exchanged and processed consistently. As systems are replaced and upgraded, there is also the concern that data that were created by and accessible on the original system would not be accessible on the replacement system. All of these factors may reduce confidence in the trustworthiness of electronic records. Today's proposal addresses these concerns by requiring electronic manifest systems to be validated for their consistent performance and their interoperability with other systems with which data would be exchanged. In addition, the proposal would require facilities to retain prior versions of software and hardware as necessary to access manifest records throughout their retention period.

B. EPA's Current Electronic Reporting Policy

1. What Is EPA's Current Electronic Reporting Policy?

On September 4, 1996, EPA published a ''Notice of Agency's General Policy for Accepting Filing of Environmental Reports via Electronic Data Interchange (EDI)'' (61 FR 46684). The September 4, 1996 policy sets forth the basic approach for EPA to implement EDI for environmental reporting. The policy does not mandate the use of EDI; rather, it establishes a consistent framework for implementing EDI across EPA programs, so that the benefits of EDI may be maximized. The policy specifically recognizes that other methods of conducting electronic commerce would emerge, and that EDI may not be appropriate for all types of facilities and reports.

EPA first endorsed EDI for environmental reporting in its earlier ''Policy on Electronic Reporting,'' 55 FR 31030 (July 30, 1990). This initial EPA policy statement was intended to promote a uniform Agency approach to electronic reporting that was compatible with current industry and government practices. The policy advocated a standards-based approach grounded on the use of American National Standards Institute (ANSI) Accredited Standards Committee (ASC) X12 standard formats and communications protocols for EDI.

As described in the September 4, 1996 notice, facilities would, under certain conditions, be able to submit required reports electronically to EPA using EDI. First, the 1996 policy would require reporting facilities to enter into a Terms and Conditions Agreement with the Agency (61 FR 46684). The Terms and Conditions Agreement includes mutual recitals under which the parties recognize the validity and enforceability of electronic submissions, and agree not to contest their validity. The Agreement also contains provisions dealing with when documents are considered to be received, when they should be re-transmitted, when they must be acknowledged, and when they are considered to be signed. Based on EPA's assessment of technology that was current in 1996, as well as costs and the level of certainty thought to be necessary for authentication of most environmental reports, EPA adopted a personal identification number (PIN) based approach for signing and certifying electronic reports. Therefore, the Generic Terms and Conditions Agreement in the 1996 Policy contains provisions dealing with the assignment and management of PINs. The Policy defines a PIN as a sequence of alpha-numeric characters, and it specifies that the appearance of an individual's PIN on an electronic message shall be deemed to indicate the authenticity of the message. 61 FR 46686. Finally, under the 1996 Policy and its Generic Agreement provisions, facilities would be required to adhere to certain security and audit/control requirements, including requirements to retain transmission logs and PIN records. 61 FR 46687.

Significantly, the 1996 Policy was not intended to specify all the requirements applicable to electronic reporting of a specific environmental report. Rather, the 1996 Policy anticipated that program-specific notices would follow, incorporating the explicit technical EDI implementation guidance necessary for a specific program report, as well as any additional security or administrative requirements required by specific EPA programs. Therefore, today's proposal would provide the implementing regulations and specific procedures that authorize the use of EDI for the RCRA hazardous waste manifest program. Today's proposal also expands on or modifies some provisions of the 1996 EDI Policy as it affects the manifest program, reflecting both changes in technology and the specific needs of the manifest program.

2. What Is Electronic Data Interchange (EDI)?

Electronic Data Interchange (EDI) is the transmission, in a standard syntax, of unambiguous information between the computers of organizations that may be completely external to each other. It thus allows for the exchange of information between computer systems that would otherwise be incompatible with one another. It has been widely used by the private and public sectors for commercial transactions and general data transfer, particularly for transactions of a routine or repetitive nature. As an ''open systems'' approach to data exchange (i.e., data exchange is not limited to entities within a company's own system or closed network), EDI is largely independent of specific technology environments, so it provides a transparent bridge between various hardware and software platforms.

From aerospace and automobile manufacturing to warehousing and wood products, EDI is a dominant form of electronic commerce. In the United States, EDI is based on standard formats and protocols developed and maintained by an independent organization, the ANSI Accredited Standards Committee X12. Supporting these standards are a wide array of commercial software packages and communications networks, and there is a growing reservoir of industry EDI experts that are available to both EPA and the regulated community.

3. How Does EDI Work?

EDI is essentially a series of computer language translations. If two companies agree to exchange data via EDI, each translates their outgoing data into a common EDI ''language'' which can be read by the EDI translator of the other company. Each company receiving an EDI transmission then converts the incoming data from the common EDI language into a format that can be read by its computer and used in its data base system. Typically, the data transmissions are sent through a third party Value Added Network (VAN), and delivered to each company's mailbox on the VAN. More recently, some companies have begun to use secure E-mail on the Internet as an alternative to using VANs. The EDI standard formats, or transaction sets, are non-proprietary, and data can be sent or received in the standard format independently of the type of software or computer system used by the sender or receiver. Unlike a ''flat file'' format, which defines the content fields for each data element by its physical position in the file, an EDI transaction set is a relational file format, which contains predefined tagging structures and well defined hierarchical data file structures. The predefined tagging structures specify how the data should be formatted so that the EDI software can interpret the specific contexts and relationships of the data presented in a file. These tags then enable data in EDI files to be defined, transmitted, validated, and interpreted between applications and organizations, since the tagging structures and the data element relationships defined by the tags are understood by all EDI compliant software. The hierarchical data file structures are also significant for EDI, because they represent an orderly scheme for formatting and organizing related pieces of information in a hierarchical manner, that is, in the shape of a pyramid, with each row a collection of information that is linked in a specific way to the information presented directly beneath it. Once users of EDI systems complete the initial installation of EDI software and configure it to map the EDI transaction sets used to their specific information systems, both senders and receivers are free to use their existing information management systems to report, import or manipulate data. They are also spared the trouble and expense of having to develop and maintain their own

customized reporting software, or the file standards and communications protocols that enable data to be exchanged with others.

4. Why Would EDI Be Suited to an Automated Manifest System?

EPA believes that an EDI approach to automating the manifest makes sense for several reasons. First, the EDI technology is already used extensively for the exchange of data in the business arena. Although the manifest is not a business transaction, EPA believes that the existing expertise and the existing commercial software products and networks which support the exchange of business data can be leveraged for use with manifest data. Second, the manifest is a high volume, recurring transmission for many larger generators and hazardous waste handlers. EDI is most appropriately applied to routine and repetitive transactions, such as the submission of invoices or health claims forms. Third, EDI is a common method for integrating electronic reporting with existing information systems. Currently, about 28 states maintain manifest tracking databases using different hardware and software platforms and database structures. Many waste handlers also have developed or purchased information systems which they use to track their hazardous wastes and other materials inventories. So, EDI could be a sensible way to accommodate the legacy systems already installed by industry and the states. Also, because EDI is an ''open systems'' approach maintained by an independent standards body, our adoption of an EDI standard in this proposal would not give an undue competitive advantage to any vendor's particular proprietary product. Further, neither EPA nor our authorized states would need to develop and/or maintain software products and standards under an EDI-based manifest approach.

5. Would a Terms and Conditions Agreement Be Required?

A major component of the September 1996 Electronic Reporting Policy was the requirement that facilities wishing to report electronically to EPA enter into a Terms and Conditions Agreement with the Agency. The major requirements for electronic reporting programs were to be included in this agreement, and the parties to the Agreement would agree not to challenge the validity of electronic documents.

EPA has decided that it is more practical in this rulemaking to specify the key terms and conditions for electronic manifesting in enforceable regulations rather than require entities to enter into Terms and Conditions Agreements. While it may be practical to require an agreement between EPA and individual members of the regulated community to govern their direct reporting to EPA, these are not the circumstances which operate with respect to the manifest. Most electronic transfers of manifests would occur between numerous waste handlers (i.e., EPA is not involved), and it would be very burdensome to require each waste handler to negotiate an agreement with all the entities with whom they might exchange manifests. Therefore, a Terms and Conditions Agreement would not be required for automated manifesting. Key elements of the September 1996 Policy have been incorporated into this proposed rule, and the Policy's content on the issuance and management of PINs has been replaced in this proposal by the proposed requirements for digital signatures and secure digitized signatures. Parties establishing electronic manifesting systems may require others to agree to terms and conditions on the use of their systems, but such contractual matters would not be covered by or affected by this proposal.

6. What Alternatives to Traditional EDI Is EPA Considering?

The Agency is currently evaluating a number of alternative means for transmitting manifests electronically. This evaluation is being guided not only by the September 4, 1996 policy statement, but also by manifest automation pilot tests and other electronic reporting initiatives which EPA has supported in recent years. While the September 1996 policy was based on a traditional EDI approach involving the exchange of ASC X12 transaction sets across a Value Added Network by parties subject to Terms and Conditions Agreements, other approaches may also be viable and in some cases, more practical than conventional EDI conducted across VANs. For those companies using EDI systems, one alternative approach might be to offer these firms the option of securely transmitting EDI transaction sets using ''E-mail'' and/or File Transfer Protocol (FTP) provided through a third party Internet Service Provider (ISP), rather than a VAN. The Agency is also particularly interested in promoting the use of the Internet for electronic manifesting, as this may be a more practical medium for many facilities who may not be equipped to engage in traditional EDI. So, EPA is examining the merits of an approach under which an electronic manifest would be completed as a ''web form,'' and then transmitted in an Internet markup language known as the Extensible Markup Language or XML. The proposal includes a proposed Document Type Definition format for the manifest. Alternatively, ''web form'' manifests might be translated to an EDI format by a server hosting EDI translation services, and then transmitted as an ASC X12 compliant manifest to recipients using Internet data transfer protocols.

EPA is today proposing both an EDI option and an Internet Forms (XML language) option for conducting electronic manifesting. We are also interested in taking comments on other approaches that may not be described in today's proposal, but which also appear to have merit given the purposes and workflow process associated with the manifest. The Agency emphasizes, however, that its preferred approach is to rely as much as possible on approaches that are based upon open standards, rather than those that depend upon specific hardware or software that implements proprietary standards.

7. What Are the Manifest Automation Pilots?

In 1998, EPA began conducting the first of several manifest automation pilot tests. The objectives of the pilot are to:

- Demonstrate the feasibility of automating the entire manifest cycle, including preparation, transmission and signing of copies, recordkeeping, and reporting;
- Demonstrate the feasibility of using EDI and other forms of electronic commerce to track waste shipments in a secure and practical manner;
- Facilitate the development of automation standards to be included in this rulemaking;
- Identify and address impediments to manifest automation; and
- Evaluate the savings and costs associated with an automated approach.

The first phase of tests demonstrated an EDI approach involving several waste handlers and state hazardous waste agencies in the States of Illinois, Indiana, and Minnesota. EPA purchased EDI translator software and VAN services from Sterling Commerce Corporation, which customized its Gentran:Smartforms™ software application to incorporate the approved federal convention mapping the ASC X12 Transaction Set 856 to the federal hazardous waste manifest. The software package featured an intuitive user interface and a customized data entry template with built-in edit checks and user aids to facilitate the preparation of EDI manifests. The 1st phase of tests required the 8 industry participants to send numerous manifest transmissions

to other trading partners during the period from July to December 1998. Some of these transmissions reflected real hazardous waste shipments, while others ''tracked'' simulated events. The tests were planned to model a variety of waste shipment events, including waste receipts, waste rejections, discrepancies, and intra-and inter-state shipments.

The 1st phase of tests relied upon PIN numbers to take the place of handwritten manifest signatures. A 2nd phase of EDI tests was conducted in the Fall of 1999. The 2nd phase of tests integrated the EDI software and manifest formats used in the 1st phase pilot with a security product named ''SecurEC™'' from Sparta, Inc. The SecurEC™ product added a digital signature authentication method and other security services to make the 1st phase EDI configuration compliant with the ASC X12.58 security protocol. A third phase of the pilot tests began in March 2000, and demonstrated with facilities in New York State, Pennsylvania, and Illinois the feasibility of using Internet Forms technology and digitized signatures to complete and transmit manifests. As these additional tests are completed, EPA would include reports summarizing the results and key lessons learned from the pilot in the record for this rulemaking. Current information about the Manifest Automation Pilot tests is also available on EPA's World Wide Web site at http://www.epa.gov/epaoswer/hazwaste/gener/manifest/

C. Overview of the Electronic Manifest Proposal

1. What Is Included in Today's Proposal on the Electronic Manifest?

Today's proposal includes several components which together define a framework for automating the hazardous waste manifest. The proposal includes several regulatory amendments (summarized below) that would eliminate impediments in the existing regulations to an electronic manifest. The proposal also would add new provisions that set forth standards for the electronic file formats that may be used as electronic manifests, standards for electronic signatures, and standards for trustworthy electronic systems, including electronic record storage.

The proposed electronic manifest system requirements consist of technical standards and computer security controls which EPA believes are necessary in order to ensure system trustworthiness and data integrity in electronic manifests. These controls are also necessary to establish a sufficient foundation for the admissibility of electronic manifest data as evidence in civil or criminal proceedings. In addition, EPA believes these controls would foster commercial acceptance of the electronic manifest as a tool for tracking waste shipments.

2. Is Electronic Manifesting Mandatory for Waste Handlers?

No. Today's proposal would only establish requirements and standards for those regulated hazardous waste handlers (*i.e.,* generators, transporters, and TSDFs) that elect to transmit manifests electronically. It is not the Agency's intention to mandate the use of the electronic manifest by waste handlers, and the paper Uniform Manifest (Forms 8700–22 and 22–A) would remain available for those desiring to complete and transmit their manifests manually. Likewise, nothing in this proposal would require waste handlers to report manifest copies to their states, if they are not already required to do so as a matter of state law.

3. Must Authorized State Programs Adopt Electronic Manifesting?

Today's proposal would not require States to adopt electronic manifest authorities as a part of their authorized RCRA programs. However, EPA is still considering whether States should be required to adopt such authorities in order to ensure consistency with the Federal program and other State programs, and we may include such a requirement as part of the final rule. If States elect to adopt the electronic manifest option, they would be required to adopt authorities addressing the standard electronic formats, the electronic signature standards, and the computer security controls described in this section. The State implementation issues are discussed further in section IX. of the preamble. EPA requests comments on whether specific electronic manifesting requirements are necessary components of states' programs, and on the potential impacts of such requirements.

4. What Happens if the Transporters of My Hazardous Waste Don't Automate?

EPA recognizes that there may be times when an electronic manifest cannot be passed to all the waste handlers involved in a waste shipment. Fundamentally, a TSDF must be able to receive and process electronic manifests, and either the generator or transporter should also have the capability to create or transmit an electronic manifest.

EPA has established these proposed standards so that generators and TSDFs could substantially automate their manifest programs, even if the transporters involved with a shipment do not participate in manifest automation. So, a generator may still participate in electronic manifesting with the designated TSDF receiving the waste shipment, as well as any state agencies that elect to collect manifest copies electronically. Even if the transporters do not participate electronically, the preparation function, recordkeeping and reporting functions, and the key function of verifying receipt by the TSDF could still be accomplished electronically. In such a case, the transporter could provide the generator with a hand-signed copy of the manifest or other shipping paper under 49 CFR Part 172, Subpart C, as DOT shipping paper requirements would not be affected by this proposal. The transporter could retain a hand-signed copy of this paper for its files, and the generator could pass an electronic manifest copy directly to the TSDF with a notation in the transporter signature block that a manual signature is on file. The TSDF could then transmit to the generator electronically its verification of receipt, discrepancy information, or other response related to the shipment. All the waste tracking, signature accountability, record keeping, and emergency response functions of the manifest system are preserved by such an arrangement, even though a part of the shipment record may consist of a signed shipping paper and another part consist of the electronic manifest. Where a signed shipping paper is retained as a generator's or transporter's record, it must also bear the manifest tracking number assigned to the electronic manifest for that shipment, so that the shipping paper records can be linked to the manifest in the event questions are later raised about the shipment, or in the event of an inspection of these records by a RCRA inspector.

5. What Happens if the Generator Is Not Able To Prepare an Electronic Manifest?

While the above discussion deals with the situation where a transporter is not automated, EPA expects that the more frequently encountered issue would be that generators would not be equipped to prepare manifests electronically. Indeed, the electronic manifest would more likely be brought to generators sites by the larger transporters and TSDFs with integrated waste transportation and waste management functions. These entities deal with large numbers of hazardous waste shipments on a day-to-day basis and would have a greater incentive to automate their waste

tracking and data management activities.

In those instances where the generator is not automated, the transporter could prepare the electronic manifest data for a particular shipment, and obtain the generator's electronic signature by using a portable device (e.g., a digitizer pad joined to a wireless unit) that captures the generator's signature and initiates the shipment. This approach would mimic closely the current procedure for the paper manifest, and it would not require the generator to purchase or use any of its own computer equipment to enter its manifests into the electronic system. Of course, in a case where the generator signs an electronic manifest using a portable device provided by a transporter, the transporter would need to provide the generator with a hard copy of the manifest for the generator's records.

Alternatively, a non-automated generator could authorize the transporter personnel who come on-site and prepare the shipment for transportation to sign the manifest electronically on the generator's behalf. As with the current paper manifest system, this proposal would also allow a person other than the generator (e.g., a transporter or TSDF) to be authorized by the generator to prepare the manifest and sign the generator's certification on its behalf. Thus, generators that do not participate directly in the automated system may still participate through the efforts of their authorized preparer. This aspect of the proposal is discussed in greater detail below in section VII.G. of this preamble.

EPA believes that participation in the automated system would grow over time, as market forces and customer relationships cause others to become trading partners in the electronic manifest. Companies may decide to offer automated manifesting to their customers to remain competitive with others providing this service. In addition, large generators with multiple sites and highly integrated commercial waste management companies may find it advantageous to purchase multi-site licenses for waste tracking software, which they would deliver to their various sites or generator customers so that they can maximize the benefits which they would realize from automating the large numbers of manifests that they must process.

6. Where Would the New Requirements for Automated Manifesting Be Codified?

The key requirements would be codified in several proposed new sections of 40 CFR Part 262. First, EPA would expand existing 40 CFR 262.20(a) to include a specification for both the paper manifest form and the electronic format allowed under this proposal. The proposal would retitle existing 40 CFR 262.23 (use of the manifest) to focus this section on the paper manifest, and it would add a new 40 CFR 262.24 to discuss the procedures for using the electronic manifest. EPA is also proposing to add a new 40 CFR 262.26 to Subpart B of part 262. This new section would set forth the requirements for electronic manifesting systems, and clarify that electronic manifests that are issued by systems which meet these requirements would be considered the legal equivalent of paper manifests bearing handwritten signatures. Thus, such electronic manifests would be deemed to satisfy any Subtitle C requirements to complete, transmit, retain, or submit a manifest copy, or to produce it for inspection.

A significant new addition to the regulations would be codified at § 262.25, which contains definitions and requirements addressing electronic manifest signatures. This section would include standards for the electronic signatures which may be used to authenticate electronic manifests. Electronic manifest copies would have to be signed with one of the described electronic signature methods and would have to meet the § 262.26 security standards in order to be recognized as the legal equivalent to a hand-signed paper manifest. The proposal further explains that the proposed electronic signatures would consist of either a specific type of electronic signature known as a ''digital signature,'' or an electronically captured form of a handwritten signature, which the proposal defines as a ''secure digitized signature.'' In connection with the proposed ''digital signature'' standard, section VII.F.11 of this preamble discusses options for establishing a so-called Public Key Infrastructure or PKI to support the issuance, management, and use of the digital certificates that are necessary elements of digital signature systems.

These proposed federal regulations would, however, confer no immediate right or privilege to anyone to begin using electronic manifests in ways not authorized under existing regulations. Before electronic manifesting can begin, a final regulation would need to be promulgated, and waste handlers would need to consult with their state regulatory agencies to determine if their state(s) would recognize the validity of electronic manifests. States that choose to recognize electronic manifests would need to revise their programs to include appropriate manifest automation standards. Waste handlers and state agencies that collect electronic manifests would also need to agree to send and accept electronic manifest transmissions, and would need to prepare themselves technically to initiate such programs. The effects of this regulation on state hazardous waste programs and on state authorization are discussed below in section IX. of this preamble.

D. What Impediments to Automation Would Today's Proposal Remove?

This proposal would amend several current regulations which appear to pose obstacles to implementing an automated hazardous waste manifest system. The impediments arise because the existing regulations which describe the format for the manifest and how to use it were developed nearly 15 years ago, at a time when the current capabilities in electronic commerce were not anticipated. Therefore, the existing regulations describe a specific, multi-copy paper form which must be physically carried among waste handlers, and which must be hand-signed as custody of waste shipments change. These impediments, and the revisions to them proposed in this notice, are summarized in this section of the preamble.

1. Specific Paper Form Designations

Several provisions in the current regulations require the use of specific paper forms for the manifest. Sections 260.10 and 262.20(a) each refer specifically to the use of the current federal forms, that is, EPA Form 8700–22 (the manifest) and, if needed, EPA Form 8700–22A (the continuation sheet). Today's proposal would update these form designations by clarifying that the approved standard EDI formats (ANSI ASC X12) may also be used to convey manifest data electronically. This proposal amends §§ 262.10 and 262.20(a) to add the EDI and Internet Forms formats to the designation of acceptable hazardous waste manifests.

2. ''By-hand'' Signature Requirements

Certain of the existing regulations appear to bar the use of anything other than a handwritten signature, that is, the traditional act of signing in which the signer uses a stylus or other writing instrument to create the signer's scripted name or other mark on the document. The current references to handwritten signatures are found in § 262.23(a)(2), which requires the generator to sign the manifest by hand and obtain the handwritten signature of the first transporter accepting the waste shipment, and in § 263.20(d)(1), which

requires the transporter to obtain the handwritten signature of the next transporter, or the designated facility. Today's proposal eliminates the restriction to only by-hand signatures, and adopts new language which recognizes that both by-hand signatures and the proposed electronic signature methods may each be used to sign manifests.

3. Physical Transmission of Manifests

Several existing provisions in the regulations suggest that the manifest may only be transmitted physically with the shipment, and the copies manually delivered to the waste handlers involved with a specific shipment. Existing § 263.20(a) states that a transporter cannot accept hazardous waste from a generator unless it is accompanied by a manifest. Sections 262.23(b) and 263.20(d)(3) also discuss the handling of the manifest, and require that the generator or transporter that is delivering the waste shipment to the next transporter or to the TSDF must keep a copy for its files, and then give the remaining paper copies to the waste handler receiving the shipment.

Today's proposal would clarify that in those instances where the electronic manifest is being used, the manifest copies may be transmitted electronically among the waste handlers, and a paper copy of the manifest would not have to be carried with the shipment during transportation if, instead, a hazardous materials ''shipping paper'' is carried with the shipment. The currently required practice of physically delivering copies of the manifest to waste handlers and carrying a copy of the manifest during transportation would not change for waste handlers who continue to use the conventional paper manifest.

RCRA requires EPA to promulgate regulations applicable to generators and transporters of hazardous waste, including requirements for the use of a manifest system, as necessary to protect human health and the environment (RCRA sections 3002 and 3003). As discussed previously, the manifest serves to protect human health and the environment during transportation of hazardous waste, as well as being a device that ensures that waste can be tracked from its origin to its destination site. As a form of ''shipping paper,'' the manifest conveys essential emergency response information required during transportation, specifically, the proper shipping name, hazard class, hazardous material ID Number, and packing group for hazardous waste shipments, and phone numbers enabling responders to obtain additional information about a shipment in the event of an emergency. EPA incorporated DOT's ''shipping paper'' requirements into the current hazardous waste form in order to ensure the protection of human health and the environment during the transportation of hazardous waste. In addition, additional waste shipment tracking elements appear on the current manifest, including the EPA ID Numbers identifying each waste handler involved with a shipment, and space for each of the handlers to sign the manifest when they receive custody of a shipment. These manifest elements are intended to ensure that the waste can be tracked from its site of origin to its destination site. Thus, the current manifest form incorporates both DOT ''shipping paper'' elements to deal with the transportation hazard aspects of a waste shipment, and additional tracking elements unique to RCRA to ensure that hazardous waste shipments are designated for, and in fact arrive at, facilities permitted to handle the hazardous waste.

Today's proposal would clarify that when the electronic manifest is transmitted and signed electronically by waste handlers, a paper manifest would not have to be carried with the hazardous waste shipment during its transportation. This proposal recognizes that the waste tracking functions of the manifest system can be conducted entirely electronically, without carrying and delivering paper copies of the manifest with the shipment. In order to ensure that information about the hazardous waste shipment would be available during its transportation, the proposal would not affect DOT's requirement that a shipping paper be carried on the transportation vehicle. So, a hard copy of a shipping paper would be carried on transportation vehicles to address the transportation hazard and the needs of emergency responders. This requirement would be met under today's proposal by either a print-out of the manifest or other allowed form of DOT shipping paper (e.g., bill of lading) under 49 CFR Part 172, Subpart C. In such a case, we believe that the combination of the DOT shipping paper on the vehicle and the electronic manifest information transmitted electronically would meet all the requirements that arise under RCRA. Specifically, the DOT shipping paper would present all the critical emergency response information required about a shipment during its transportation, and the electronic manifest would preserve the waste tracking functions of the manifest. EPA requests comments on this aspect of the proposal.

4. Electronic Storage of Manifest Copies

Today's proposal also specifies when manifest copies may be stored on electronic media and meet the record retention requirements of the manifest regulations. EPA has previously issued an interpretive letter that provided guidance on this issue, but this rulemaking provides the opportunity to identify more formally the standards which would govern electronic storage.

In May 1996, Safety-Kleen Corporation approached EPA seeking clarification that the federal Subtitle C regulations would permit that company to store image files of signed manifests received at its Denton, Texas, recycling facility. The company had installed equipment at the Denton facility which would enable it to scan completed paper manifests and then store the image files of these manifests on optical disks. An automated index system was created for these manifests, and this permitted one to search for stored manifests by several data elements. The system could display retrieved manifests on the computer screen, or print them as hard copy. EPA concluded that Safety-Kleen's proposed electronic storage system would meet existing RCRA regulations for retention of manifest records. This conclusion was supported by the Agency's findings that the image files would bear the required handwritten signatures, that the electronic records would be accessible to RCRA inspectors, and that the system included back-ups and other security features that satisfied EPA that data integrity would be maintained and that the records would be trustworthy. Since announcing this interpretation in November 1996, at least 11 states have followed this policy in their authorized RCRA programs.

Today's proposed standards for electronic manifest storage would clarify that RCRA allows additional types of manifest records to be stored, beyond the paper copies, image files or facsimile copies allowed under the current regulations. The proposal would also recognize the validity of electronic copies that are signed with the required electronic signatures and maintained by computer systems that meet the technical standards and security controls set forth in proposed § 262.26. These technical standards and controls are discussed in detail below in section VII.E. of this preamble. The controls are designed to ensure the trustworthiness of the computer systems which generate and process the manifest records, so that the data stored on these electronic records may be relied upon as complete

and accurate, and protected against accidental or intentional corruption, alteration, or loss. In addition to ensuring data reliability and integrity, the proposed standards would also require reasonable inspector access to the electronic records over the entire record retention period, and safeguards against repudiation. EPA believes that the proposed electronic signature requirements, taken together with the computer security controls of proposed § 262.26, provide a reasonable set of safeguards that would protect the integrity of the records and guard against repudiation by waste handlers who enter data and sign the records. These proposed standards would also afford RCRA inspectors reasonable access to electronic records for purposes of inspecting or copying facility files, or producing evidence for enforcement actions.

E. What Standard Electronic Formats Would Today's Proposal Require?

1. Overview

Sections 260.10 and 262.20(a) of the Subtitle C regulations would be amended by today's proposal to include the standard EDI format and an Internet Forms format that EPA would accept as the electronic hazardous waste manifest. The proposed EDI format is discussed in preamble section E.2. that follows immediately. Section E.3. of this preamble discusses the proposed Internet Forms format. Specific issues for which EPA requests comments are presented in preamble section E.4.

Today's proposal would require persons who choose to develop or participate in an electronic manifesting program to adhere strictly to the electronic manifest formats specified in this rulemaking. EPA has determined that in order to maintain consistency among Federal and authorized State programs, authorized States that choose to implement the electronic manifest options for waste handlers would not be permitted to require a different electronic format or to require additional information to be transmitted electronically in connection with shipments in or being offered for transportation. This is similar to the determination that EPA made with respect to the Uniform Manifest form in 1984, and the Agency believes that several of the same factors supporting our 1984 decision affect the electronic manifest. See 49 FR 10490 at 10491 (March 20, 1984). The free movement of waste shipments would be similarly burdened if transporters and TSDFs could not read or sign off on a manifested waste shipment because of incompatible electronic formats required by one or more states. Transporters entering a particular state requiring another format or additional requirements would need to incur the cost and inefficiency of acquiring additional software to support the other state's format or requirements, or face state enforcement actions if the additional formats/requirements are not supported. In addition, waste handlers called upon to support multiple State formats and differing requirements would likely need to incur the additional cost and inconvenience of acquiring and using software to convert files between the various formats supported by the states. It is conceivable that conflicts that would arise between different states' incompatible formats would actually bring waste handlers' systems down, and further delay the progress of shipments in transportation until such problems could be corrected. In addition to the confusion and burdens on the movement of waste that would result in such cases, EPA believes that non-standard formats would greatly complicate enforcement by RCRA inspectors, since inspectors would need to be trained and perhaps equipped differently to inspect manifests originating from different states. For multi-state facilities, there would likely arise the additional complexity, confusion, and cost of having to obtain software and hardware to support non-standardized manifest formats and procedures, as well as the capacity to convert files between state formats.

The above discussion focuses heavily on the interstate transportation and ''free movement of waste'' factors that EPA relied upon as well in 1984 when it prescribed the uniform manifest. However, with regard to the successful implementation of an electronic manifest system, EPA also believes that it is critical to recognize the inherently interstate nature of the electronic infrastructure that would need to develop to support electronic transmissions of data. That is, apart from the considerations noted above on how waste movements and transportation vehicles would be slowed or burdened by inconsistent electronic formats, there is the equally important consideration of how the interstate electronic data transmissions themselves would be hindered and burdened by inconsistent formats. The Agency's reliance on standard electronic formats is premised equally on the necessity of ensuring, for example, that an electronic manifest transmission originating with a generator in the State of New York can be readily received, read, and processed by a landfill operator in the State of Alabama, as well as by the transporters that may operate in the transit states that must be passed through en route to the destination facility. While non-uniform paper forms may entail the burden and inefficiency of needing to carry redundant paperwork, incompatible electronic formats can render the data being transmitted unreadable and useless. Additional costs and complexity would be incurred by system developers faced with having to address multiple formats. To the extent that the reliability and accuracy of the systems were to be impaired by format conflicts, the admissibility of the electronic documents in evidence during enforcement actions would similarly be impaired. Therefore, under the Part 271 authorization standards on consistency, any authorized States implementing electronic manifest programs must require only the standard electronic manifest formats promulgated in this rulemaking. Other formats would not be acceptable as a RCRA hazardous waste manifest.

2. Proposed EDI Format

This proposed rule identifies the American National Standards Institute (ANSI) Accredited Standards Committee (ASC) X12 standard formats for Electronic Data Interchange as the standard EDI formats acceptable for electronic manifests. These X12 standard formats (transaction sets) present specified data elements and content in a strictly standardized syntax and structure, which enables these formats to be exchanged unambiguously among different computer systems.

In analyzing the manifest process to determine an appropriate implementation of EDI, it became apparent that two distinct transactions support the tracking functions of the manifest. Initially, the manifest identifies the contents of a hazardous waste shipment as offered for transportation by the generator and received by the transporters. Upon receipt of the shipment by the TSDF, the purpose shifts to providing the generator with a record either verifying the receipt of the shipment by the TSDF, or noting any discrepancies connected with the shipment. During a meeting with industry and state agency stakeholders in April 1999, participants advised EPA that in the EDI setting, the dual functions of the manifest could be best accommodated with separate transaction sets. That is, to reduce potential confusion in the EDI setting, one transaction set should be used to

identify the contents of the shipment and track its transportation, while a distinct transaction set would be used to allow the TSDF to advise the generator of waste receipt or discrepancy information. Based on these recommendations, EPA has adapted two EDI transaction sets or formats to the manifest process. Under today's proposal, EPA would identify X12 transaction set 856 (''Ship Notice/Manifest'') for the manifest's waste tracking function, and X12 transaction set 861 (''Receiving Advice/Acceptance Certificate'') to carry out the manifest's verification of receipt/discrepancy function. The two transaction sets that EPA has selected for this proposal are fully capable of carrying all the data presently required on the manifest. Also, the 861 transaction set has the added benefit of allowing TSDFs to tie their comments (e.g., waste receipt, rejection or discrepancy) to a particular waste item listed on the manifest.

In order to conform the EDI transaction sets selected to the data requirements of the hazardous waste manifest, EPA developed a customized mapping or ''Implementation Convention'' for the 856 and 861 EDI transaction sets. As a follow-on step to the Implementation Convention development, EPA submitted the two transaction sets' Implementation Conventions to a federal review and approval process which involved public notice and comment. This approval process is managed by the Federal Electronic Data Interchange Standards Management Coordinating Committee (FESMCC), under the procedures of the Federal Information Processing Standard (FIPS PUB) 161–2, entitled ''Electronic Data Interchange.'' All approved Federal Implementation Conventions are registered with the National Institutes of Science and Technology (NIST). The NIST registry of approved Implementation Conventions, including the hazardous waste manifest IC (856W) and the hazardous waste receipt IC (861W), is located at *http://snad.ncsl.nist.gov/fededi/3060-ic.html.* These approved federal mapping conventions would be revised to reflect any changes to manifest data elements or to designated transaction sets that result from this rulemaking. The revised ICs would then be resubmitted to the FESMCC for approval. EPA would include information on the revisions to the manifest EDI mapping conventions in a technical guidance document that would be prepared to support the final rule notice for this manifest rulemaking.

Subsequent to the adoption of revised ICs in the final manifest rulemaking, EPA may from time to time decide to adopt a new version and release of the ASC X12 standard or to modify the conventional mapping for the manifest. These modifications would address minor, technical changes to the standard, but would not alter the content of the manifest. Proposed § 262.20(a)(3)(i) includes a notification process to deal with these upgrades and modifications. After any such upgrades or modifications have been submitted to the FESMCC Committee and approved under FIPS PUB 161–2 procedures (which provides for notice and comment), EPA would then publish a **Federal Register** notice announcing this change to the implementation convention and establishing the conversion date. After the conversion date, persons using the previous EDI format and convention would have a minimum of 60 days to convert to the new version. In addition, EPA would discontinue support for the previous version no sooner than 90 calendar days after the conversion date. EPA believes that this procedure would provide for a reasonable transition and support period as the ASC X12 standards and implementation conventions are updated.

3. Proposed Internet Forms Format

a. *Background.* The standard language for presenting data on the World Wide Web—the Hyper Text Mark-up Language (HTML)—is not alone well suited for completing manifests that can be signed electronically and preserved as intact records that can be later audited or produced as evidence of completed waste transactions. While web forms are frequently encountered on web sites, the data that is entered in the form fields during a typical HTML browser session are divorced during transmission from the form prompts that elicited the data. So, only the data stream supplied by the sender is sent to the host computer. This leaves HTML transactions open to challenges, since the person submitting the data can later argue that data he or she entered were in response to a different prompt or question, or that the browser altered the appearance of the form so that certain questions were not answered or answered out of order. This type of vulnerability is referred to as a repudiation challenge, and it can be avoided if the data entered are tied unequivocally to the form elements to which they respond. Several vendors have recently developed solutions designed to generate and preserve intact web forms which include both the fields and the responsive data, and which can be signed electronically as records. This results in a much more complete and irrefutable electronic record than is obtained when responding to simple HTML web forms. These products typically are installed as browser extensions or ''plug-ins,'' and they add executable programs or Java applets which modify the HTML language to generate the intact forms on the client computer.

EPA tested one such product during our Manifest Automation Pilot. In the 3rd phase of these pilot tests, EPA and several volunteer partners from industry and the states tested the Internet Forms technology developed by a company known as UWI.Com. (The company has recently changed its name to PureEdge, Inc.). This company's Internet Forms technology is based on a mark-up language known as the Extensible Forms Description Language (XFDL). XFDL is itself a variant of the recently developed Internet language known as Extensible Markup Language or XML.

During the pilot test, EPA developed considerable experience with UWI.Com's Internet Forms technology. The electronic manifest ''forms'' used in our pilot tests retained both the form structure and the manifest data, and were signed with digitized signatures using PenOp'' signature software. The electronic manifest developed for our pilot with the Internet Forms technology and the Action Works Metro work flow management software also supported these features:

- Retention of all the graphical elements familiar to the paper form. The manifests could be processed (prepared, signed, transmitted, and stored) in an entirely digital manner, or printed in hard copy;
- Inclusion of numerous on-line help features and edit checks, to assist users with the process of completing the manifest accurately and quickly;
- Packaging of form structure and data together in a single file that could be easily archived and retrieved;
- Integration with workflow or work group software so that the manifests could be routed to appropriate trading partners, while complying with organizations' specific business processes and logic rules; and
- Support for mapping data directly to a variety of back-end data bases, including Oracle, Sybase, SQL Server, and ODBC-compliant data bases.

b. *What is the Extensible Markup Language (XML)?* The Extensible Markup Language or XML is a relatively new markup language that has been developed to aid the Internet exchange of documents that contain structured information. While the basic language of the World Wide Web, i.e., HTML, is itself a markup language that can deal

with how the content of a document is displayed on a computer screen, XML has the additional capability of ''tagging'' a document's content to indicate what role the content plays.

On a more technical level, XML is defined as a series of related technical specifications that provide a syntax for identifying, exchanging, and displaying data. XML technical specifications are developed by the World Wide Web Consortium, and XML documents would facilitate data exchanges using World Wide Web transfer protocols. Its most significant attribute is its extensibility, a term which connotes the flexibility designed into XML to adapt to a variety of applications and computing environments that need to exchange and manipulate data. XML is not bound by rigid semantics, and it provides program developers with the alphabet and tools to define document element tags as they see fit, and to define the structural relationships between these tags.

XML has recently emerged as the *de facto* method for defining business data for the business to business Internet exchange of data and for commerce on the Web. Recent releases of commercially distributed web browsers, as well as several major commercial data base applications, now support XML specifications. Many information technology experts believe that XML would ultimately become the tool that would extend the benefits of EDI—exchanging routine business data in a structured but technology neutral manner—to web-based electronic commerce. The hope is that XML would make electronic commerce more cost-effective and accessible. XML can take advantage of the openness of the Internet and Web architecture, while perhaps offering lower costs than those currently associated with EDI software and VAN transmission fees.

However, XML has only recently captured significant attention among application developers, and it is still a maturing technology. One of the greatest challenges confronting the success of XML is the current lack of consensus on developing business standards for using the XML specifications. Without some agreement on how data element tags and their relationships would be defined for different business transactions, there is the potential for much fragmentation and chaos in the use of XML. In addition, government and international standards bodies generally are only beginning to examine the possibilities for using XML applications to support reporting data to government web sites. Recently, the United Nations Center for Facilitation of Administration, Commerce and Trade (UN/CEFACT), the international equivalent to the ASC X12 Committee, has chartered a work group to research and identify the technical basis upon which the global implementation of XML can be standardized. Specific subcommittees within the ASC X12, including the transportation committee that oversees transaction set 856, are now in the process of defining XML Document Type Definitions (DTDs) for the various X12 transaction sets.

The use of XML entails agreement on the so-called DTDs and ''schema'' that would define for different transactions the agreed document structures, the agreed tag identifiers and relationships, agreed data elements and document contents, and agreed exchange requirements. It is EPA's objective to develop in this rulemaking an XML-based manifest format that would establish a standard method for displaying and exchanging manifest data with XML enabled browsers and data base software. Therefore, in addition to the EDI formats discussed above, EPA is proposing an XML-based approach for preparing and transmitting manifests on the Internet. EPA has developed a draft for comment of the Document Type Definition (DTD) that would be used for transmitting the manifest data in the XML language. The draft DTD appears in Appendix A to this preamble. The XML-based manifest would capture and record the same waste shipment data as the paper form and the EDI formats, and would have functionality similar to EDI. The draft DTD for the manifest is set forth in detail in Appendix A to this preamble. EPA requests comment on the XML-based Internet Form manifest and the draft DTD that we are proposing today.

4. What Comments Would Be Helpful To EPA?

EPA requests comments on the proposal's electronic data interchange (EDI) standard and the proposal to include an XML-based Internet Forms approach for the manifest. EPA solicits specific comments on the following issues.

a. *Are the proposed EDI transaction sets appropriate?* EPA requests comment on the proposal to use both X–12 transaction set 856 (the Ship Notice/Manifest) and transaction set 861 (Receipt and Advice) to convey all the waste shipment tracking information required by the hazardous waste manifest. Are there significant business, technical, or practical issues that might arise from recording shipment tracking information with two transaction sets, rather than collecting the information on one format? Would the proposed two transaction set approach complicate the ability to retrieve, reconstruct, and inspect all the information about a waste shipment after it has been filed? Also, is EPA on target with its choice of transaction sets? Are there other business data that the regulated community would like to be able to transmit with data required by the manifest, and should our choice of transaction sets and implementation conventions be revised to reflect this?

b. *Is an XML approach feasible?* EPA acknowledges that XML is a relatively new technology, and that industry standards are generally lacking or only emerging in this field of electronic commerce. Is it feasible for EPA to develop a Document Type Definition in this rulemaking that would ''standardize'' the XML usage with respect to the manifest, or is this not an appropriate role for EPA? Would the specification of a DTD accomplish our objectives of ensuring free data exchange and interoperability between XML-enabled systems? Is XML a sufficiently stable technology to support EPA's purposes?

c. *Are there alternative formats that EPA should consider?* This proposal would adopt ASC X12 EDI formats (the X12 856 and 861 transaction sets) and their implementation conventions as an EDI standard for electronic manifesting. Alternatively, the Internet Forms approach based on the proposed XML Document Type Definition could be used by those wishing to use a non-EDI solution for transmitting manifests on the Web. EPA selected these standards because they represent technology-neutral approaches that could be supported by many vendors' products, and because they are mappable to and can integrate with existing data systems.

EPA solicits comment on the merits of the two optional electronic manifest approaches proposed today relative to other available options. The Agency recognizes that there are many attractive ''smart form'' types of software products and other systems available that could be adapted to an electronic manifest. The major shortcoming of these products, in EPA's view, is that they typically are designed around a specific vendor's proprietary product. Thus, the allowance of numerous proprietary formats would likely hamper the free exchange of manifest data and the interoperability of electronic manifesting systems. A variety of proprietary solutions could have the result of fragmenting the market among several incompatible formats, and actually might hamper the acceptance of electronic manifests. Nevertheless, EPA

requests comment on whether other formats should also be recognized, and if so, how the Agency might minimize the conflict between different formats.

d. *Should EPA Address Internet EDI Distinctly?* EPA has not included any distinct content in the proposal to address EDI conducted over the Internet, such as ''Web EDI'' or EDI transmitted over the Internet by secure E-mail technology. The proposal assumes that Internet EDI (i.e., transmitting EDI transaction sets via the Internet) using the EDI formats proposed in § 262.20(a)(4) would be an option available to those wishing to conduct electronic manifesting on the Internet, in addition to the Internet Forms standard proposed in § 262.20(a)(5). In other words, with Internet EDI, the same EDI transactions sets (ANSI X12 856 and 861) would be used to transmit manifest data, but the Internet would replace Value Added Networks as the delivery mechanism. In this proposal, we are distinguishing Internet EDI from the Internet Forms approach, which does not use ANSI X12 transaction sets to exchange data.

Several products are now emerging on the Internet that would perform so-called ''Web EDI.'' With Web EDI, data entered at the client computer in Hypertext Mark-up Language (HTML) is converted at the server hosting the Web EDI service to X12 standards and transmitted to other trading partners as EDI files. Once received in X12 format, the recipient can then map the incoming information to its specific data base application. The ''Web EDI'' products that are coming on-line require some initial configuration by the user, but beyond the requirement of browser software, there is no need for local installation of EDI translation software. These services typically charge a small sign-up fee, and charge a transmission fee per transaction.

Should EPA support the availability of both the Internet EDI and Internet Forms methods as options for those who would conduct waste manifesting on the Internet, or, should EPA restrict Internet users to one or the other approach? Does EPA need to require the use of a VAN for EDI transactions, or, could a less expensive Internet-based means of transmitting EDI data (e.g., E-mail or File Transport Protocol) be allowed, provided that companies implementing this approach follow Internet Engineering Task Force (IETF) recommendations (e.g., use third party ISPs and deploy security to protect such transmissions from interception)? See Requirements for Inter-operable Internet EDI, EDIINT Working Group of the IETF, July 8, 1997. Are other controls beyond those referenced in the IETF working document necessary to ensure that Internet EDI is as secure and auditable as traditional EDI conducted on a VAN?

Also, if web sites hosting translation services receive manifest data inputted from a browser, and translate it to an EDI compliant format, how would signatures be applied to these documents? Is it the HTML document or the X12 document that would be signed? Would the translation at the server complicate the verifiability of any digital signatures? Can ''Web EDI'' meet all of this proposal's requirements for authentication, data integrity, security and non-repudiation? Comments responding to these questions would be very helpful to EPA.

F. What Electronic Record System Controls and Procedures Would This Proposal Require?

The proposal would specify at § 262.26 a minimal set of controls and procedures applicable to computer systems that would prepare and process electronic manifests. The Agency believes that these system controls, when combined with the requirement that electronic manifest copies be signed with secure types of electronic signatures, would assure users and regulators of the authenticity and integrity of electronic manifest records. Specifically, EPA believes that the proposed electronic signature requirements and computer security controls address the following 5 key concerns that have been brought to the Agency's attention as critical to the reliability and enforceability of electronic documents.

i. *Identity.* The proposed controls would assist in demonstrating who affixed their signature to the document. Specifically, such controls as access checks, audit trails, signature agreements, and/or signature verification processes should be helpful to prevent unauthorized use of electronic signatures.

ii. *Intent.* The proposed security provisions would assist in showing that the signor acted with the required intent to adopt the document being signed or to be bound by its contents. This may also involve a showing that the signor understood the significance of the signature act, so that he or she cannot later repudiate their signature as unintended or mistaken. Signature procedures that include warnings about the consequences of affixing a signature, and an opportunity to review and verify the data presented for signature, should aid in demonstrating the requisite intent.

iii. *Tamper-resistance.* The proposed security provisions would also assist in demonstrating that a document was not altered after signature, since the ability to alter data after signature would permit the signor to later repudiate a document as different from the one that he or she actually signed. Signature methods that use encryption processes to inextricably bind the signature to the data signed can safeguard electronic documents from subsequent alteration, as can system audit checks that would disclose any changes to a record, or attempts to change a record.

iv. *Availability.* Copies of electronic manifests should be maintained in such a manner as to be accessible throughout the record retention period. System controls which require the retention of information on software and hardware versions used to create archived records, as well as requirements to retain and maintain previous versions of software, hardware, and system documentation, should ensure that this capability is not compromised.

v. *Interoperability and error detection.* Systems that would exchange electronic manifests should be interoperable, so that data are accurately and reliably processed, signatures verified, and security features necessary to data integrity maintained throughout the exchange of the electronic documents. In addition, electronic systems should be able to detect errors (i.e., altered/corrupt data or invalid signatures), so that invalid records can be flagged and corrected. System security controls, validation requirements, signature verification requirements, and requirements to respond to detected errors and invalid signatures can minimize the possibility of invalid documents being passed by electronic systems.

1. Validation of System Performance and Training

EPA expects that waste handlers would be able to select from numerous hardware and software configurations when establishing their electronic manifesting systems. Such systems may involve a combination of database software, EDI translator or Internet browser software and related plug-ins, work flow management software, operating system software, electronic signature software, communications software, and the related hardware that is involved in creating, processing, viewing, printing, and transmitting files. The Agency also expects that these automated systems may consist of both customized systems designed by or for the waste handler company, and ''off-the-shelf'' solutions developed by

commercial vendors that market products designed specifically for tracking hazardous wastes. In any case, the proposed rule would require that waste handlers establishing electronic manifest systems validate their systems, that is ensure that all the system components (including security features) operate together properly, that system performance ensures accuracy, reliability, and consistent, intended performance, that components are fully interoperable throughout the system, and that the system can meet the computer security requirements of this section and good security practices common to trusted electronic commerce systems, and that appropriate precautions have been taken to ensure that these security measures cannot be avoided or defeated. EPA believes that validation of automated systems is essential to establishing the reliability of such systems and the accuracy of the data they generate.

EPA is also proposing that the system validation would be performed and certified to by an independent third-party with expertise in information systems and their security. EPA is concerned that neither the waste companies developing or acquiring such systems nor the EPA or State RCRA inspectors that would inspect facilities for compliance with RCRA regulations would possess the requisite skills or expertise to validate electronic manifest systems. In addition, the use of an independent and qualified information systems professional should ensure that there has been an objective assessment made of the system's security features. Since the trustworthiness and utility of electronic records and systems would depend heavily on the performance and success of this validation step, EPA is proposing that the qualified systems professional would prepare a written assessment with a certification statement attesting to the system's performance. This written assessment and certification statement would need to be maintained among the facility's records, and made available on request during any EPA or State inspection. Under this proposal, for an electronic system to be validated, the qualified professional would need to certify that the system generates and processes data accurately and reliably, that the system performs consistently and as intended, that the system's hardware and software are fully interoperable with the hardware and software of any other systems with which manifests would be exchanged, that the system is designed and can be operated to meet all the security requirements of this rule and good security practices common to trusted electronic data exchange systems, and that appropriate precautions have been taken to ensure that these security measures cannot be avoided or defeated.

EPA requests comment on the proposed requirement for an independent written assessment of electronic manifest systems. Would validation be more objective and helpful if performed by independent information systems professionals, or would this add unnecessary burdens to the validation procedure? With respect to the system assessments, has EPA proposed a reasonable set of criteria, or, are there other information systems audit criteria and good security practices that we should require to be included in the assessment and certification? With respect to the independent systems professionals, is there some credential, training, licensing or other qualification that EPA should identify in the rule to ensure that only qualified individuals perform these validation assessments? EPA also requests comment on alternatives to independent third-party validation of systems. Should EPA require that software be developed by companies independent of the waste handlers that would use the systems? In the case of systems developed independently of waste handlers, and systems using ''off-the-shelf'' products, would third-party validation be necessary? Answers to these questions would be very helpful to the Agency.

2. The Ability to Generate Accurate and Complete Records Available for Inspection

As an additional control on electronic manifest systems, this proposal would require that waste handlers' systems have the ability to generate accurate and complete records in both electronic and human readable formats, and which are suitable for and readily available for inspection and copying. In most instances, facilities would retain their electronic records in the electronic formats in which they were created and signed. However, during the course of RCRA inspection, federal or state inspectors may wish to have a human readable copy generated that they may inspect, copy, print, or remove from the facility. Thus, the system must have the capability of generating a readable copy, as well as the electronic copy that is electronically signed and retained as the facility record for the 3-year retention period required in these regulations. In either case, the system records must accurately and completely depict all the information that was entered on the record when it was created.

EPA emphasizes that the electronic formats of records must be available for inspection; it is not sufficient to offer the inspector access only to paper copies generated by the system. Access to electronic records may be vital, since the electronic records may often be the format that would bear the electronic signatures that would authenticate the document and enable the inspector to verify that the document has not been altered. These electronic records may also bear the metadata or audit trail information which may have direct bearing on the trustworthiness and reliability of the record. The signed, electronic copies may also be the format required as evidence in any adjudicatory proceeding in which the data on an electronic manifest are relevant to a disputed issue. In addition, RCRA inspectors would be able to conduct much more efficient inspections of the electronic records than of paper copies. EPA and the states should be able to use efficient, computerized methods to search electronic records and detect trends, inconsistent or erroneous information, possible violations, or other problem areas.

The inspector access required by this proposal must be reasonable access, consistent with section 3007(a) of the RCRA statute. Section 3007(a) of the Act states that any person who generates, stores, treats, disposes, transports, or otherwise handles hazardous wastes must permit inspectors at all reasonable times to have access to and to copy all records relating to their hazardous wastes. EPA understands that RCRA inspectors would lack familiarity with all the possible software that may be used to store, index, and access electronic records. However, the use of electronic record storage systems must not be allowed to become a barrier to inspector access to manifest records. Therefore, facilities should have a knowledgeable person on the premises who can assist the RCRA inspector with the operation of the software that searches and accesses stored manifest records. The indexes or search engines used to search and access these records should be designed with a reasonably intuitive user interface, so that the RCRA inspector can, after a brief orientation session, effectively operate the system, select relevant search parameters, find responsive records, and validate electronic signatures on these records. Nevertheless, the use of new technologies compels the result that access to records may generally require

instruction from and the cooperation of the facilities undergoing inspection.

The requirement to retain electronic manifest records for inspection over several years does raise an issue about maintaining the ability to authenticate these records. For example, with electronic documents that are digitally signed, this requires the digital signature to be verified and the signer's digital certificate to be validated as of the time of the signature. Is the long-term validation of such signatures feasible, given the costs and technical challenges of maintaining a long-term capability to validate digital certificates? Are there practical ways to ensure long-term enforcement capability and liability protection for companies using manifests without imposing the burden and cost of indefinite signature validation mechanisms?

3. The Ability To Protect Records

As a third control on electronic manifest systems, the proposal would require that these systems be designed and operated so that they protect electronic records from damage or alteration, and ensure their accurate and ready retrieval during the entire record retention period. The RCRA regulations generally require that manifest records be retained for a 3-year period.

This control entails more than controlling access to data and audit trail protections against erasures and alterations caused by accident, vandalism, fraud, or sabotage; it also requires that systems and storage media be protected against possible physical causes of damage, such as contact with heat, fire, magnetism, water, etc. The system must also create secure back-up copies of records or otherwise provide for data recovery in the event of damage, errors, or a disaster.

The proposed requirements that records be protected and remain accessible throughout the record retention period imposes additional obligations with respect to system upgrades and revisions. As system upgrades are implemented, it is possible that the newer hardware and software may not be able to read or process files created with earlier versions of software or hardware. Therefore, facilities must either convert their files so that they can be accessed by the upgraded system, or, retain adequate hardware and software to ensure that electronic manifests remain accessible throughout the document retention period. Facilities should also retain information on which software version was used to create their records.

EPA has not specified in this proposal any particular storage media for retaining manifest records. Concerns have been expressed that such records should be retained on a more permanent medium, such as a CD–ROM. The Agency requests comments on the appropriateness and feasibility of a requirement that manifest records be periodically archived on a write-once, read-many medium.

4. The Ability To Limit System Access and Conduct Authority Checks

Authority checks are security devices that grant access to a system or to specific data only when an individual seeking access can establish (typically, by entering a User ID or password when prompted) that their access has been authorized. Access controls and authority checks form the first line of defense of record authenticity and integrity, since they support user identification and authentication. The proposed rule would require that electronic manifest systems be designed and operated with controls (e.g., User ID's and passwords) that limit system access to only authorized individuals, that is, individuals who are authorized to act for and bind the organization in creating, signing, or processing manifests. The integrity of an electronic records system would be readily assailable if unauthorized individuals could enter the system, override security measures, and thereby read or alter records that they are not authorized to see or manipulate. Uncontrolled access could leave a system vulnerable to sabotage or industrial espionage, and open up opportunities for signers to repudiate the genuineness of signed records. Therefore, basic system access controls must be included in every electronic manifest system. Such controls would include assurances that:

- Unique identifiers (e.g., User IDs) are assigned to each authorized person, and the identifiers assigned uniquely identify the user to the system, so that the system can authenticate the user, and ensure individual accountability;
- User authority is defined, and users' access is limited to data required to perform job tasks or other user needs;
- Procedures are in place for User ID and password administration and termination;
- The system enforces secure password procedures and access controls;
- Access and authentication policies and procedures are documented, shared with users, and reviewed periodically; and
- Auditable logs are retained of log-on attempts, and log-on failures or rejections.

The proposed rule would also require authority challenges and other checks to be included at critical points in the system, to ensure that only authorized individuals can use the system, sign records, access input or output devices, alter a record, or perform other discrete system operations. Keeping these functions confined to authorized persons is essential to protecting the integrity of records and ensuring record accuracy and reliability. While EPA believes that the inclusion of such authority checks is fundamental, it would be up to each organization to determine the nature, scope, and mechanisms for performing these checks.

5. Use of Secure Audit Trails

Because it is important to know that electronic records remain complete and accurate during their entire retention period, the proposed rule would also require audit trail controls to be implemented. In this regard, the proposal would require the use of secure, computer-generated, time-stamped audit trails to independently record the date and time of operator entries and actions that create, modify, or delete any electronic records. This control would require that a complete and accurate history of each record be retained, and would preclude modifications that would overwrite or obscure previously recorded information. In other words, the secure, computer-generated audit trail would provide a lasting record of who did what to a record, and when it was done. These audit trail records shall be retained for the same period of time (generally 3 years) as the electronic manifest records, and they shall be made available for inspection upon the request of a RCRA inspector. The audit trail information may be retained as a part of the electronic manifest record, or as a separate record.

The Agency emphasizes the need for strict objectivity in recording audit trail information such as date and time stamps. Therefore, EPA believes that it is vital that this audit trail information be created automatically by the computer system, independently of system operators. Also, the requirement that audit trails be secure means that operators shall not have the ability to either write or modify this data. The history of the record must be preserved, and individual accountability for record integrity maintained.

6. Software-Based Work Flow Controls and Operational System Checks

A key component of a secure and reliable electronic manifest system

would be work flow management software that implements the logic rules and process underlying the manifest. During our Manifest Automation Pilot tests, EPA gained special appreciation for the significance of these software-based controls. The manifest work flow is very complex; the manifest must be routed among generators, transporters, and waste management facilities in the proper sequence, and specific data must be entered by specific waste handlers (and signatures applied) at specific points in the circulation of the manifest. Multiple copies must also be distributed at appropriate times. Unlike the current paper manifest, copies of the electronic manifest may not physically accompany and be passed with the waste itself. Therefore, it is essential that an electronic system not leave the routing of the manifest and its proper execution to chance.

To ensure the reliability of the electronic manifest, EPA is proposing that electronic systems be designed with software-based work flow controls and operational system checks to oversee the work flow process. This work flow management software would ensure that the electronic manifest is routed to all waste handlers in the proper sequence, that waste handlers are prompted to sign manifests electronically in the proper sequence and on the appropriate signature blocks, that data entered by previous waste handlers cannot be altered once the previous handler has signed the document, and that the appropriate signed copies of the manifest are distributed to each waste handler involved with a shipment.

Another possible work flow and operational check would address an electronic manifest system's response to invalid signatures. The proposal would require that electronic signatures (digital signatures and secure digitized signatures) be capable of being verified. Both of these signature methods include document binding features (e.g., encrypted hash function or checksums) which enable the recipient to verify that a document has not been altered or corrupted since it was signed. What should be the appropriate system response when an invalid signature is detected? Should EPA include in the work flow controls a requirement that users be alerted to an improperly signed manifest and that the software block further use or transmission of an invalid electronic manifest until it has been replaced with a valid manifest for which the electronic signature can be verified? Alternatively, should the system be designed only to detect invalid signatures and alert the recipient to the requirement to obtain a valid manifest before proceeding? In the latter case, the manifest use regulations could be revised to make it absolutely clear that one may not use an electronic manifest shown to be invalid, but the electronic system would not itself block the use. EPA requests comments on these alternatives, and whether the final rule should include one or the other of these additional work flow controls.

7. Software-Based Data Presentation Features and Signature Prompts

Today's proposal includes two distinct electronic manifest formats, the proposed EDI format and the proposed Internet Form manifest in the XML language. While the Internet Form approach would typically present manifest data in a human readable form that looks like the paper form, the proposed EDI format includes codes and headings that may complicate the viewing of the embedded manifest data. This could be a concern, if the result were that a user wishing to sign the EDI manifest could not readily recognize and verify the data entered prior to signing the document. EPA believes that it is important to the accuracy and trustworthiness of electronic records that those using the EDI formats to satisfy regulatory requirements have a meaningful opportunity to verify data before applying their electronic signatures. Therefore, EPA is proposing that systems using the EDI formats must be able to display the manifest data to those signing manifests in a human readable format that permits the user to readily verify the entered manifest data prior to applying a signature. In practice, this would require that the data be displayed for the signor with the form's predetermined field labels, so that there could be little doubt that the data entered relates to a specific data field of the manifest. EPA requests comment on the feasibility of including these data presentation and verification features as system design requirements, particularly with respect to EDI systems. Typically, EDI systems are designed to minimize human involvement in data exchanges between automated systems. However, when an EDI system is used in a business process such as the completion of manifests, the affixing of electronic signatures is by nature an interactive process. Today's proposal would only require that the data presentation presented to the signor at the time of signature include the human readable display with the field labels. The proposal would not require these display features to be included as a part of the EDI document itself, which would, of course, comply with ANSI X12 structure and syntax requirements.

Moreover, there is a concern that electronic signature methods that deviate significantly from the traditional signature ceremony may not seem as formal or ''official'' as conventional handwritten signatures. For example, a digital signature may be executed by a mouse click on an item displayed on the computer screen. Therefore, EPA is proposing that electronic manifest systems display a warning message when users are prompted to electronically sign manifests. The warning should appear clearly and conspicuously, and should advise the signer that their electronic signature constitutes a signature for all legal purposes. This message would also remind the signer of the possible civil and criminal sanctions for the misuse of an electronic signature. For digital signatures, the warning message would remind signers that digital signatures can only be used by the person identified as the subscriber in the digital certificate, and that the right to use one's private key to execute digital signatures cannot be delegated to another. The proposed form of the signature prompt warnings is set out at proposed § 262.26(c)(7). EPA requests comment whether these warnings should be displayed for all electronic manifest systems. For example, the ''secure digitized signature'' method discussed later in this preamble would require the signer to execute their hand signature on a digitizer pad. Is it necessary to display the proposed warning messages for this method of signature, or should the warnings be included only in systems that incorporate the digital signature method, which does not involve a conventional signing ceremony? Also, for digital signature systems, should a warning be displayed prior to executing each signature, or could the same warning be conveyed more effectively at the time a user receives a digital certificate?

8. Full Interoperability of System Software

The quality and reliability of electronic manifest systems and data depend heavily on system developers using software that consistently supports and executes the standard electronic formats, electronic signatures and their verification, the work flow processes that ensure that manifests are routed, signed, and copied appropriately, and the audit trail and other security features of proposed § 262.26. If the software used within an entity, or between entities that exchange manifests, cannot consistently implement these features, then the

reliability and integrity of electronic manifests would be impaired. Therefore, EPA is proposing today that electronic manifests systems shall be designed and tested to ensure full interoperability of the software components, so that the above features are supported and executed consistently throughout the period that a manifest record resides on a system or is exchanged among waste handlers participating in an electronic system. If a person or entity wishes to exchange electronic manifests with another's system, the other system's software must also be fully interoperable with the software of the first system. EPA cannot designate a particular software configuration or specific vendors' products as required or recommended to meet the standards proposed today. However, consistent implementation and software interoperability are essential requirements for trustworthy electronic systems, and system software must be tested and validated for such performance as a part of the system validation assessment that would be required under proposed § 262.26(c)(1). One may not exchange manifests between system components, or between other systems, if interoperability and consistent performance have not been assured. EPA requests comments on this proposal.

Some have suggested that EPA should do more to ensure the quality, reliability, and interoperability of the software that entities adopt to implement the electronic manifest. Apart from the system validation assessments discussed above, there is a concern that available software components that companies might select for their systems should be evaluated more closely at the outset (i.e., prior to its being available for use in a manifest system) to ensure that it is properly designed and shown to be able to meet this rule's security and other performance standards. If software is not closely evaluated for quality, reliability, and interoperability, greater risks might arise that software used by different entities (or even within the same entity) would not perform consistently. Thus, the risks become greater that a software product on one system would be unable to prevent or detect data alteration or corruption, unable to recognize the processes used by other software to validate signatures or to bind signatures to record content, unable to route manifests correctly, and unable to maintain auditability of transaction events. Similarly, if software is not evaluated closely for quality and performance, there is the risk that software may include unnoticed flaws that undermine its security features. Such flaws could later be seized upon by those challenging the accuracy of electronic data, and could be a basis for invalidating manifests that were processed using the defective software.

While EPA believes that the system validation and certification requirements proposed above can diminish these risks, EPA requests comment on whether additional software evaluation mechanisms are necessary. If additional measures are warranted, how would they be structured and implemented? How would such additional evaluation measures enable EPA to ensure that the criteria of this rule are being met and applied consistently? What would be the benefits and adverse consequences of establishing additional evaluation steps?

A separate issue relates to how EPA and the States can know that new electronic manifest systems are being implemented. EPA is taking comment on one additional measure, which would require system sponsors to notify EPA on a one-time basis that they have developed and would be implementing an electronic manifest system. With such information, EPA would be able to gauge the timing and scope of the use of electronic manifests, aiding the Agency's training and outreach efforts and providing the basis for future data collections to evaluate electronic manifests. Notification would not be required from every waste handler using such a system, but only from the entity sponsoring or operating the electronic manifest system. EPA requests comments on whether such a one-time notification requirement would act as a disincentive to the adoption of electronic manifests.

9. Controls Over System Documentation

Errors in conducting system procedures and system maintenance are likely to occur unless controls are applied to the systems documentation that describes how a system operates or is maintained, including standard operating procedures. System documentation should fully and accurately describe the procedural controls employed in creating and maintaining records, and account for each link in the chain of events that produce records and preserve their integrity. This proposal would require the establishment of controls over this system documentation, including adequate controls over the distribution of, access to, and use of the documentation. This requirement would extend to revision and change control procedures as well.

10. Policies Holding Individuals Accountable

Any falsification of a signature or record is a serious matter, regardless of whether the falsification occurs with a paper or electronic record. In this regard, EPA emphasizes that the falsification of an electronic signature or the making of false representations in connection with an electronic manifest would be punishable by law and would carry the same penalties as similar acts done with paper manifests and ink signatures. Under RCRA Section 3008(d)(3), for example, any person who knowingly omits material information or makes false material statements or representations in any manifest, record, or other document prepared for purposes of compliance with RCRA regulations may be subject, upon conviction, to criminal sanctions that may include a fine of not more than $50,000 for each day of violation, or, imprisonment not to exceed two years, or both. In addition, 18 U.S.C. 1001 states more generally that false, fictitious or fraudulent statements or representations to the government may subject a person to criminal penalties.

Despite these strong sanctions that are well understood in the paper environment, there may be a perception that electronic signatures are less formal than handwritten signatures, and this may cause some to believe that errors or falsifications associated with their use are not as serious as errors or falsifications in signing paper records. Therefore, the proposed rule would require organizations using electronically signed electronic manifests to establish and adhere to written policies that hold individuals accountable and responsible for actions initiated under their electronic signatures. These policies are intended as a further deterrent of record and signature falsification. The individual employees who are subject to such policies would better understand the seriousness and consequences of signature or record falsification. Of course, a broad range of disciplinary measures would be available to organizations under their written policies, and organizations should have appropriate discretion to tailor their disciplinary actions so that they provide reasonable sanctions that address the level of employee complicity and intent, while deterring the more serious acts. The intent is that such policies would be implemented and enforced in a way that promotes a strong security environment.

In addition, EPA believes that the proposed digital signature and secure digitized signature methods discussed in section VII.H. of this preamble provide a reasonable basis for applying strict accountability policies. Digital signatures are not trustworthy if the ''private key'' of the signer is compromised. The compromise of a private key would likely involve either the complicity of or serious negligence of the owner of the key, such as allowing access to one's smartcard or hard disk where the private key is kept, along with the password or PIN necessary to use the private key. Likewise, one should be accountable if they allow others access to their signing devices (e.g., a digitizer pad) in such a way as to provide them the opportunity to ''forge'' an electronic signature.

EPA requests comments on this proposed set of system controls and procedures. Do these measures define an adequate computer security program that would ensure data integrity and record authenticity? Do these proposed controls provide sufficient flexibility? Can these controls be incorporated practically into commercially available products, and included in waste handlers' operations? How might EPA improve on these controls to make them more understandable and easier to implement?

11. Other System Requirements

In addition to the security and operational controls discussed above, today's proposal also includes several definitions of terms that are intended to provide greater certainty insofar as when an electronic manifest transmission has been received, and when there may be an obligation to retransmit an electronic manifest. Proposed § 262.26(e) would define an electronic manifest to be received by the recipient when it is accessible to the recipient in a format that the recipient can read. Should a recipient receive an unreadable transmission, or one bearing evidence of data corruption (e.g., garbled text or hash functions that do not calculate correctly), he or she would be required to request that the sender re-transmit a proper copy. Moreover, proposed paragraphs (f) and (g) of § 262.26 would aid the sender in establishing the fact of receipt by the recipient. § 262.26(f) would require recipient's systems to send promptly (typically, an automated, immediate response) an acknowledgment of receipt to the sender to acknowledge that a readable record was received by the recipient's system. According to proposed § 262.26(g), the acknowledgment of receipt from the recipient would establish conclusively the fact of receipt and the date of receipt. These proposals should provide assurances to the sender that their electronic transmissions were received in good order, and minimize the possibility of repudiation of the fact of receipt at a later date. Finally, proposed § 262.26(h) would create an obligation on the part of the sender to re-transmit an electronic manifest for which a positive acknowledgment of receipt was not received by the sender within 12 hours of the original transmission, while proposed § 262.26(i) would clarify that the inability of one to transmit a valid electronic manifest does not excuse that person from the obligation to initiate a hazardous waste manifest for their shipment. If a system is not operating properly and would not transmit valid manifests, the person responsible for providing a manifest must then use a paper manifest to accompany and track the progress of the waste shipment.

Similar proposals regarding receipt, acknowledgment of receipt, establishing date of receipt, retransmission, and inability to transmit are included for transporters and TSDFs. The similar transporter proposals are included at proposed § 263.23(d)–(g), while the proposed provisions applicable to facilities are set out at proposed §§ 264.78(f)–(j) and 265.78 (f)–(j). EPA requests comment on the appropriateness of these proposed terms, and whether they would meet our objective of establishing with certainty when electronic manifests are received and when they must be re-transmitted or replaced.

G. EPA's Proposed Electronic Signature Standard

1. Why Are Signatures Important to the Manifest?

A significant issue in this rulemaking is the designation of an electronic signature method that would be at least as secure and trustworthy as the conventional handwritten signature that has been in use for hundreds of years to authenticate paper documents. As a general matter, a signature is used to bind an individual signer uniquely to the text of a signed document, so that the source of the document can be clearly established, and so that the signer cannot later repudiate the transaction. Thus, signatures aid the authentication of a document.

In the context of the hazardous waste manifest, signatures also play more specific roles. The required manifest signatures are used to support certifications by waste handlers to specific facts, and more generally, to show the change of custody of waste shipments during their transportation to off-site treatment, storage, or disposal facilities. The hazardous waste generator initiates the manifest with its signature certifying that the contents of the shipment are fully and accurately described on the manifest by proper shipping name, that the contents are properly classified, packed, marked, and labeled, and that the shipment has been prepared properly for highway transportation. When the shipment arrives at the designated waste management facility, the TSDF signs the manifest as well, and this signature acts as its acknowledgment of the receipt of the shipment, except as specifically noted in the discrepancy space (current Block 19) of the manifest. In addition, as hazardous waste transporters accept custody of the shipment, they also sign off on the manifest form in the designated transporter blocks, and thus acknowledge with their signatures that they have received the materials.

Since the inception of the manifest in 1980, EPA's manifest regulations have required the hand-signed signatures of waste handlers to demonstrate the chain of custody, and to certify that the shipment was prepared properly by the generator or received by the TSDF. During public meetings conducted by EPA in December 1997 and January 1998, nearly all stakeholders attending voiced their support for retaining the role of signatures in the manifest. EPA believes that signatures are an effective means of demonstrating custody and acknowledging accountability. Therefore, this proposal would retain the role of manifest signatures, while authorizing the use of certain electronic signatures in automated systems.

2. What Are the Concerns With Electronic Signatures?

Hand-signed signatures are not perfect, and it is not uncommon for handwritten signatures to be the subject of crude or sophisticated forgery attempts. Nevertheless, the characteristic signature of each individual is an attribute that follows the individual and identifies him or her fairly uniquely to those who are familiar with and can recognize such a signature. When disputes arise, the courts are also familiar with the methods for using hand-signed records as evidence, and the types of expert testimony that can help resolve issues surrounding a disputed signature.

Electronic signatures are relatively new, and there are numerous technologies which purport to provide signature solutions that equal or exceed the level of assurance provided by

handwritten signatures. The technologies tend to be complex, and there is some concern that these technologies have not undergone the kind of review which conventional handwritten signatures have over many centuries of use.

The Agency understands the basis for this concern, and believes that over time, experience with the available signature methods would mitigate much of the concern. EPA believes that the electronic signature approaches proposed today can be made reliable and verifiable, so that they would identify individual signers of manifests to a very high legal and technical standard.

3. How Does Today's Proposal Address Electronic Signatures?

Today's proposal would require that electronic manifests be electronically signed with either a ''digital signature'' or a ''secure digitized signature.'' The proposal clarifies that electronic manifest copies bearing proper electronic signatures are the legal equivalent of paper manifests bearing handwritten signatures, insofar as meeting any requirement in these regulations to sign a manifest, to use a manifest, or to retain a copy of a manifest as a record.

The proposed amendments recognizing electronically signed manifests are found in proposed § 262.25, entitled Manifest Electronic Signatures, and in proposed § 262.26, which addresses electronic manifest systems and their security. These new provisions would together clarify that a manifest may be signed by either affixing a handwritten signature to a manifest form, or by signing an electronic manifest with a digital signature or secure digitized signature. Each mode of signature would be a valid method for a signer to authenticate the manifest. In this context, the term ''authenticate'' means simply that the signer is acknowledging that he or she is the source of the document that is signed, and that he or she approves or adopts the statements to which the signature relates. For electronic copies, § 262.26(a) states that electronic copies which are initiated and stored in computer systems which meet the § 262.26(c) procedures and controls, and which are electronically signed with signatures that meet the proposed § 262.25 electronic signature standards, may be used in lieu of hand-signed paper manifest copies to meet the manifest initiation, use, and retention requirements in the RCRA regulations.

Proposed § 262.25 includes at § 262.25(a) a definition of ''electronic signature.'' This term is defined generally to mean a method of signing an electronic document with a computer generated symbol or series of symbols in a way that indicates that a particular person as the source of the document, and indicates such person's approval of the content of the document, or an intent to be bound by the document. While this definition is technology neutral, paragraphs (b) through (f) would clarify that electronic manifests must be signed with one of two types of electronic signatures, the ''digital'' signature method proposed in § 262.25(c)–(f), or, the ''secure digitized signature method'' proposed in § 262.25(g). Proposed § 262.25(h) would establish a rebuttable legal presumption that may be of evidentiary value in adjudications that might arise surrounding electronically signed manifests. Under this proposal, proof that a particular individual's electronic signature was affixed to an electronic manifest would be evidence, and could suffice to establish that the individual identified as the signor affixed the signature and did so with the intent to sign the electronic manifest to give it effect.

4. What Is a ''Digital Signature?''

Section 262.25(b) of today's proposal would clarify that one type of electronic signature that may be used to authenticate the electronic manifest is a ''digital signature.'' Section 262.25(c) contains a definition of ''digital signature'' which explains that this is a specific form of electronic signature which is based on asymmetric cryptography. This type of cryptographic method is also known as private key/public key cryptography, since it relies on the mathematical relationship between a pair of ''keys'' (which are very long numbers) to execute and verify a signature. The technical basis for this signature technology is described below in greater detail.

This digital signature method proposed today in § 262.25(c)–(f) offers several performance advantages which ensure both reliable authentication and data integrity for electronic documents. Digital signatures are powerful authentication devices, because they are:

- Unique to the signer,
- Under the signer's sole control,
- Capable of being verified, and
- Linked to the data, so that any change to the data would cause the invalidation of the signature.

Thus, in addition to identifying the signer of a document, a digital signature has the additional advantage of providing positive verification that the electronic document has not been altered since it was signed. Thus, digital signatures provide enhanced security and data integrity when compared with personal identification numbers (PINs) and other types of electronic signatures. This also makes the digital signature approach more suitable for use in open systems such as the Internet. While the open network may itself be difficult to secure, the digital signature makes it possible to secure the individual signed documents, thereby ensuring the authenticity and integrity of records that are transmitted and received.

5. How Do Digital Signatures Work?

A digital signature is based on cryptography, which is an area of applied mathematics that is more commonly associated with scrambling and unscrambling transmitted messages so that they remain confidential. In creating and verifying digital signatures, however, there is no encryption of data. Instead, the cryptographic process is used only for authentication purposes.

Digital signatures rely on asymmetric or public key cryptography. In a public key system, each user would have two distinct keys known as the ''public key'' and the ''private key.'' The two keys in each key pair are mathematically related in such a way that: (1) the public key, and only the public key, can authenticate a message that was digitally signed with the related private key; and (2) one cannot feasibly determine or calculate the private key from knowledge of the public key. Once a user has a key pair, he or she must keep the private key secure from disclosure and never transmit it. On the other hand, the public key is distributed freely to all those with whom the user corresponds. Messages digitally signed with party A's private key can be authenticated by party B using A's public key which A has distributed or published. The great advantage of asymmetric cryptography is that communications can be secured across open networks, without the need to share or distribute any secret keys.

Digital signatures are possible because of the key pair relationship in asymmetric cryptography. This follows from the fact that if A's public key is able to validate the digital signature on a message received by B, then B knows with reasonable certainty that the message could only have been digitally signed with the corresponding private key that is held only by A. So, a digital signature created by party A when he ''signs'' an electronic message using A's private key can be verified by party B with A's public key, and this validation

would authenticate A as the source of the document.

The creation and validation of digital signatures is an involved process that involves complex mathematical operations known as encryption algorithms. However, the computations that create and validate digital signatures are conducted by signature system software, and occur transparently to the user. The complexity of the calculations is also what ensures the strength and security of the digital signature method.

To create a digital signature, the signer of a document first uses his or her signature software to create a digital ''fingerprint'' of the document or message that is being signed. A ''hash function'' is applied to the message, and the hash function acts on all the binary data in the document to produce a numerical result that is unique to the document. If even one character or punctuation mark in the document is changed, the hash function would compute a different numerical result for the document. This unique calculated number thus represents the entire document, and is called the ''hash'' or ''message digest.'' The signer's software then uses the message digest value and the signer's private key to generate the digital signature value. This value is forwarded to the recipient along with the text of the document. Upon receipt, the recipient's software verifies the message digest with the sender's public key, and also runs the hash function on the text of the received message. If the sender's public key successfully recovers the message digest, and the numerical result of the recovered digest matches the number calculated by the recipient's hash of the received text, then the digital signature is verified. Verification thus indicates that the digital signature was created with the signer's private key, and secondly, that the document was not altered since it was signed.

6. What Digital Signature Algorithms and Key Lengths Are Acceptable?

This proposal would require that electronic manifesting systems include application support for creating and validating digital signatures that comply with existing standards. Currently, there are several algorithms which can be used to generate a digital signature. In December 1994, the National Institute of Standards and Technology (NIST) adopted the Digital Signature Standard (DSS) as Federal Information Processing Standard 186. The 1994 DSS referenced the Secure Hash Algorithm (SHA) as the required method for calculating message digests. The SHA is a Federal Information Processing Standard that was published by the NIST in April 1995 as FIPS PUB 180–1. According to the Federal DSS, the message digest calculated under the SHA is then input to the DSS's Digital Signature Algorithm (DSA), and the resulting encryption of the message digest creates the digital signature. The DSS was developed to be a standard for federal information systems, in order to improve the utilization and management of computer and related telecommunications systems in the Federal Government.

Despite the specification by NIST of a specific DSS for federal systems, few signature software products were developed that supported the 1994 DSS. Instead, many of the commercial signature products have tended to embrace the algorithm developed by RSA Data Security. Because the RSA algorithm has been demonstrated to be strong and effective, and also because of its widespread commercial acceptance, the NIST determined in December 1998 to include the RSA algorithm in the Federal DSS. Thus, either the earlier DSA announced in 1994 by NIST or the RSA algorithm described in ANSI standard X9.31 may now be used for generating digital signatures in federal information systems. See NIST FIPS PUB 186–1, December 15, 1998.

In light of NIST's recent acceptance of the RSA algorithm, EPA is today proposing that digital signature products used in connection with the hazardous waste manifest must support the Secure Hash Algorithm (for creating message digests) described in FIPS PUB 180–1, and the RSA digital signature algorithm (see ANSI X9.31), in accordance with FIPS PUB 186–1, December 1998. The RSA algorithm is well understood and has been carefully tested, and should provide adequate strength and security for the foreseeable future. EPA believes it is appropriate to standardize manifest digital signatures around the RSA signature algorithm, to facilitate the use and ready verification of digital signatures generated by various commercial signature products.

Digital signature products used in connection with the manifest shall support ANSI X9.31 key generation methods. The modulus, which reflects the strength of the encryption used in creating a digital signature, shall not be less than 1024 bits.

EPA requests comment on the designation of the RSA algorithm and FIPS PUB 186–1 as the standard for manifest digital signatures.

7. Is a Digital Signature Alone Sufficient to Identify Individual Signers?

No. It must be emphasized that, unlike a handwritten signature, a digital signature is not a personal attribute or characteristic of the signer. When a recipient validates a digital signature with the sender's public key, the validation only establishes the fact that the public key and private key are mathematically related. The relationship of the keys to the individual signer is not certain, without additional safeguards that help to bind the signer to the use of the private key.

To ensure the reliability of digital signatures, two potential weaknesses must be safeguarded. First, it is essential that the holder or ''owner'' of the private key maintains the security of the private key. If one's private key is stolen, lost, or otherwise compromised, then the digital signature system may be compromised. An imposter could then use a stolen private key to sign documents that would appear to be signed by and bind the owner of the key, and unless recipients were made aware of the theft, the public key would appear to validate the imposter's signature. Second, there must be involved a ''trusted third party'' to ensure that the identity of the individual and his or her public key are securely bound together in the form of a digital certificate, and that all such certificates are properly issued and managed.

8. How Would Today's Proposal Deal With the Security of Private Keys?

Today's proposal would require that individuals protect their private signature keys from disclosure or other compromise. As discussed below, the discovery that a private key has been compromised creates obligations to notify appropriate authorities, who would then provide notice that the certificate associated with that key has been revoked. In addition, the electronic manifest system controls discussed above in section VII.F. of this preamble would require that organizations using electronic manifest systems have policies in place that hold individuals accountable for actions initiated under their electronic signatures. Since employees would be aware of this accountability and the sanctions that their employer may impose for intentional or careless conduct involving their private keys and digital signatures, EPA believes that such controls would provide a reasonable deterrent against signers compromising the security of their private keys. These requirements are no more demanding

than those generally accepted by the public in connection with lost credit cards. When EPA publishes its supplemental notice detailing the manifest PKI, we will provide more information on the proposed security requirements for digital signatures.

Today's proposal would not, however, require that digital signature systems used for signing manifests employ a tokenized digital signature. With tokenized digital signatures, the private key that creates the digital signature resides on a ''smart card'' or other hardware token, which is carried on the person of an individual signer and accessed with a password or PIN that only the individual would know. Such a hardware-based implementation of a digital signature system can enhance the security of the system beyond that attainable under a system where the private key resides on software stored on one's hard drive or network server. Hardware-based systems provide greater security because the hardware token ties the signature act more closely to the individual holder of the token. A hardware-based system also protects the private encryption key from attacks by hackers or saboteurs. EPA is not proposing the use of the hardware-based approach, because we believe that manifest digital signatures would be sufficiently secure when implemented with software, and because the use of hardware tokens adds additional cost and complexity (installation of card readers) which are not warranted in this application. Organizations desiring higher levels of signature security would of course have the option of implementing a ''smart card'' or other token-based approach. The Agency requests comment on this issue.

9. Why Is a ''Trusted Third Party'' Necessary for Digital Signatures?

Beyond the problems presented by loss or theft of private keys, there is a more fundamental issue associated with the creation and use of a digital signature. Validation of a signature with a public key only verifies the relationship between the keys in a given private key/public key pair. As an initial matter, therefore, one must have some objective means of validating that the person who subscribes to or ''owns'' a given key pair is who they say they are. This need goes to the issue of establishing the bond between the individual signer and the key pair that was generated arbitrarily by the digital signature system.

In digital signature systems, the role of the ''trusted third party'' that would vouch for the bond between a particular individual and a private key/public key pair is played by Certification Authorities. The Certification Authority (CA) must obtain from individual subscribers some type of proof (e.g., a driver's license or Social Security Number) to establish the identity of the subscriber. In this sense, the CA functions like an electronic notary that certifies that an individual is who they claim to be. When the CA is satisfied with the subscriber's identity proof, it issues a digital certificate that identifies the individual subscriber and their associated public key. The CA signs the subscriber's digital certificate with its private key, so that recipients can (with the CA's public key) validate that the certificate is authentic and in fact originated from the CA. Then, when the subscriber uses its private key to sign a document, he or she could also send a copy of the CA's certificate with the transmission to the recipient. The recipient's application could then verify that the document was signed with the subscriber's private key, and also verify that the certificate is a valid certificate. Enabling the validation of certificates is an essential function of the CA, which must track certificates that have been revoked (e.g., a key was compromised or an employee terminated) or that have expired. So, by checking the CA's on-line registry or data base of revoked certificates, or lists of revoked certificates published in other places, the recipient of a digitally signed document can determine whether it should rely on a given certificate and digital signature.

10. What Digital Certificates Would Be Required Under Today's Proposal?

An international, standardized format has been established for digital certificates, so that digital signature systems may efficiently automate the validation of certificates. To maintain consistency with the international standard, EPA would require in this proposal that digital certificates meeting the current X.509 standard be obtained by subscribers who would use digital signatures to sign electronic manifests. This standard is well established, and has been implemented in numerous signature products that are now available and in use. The current version of the standard is X.509v3, and this certificate standard specifies several data fields, including the name and signature algorithm of the Certificate Authority, the serial number of the certificate in the CA's domain of public key certificates, the name of the subscriber, the public key value and signature algorithm of the subscriber, and period of validity for the particular certificate. Other data fields for unique identifier information and optional extensions are also included in Version 3 of the X.509 certificate standard and are included in a standard Federal profile established by the Federal PKI Steering Committee Technical Working Group chaired by the National Institute Standards and Technology. Information about this standard Federal profile is available at http://gits-sec.treas.gov. EPA requests comment on the inclusion of these X.509 certificate standards in the digital signature approach proposed today for electronic manifests.

11. What Is a Public Key Infrastructure (PKI)?

The entities and services that support the issuance and use of digital certificates make up the so-called public key infrastructure, or PKI. To be fully functional, a PKI must be able to provide the following services to those that would subscribe to or rely on digital certificates:

- Certificate registration or enrollment,
- Certificate issuance and delivery,
- Maintenance of a directory of valid certificates,
- Maintenance of a list of revoked certificates, and
- Maintenance of long-term archives of certificate records.

At the heart of a PKI is a Certificate Authority (CA), which serves as the trusted third party to oversee the certificate enrollment, issuance, validation, and revocation processes. Typically, subscribers (those applying for certificates) would look to CAs to conduct a proper identify proofing inquiry and then issue them digital certificates that accurately convey the subscribers' identity information and public keys. Relying parties (those who would rely on the certificate as proof that they are dealing with the named subscriber) would look to CAs to maintain accurate and timely information to validate certificates, including the maintenance of on-line certificate repositories or data bases that may be queried by relying parties. These services can all be provided by a Certification Authority, but in some instances, a CA may delegate to others specific tasks such as certificate enrollment, collecting identity proofing information, certificate production, or processing validation requests. The CA's identify proofing procedures and the standards that it follows for issuing and managing certificates are typically spelled out in the CA's detailed Certification Practices Statement.

PKIs can be developed for ''closed'' and ''open'' user communities. For example, one might wish to authorize

the use of digital certificates in the context of a very narrow user community (e.g., those signing and transmitting health claims forms), or, one might wish to use certificates broadly to support all manner of on-line transactions or dealings with public and private entities. The more ''open'' models for establishing PKIs may involve multiple CAs issuing certificates and processing certificate validation requests. In such cases, issues may arise about the interoperability of the different CAs' certificates, as well as issues about the similarity of their proofing standards and procedures, and whether the different CAs can ''cross-certify'' and recognize each others'' certificates.

There is currently much discussion underway within federal and state governments on the standards and procedures that should govern the issuance and use of digital certificates in government information systems. Significantly, EPA is participating in the Federal Public Key Infrastructure Steering Committee, which includes representatives from more than two dozen federal agencies. This Federal PKI Steering Committee is now developing a Certificate Policy for a Federal Bridge Certification Authority (FBCA) that would establish a framework of minimum requirements for the issuance and management of interoperable digital certificates within the federal government. The FBCA Certificate Policy is currently being developed as a high level statement of the legal aspects of agency CA's operations, rather than the detailed technical aspects. The FBCA Certificate Policy could then be adopted by participating agencies to cover the use of digital certificate services, and fine-tuned to meet the security needs of specific programs. Other public and private sector groups are attempting to address the issue of certificate interoperability, by developing certificate content and processing standards that would facilitate the reliable exchange of digital certificates and their automated validation.

Recently, the General Services Administration (GSA) has established its ''Access Certificates for Electronic Services'' (ACES) program for issuing digital certificates to support the public's access to federal information systems. The ACES model was conceived as a government-wide PKI structure to be administered under GSA contracts, with certificate services being provided by multiple, commercial vendors awarded ACES contracts. The ACES approach offers these beneficial features:

- A unified, consistent approach to obtaining PKI services from the government, thus avoiding the creation of many, limited scope PKIs for numerous government programs;
- Increased efficiencies and reduced costs to certificate users, through the aggregation of the government's certificate needs across many participating agencies;
- On-line subscriber registration and certificate issuance, with identify proofing of subscribers drawing on several, independent-sourced databases;
- On-line and nearly real-time certificate validation for relying parties;
- A common Certificate Policy to govern all parties' responsibilities and the CAs' operations;
- Assured interoperability of certificate processing by the several ACES contractors (CAs), through the design and operation of the so-called ''Certificate Arbitrator Module'' that would be developed for the ACES program; and
- Several pricing options for certificate services, the cost of which would be borne by the participating government agencies relying on the certificates issued to the public.

While EPA believes that the ACES program offered by GSA has much to offer, it is not entirely suited to the hazardous waste manifest program. The current ACES model was designed primarily to support those Federal applications (e.g. websites) where members of the public would be reporting data directly to or requesting information from the federal agency. In this model, the federal agency would always be the ''relying party'' that would be validating the identity of those members of the public dealing with the agency's information system. However, EPA does not now collect manifests from the public, nor does it intend to create a centralized reporting system or national data base for tracking manifest data. Numerous states collect manifests, but ACES is not currently authorized to contract with State agencies for certificate services. In addition, most of the electronic manifest transmissions contemplated by today's proposal would be transmissions among the commercial firms handling hazardous waste shipments, rather than transactions with government agencies. So, the PKI for the manifest system would need to address the fact that the waste handlers would be the typical ''relying parties'' that would need to validate the certificates of other waste handlers involved in their waste transactions. The PKI would therefore need to provide for certificate services in the context of these routine manifest transmissions between waste handlers, and apportion the cost of certificate issuance and validation services equitably among these entities.

EPA believes that digital signatures and certificates will play a vital role in the near term in bolstering the level of trust accorded electronic transactions. The development of PKIs is at an early stage and very much in flux, and many of the details about how and when EPA would establish PKIs for RCRA and its other environmental programs will not become clear until later in the development of this rulemaking.

For example, EPA's Office of Environmental Information is addressing more generally EPA's efforts to implement the GPEA statute, and issues across EPA's programs for submitting electronic reports to EPA. EPA expects that digital signatures will play in important role in electronic reporting. Currently, EPA is testing a prototype approach for a Central Data Exchange, and is testing the use of ACES certificates in connection with the prototype system. As a part of a submitter registration process, EPA is considering whether to require that those applying for digital certificates execute a hand-signed electronic signature agreement that would contain terms and certifications addressing, among other things, the signer's responsibility to protect its private key from compromise, unauthorized use, or delegation to others. EPA is also considering whether registrants should be required to periodically re-certify that he or she has done nothing in violation of the signature agreement.

The details of EPA's PKI approach are evolving. However, the Agency is today providing notice that it is proposing a digital signature option for electronically signing manifests, and this would necessitate some form of PKI to be established as well. EPA is looking at several approaches for establishing a PKI for the manifest. Commenters are advised to look to future proposals for more detailed information on the PKI topic. Policies developed for PKI in other rules would likely be relevant to and perhaps incorporated into this rulemaking. For example, should EPA conclude that signature agreements with certifications addressing subscribers' responsibilities to protect their private keys are necessary to ensure accountability and enforceability in connection with digital signatures, EPA would likely include similar signature agreement terms for the manifest PKI. Once EPA has established a more comprehensive PKI policy, we will issue a supplemental notice in this rulemaking identifying a more specific

PKI proposal for the manifest. Additional public comments on this topic will be solicited at that time.

12. What PKI Options Are Being Considered for the Manifest?

EPA is evaluating several distinct options for establishing a manifest system PKI. These options differ primarily on the level of centralization of PKI services, and whether government agencies (EPA or authorized state agencies) or commercial waste firms would establish these PKIs to support their digital certificate activities

a. *Centralized PKI for Environmental Programs.* Under this option, EPA would establish a centralized PKI structure to service the manifest program and other environmental programs. This ''environmental community PKI'' could then deal centrally and efficiently with supplying certificate services to the various entities subject to the reporting and record keeping mandates of the environmental programs administered by EPA or by authorized state programs. This model would appear to be fit well with the ''Central Data Exchange'' role that the Agency's new Information Office has identified as one of its electronic reporting initiatives. The Central Data Exchange would act as a central hub for receiving, processing, and routing to recipients the many in-bound records and reports that external stakeholders would send electronically to EPA or participating state agencies. Under this option, the central receiving facility role would extend also to providing digital certificate services for the environmental community.

Under this option, EPA would likely leverage existing expertise, and contract with one or more commercial CA vendors to supply certificate issuance and processing services. A fairly generic Certificate Policy could be developed to define user roles, responsibilities, and required CA operations. Interoperability requirements could be included in the event that multiple CA vendors are awarded contracts, and links to the CAs' on-line sites for obtaining certificate enrollment and certificate validation services would be provided. A centralized on-line registry or data base of revoked certificates would be maintained by the CAs for the environmental community, so that the status of certificates could be readily determined. The commercial CAs could then bill users directly for the enrollment or validation services provided to subscribers and relying parties.

EPA believes that a centralized PKI approach offers the advantages of greater efficiencies and economies of scale, when compared to models under which each environmental program or commercial enterprise (e.g., a waste disposal company and its customers) would establish its own PKI. Also, a centralized approach appears to offer greater prospects for avoiding interoperability issues in connection with validating the certificates that would be issued to a great number of commercial entities engaging in interstate transactions. The ability to quickly and reliably validate certificates is critical to fostering trust in digitally signed communications.

However, there may be difficulties as well in establishing such a centralized PKI. State electronic signature laws may impose additional controls or licensing requirements on CAs, and an EPA-led PKI would need to yield to or comport with any additional or different standards required under state law. Also, this option is dependent on the participation by many commercial entities and state agencies in a centralized system, and some may prefer to establish their own systems, rather than defer to EPA. Also, the potential liability of contractors performing CA services could also be an issue, and provisions limiting the CAs' liability may need to be included in their contracts, or the vendors may not wish to participate.

b. *Decentralized Approach to PKI.* Under this option, each waste management or other environmental community would establish and operate its own PKI, or obtain the services of commercial vendors who would obtain the certificates and manage them. So, waste management firms might establish PKIs for their networks of facilities and customers. Alternatively, states could be the organizations that establish localized PKIs to deal with the submissions they receive from their regulated communities. EPA would not issue a generic Certificate Policy under this option. Rather, EPA's role in a decentralized approach would be limited to establishing in this rulemaking some minimal criteria which these PKIs should meet, such as minimally acceptable identity proofing by CAs, minimally acceptable key lengths and encryption algorithms, the definition of those events that would necessitate certificate revocation, the maintenance of certificate revocation lists, a determination of the frequency with which certificate status data must be updated, and minimal archiving and auditability criteria for CAs' records of certificates.

This option would appear to offer several benefits. Certificate policies and CA practices could be tailored closely to the needs of the PKI community at hand, as well as the local laws and procedures applicable in the states where the users operate. EPA would be minimally involved in creating ''national'' PKI policy, or in administering the PKI-related contracts and ''central receiving facility'' types of support network for PKI services. Also, this rulemaking would only need to address PKI issues minimally.

EPA believes that this option would also pose significant drawbacks. First, anecdotal evidence suggests that setting up a PKI can be an expensive proposition. Establishing a PKI can involve either contracting with vendors to provide these services, or the expenditure of considerable resources on-site to provide the skilled personnel, the technical hardware and software, and the certificate processing data bases needed to provide enrollment and validation services. Some entities would likely not proceed at all with PKIs if they were required to incur these costs alone, and it would appear to be extremely inefficient to have these expenditures duplicated many times over so that numerous PKIs could be established for more narrowly defined communities. Moreover, in the decentralized model, there would be greater likelihood that the certificates that would be issued by numerous CAs operating under disparate Certificate Policies would not be interoperable or recognized by the other CAs.

c. *Hybrid Option.* Under a hybrid approach, EPA would establish a standard Certificate Policy similar to the ACES Program Certificate Policy for the ''environmental reporting community'' and define the required structure of the X.509 v.3 certificates that would be issued in connection with EPA's environmental programs. EPA would contract with commercial CAs to provide the certificate services for the manifest and other EPA programs. For example, the Agency could contract with one or more of the CAs selected under the ACES procurement process, in order to foster the interoperability of the certificates that these vendors would issue. The Certificate Policy could, for example, allow the State environmental agencies to function as the local registration authorities (LRAs) that would gather certificate enrollment information from subscribers and confirm through local program data bases the content of certificates. Once adequate information is obtained and confirmed by the LRA, it then would direct the CA to issue or renew certificates. The contracts with EPA would provide that CAs would charge

the participating commercial entities directly for certificate subscription and validation services. This hybrid option offers many of the advantages of the centralized option, while permitting states to exercise their prerogatives in controlling access to certificates by their regulated community.

EPA requests comments on these three options for establishing a PKI. Comments addressing their relative advantages and disadvantages, as well as suggestions for implementing them effectively would be especially helpful. EPA will address these comments and identify a more specific PKI proposal in the supplemental notice that we will later publish for comment.

13. Proposed ''Secure Digitized Signature'' Method

EPA recognizes that the digital signature approach discussed above may not be suited to many manifest users. The digital signature technology is clearly a reliable and proven method for authenticating electronic documents, but managing encryption keys and working within a PKI may introduce a level of complexity that some users may find objectionable. In addition, some may find the digital signature method objectionable because it deviates too far from the more familiar signing ceremony that one associates with handwritten signatures. For these users, an electronic signature method that more closely mimics handwritten signatures may be more desirable, especially for use in the field where manifests are typically signed.

Therefore, EPA is proposing ''secure digitized signatures'' as another signature alternative for the manifest. This alternative would allow electronic manifesting systems to incorporate software, digitizer pads, and electronic pens that create a graphical representation of a signer's handwritten signature. The electronic manifest copies would be signed with the digitizer/pen device, and the manifest records would retain the graphical image of the hand-signed electronic signature. The software would be required to store the signature as a ''signature object'' that contains the graphical image of the signature, signature capture data, and document binding data. The document binding data required here would be data which show that the signature is cryptographically and inextricably bound to the signed document. In addition, the software would be required to display the graphical signature image in an industry-standard bitmap format (e.g., TIFF or BMP) for viewing or printing. Customers and business partners would therefore be able to recognize such an electronic signature image as the likeness of the signer's signature. In this respect, the digitized signature can be applied and ''verified'' in the field nearly as easily as a handwritten pen-and-ink type signature.

A key feature of the proposed ''secure digitized signature'' standard is the inclusion of additional security measures and signature object data beyond the basic signature bitmap image. These additional measures would be required because standard bitmap images alone present security risks that would mitigate their reliability as a means of authenticating electronic records. Standard bitmap files can be readily copied between documents, such that a non-original signature could be applied to a document using conventional ''cut-and-paste'' editing tools. Without additional safeguards, an imposter could conceivably obtain a bitmap image of another's signature, and apply it to a new document in such a way as to create the impression that the other person signed the document. This would create many opportunities for forging electronic signatures and present plausible scenarios for repudiation of electronic documents.

Therefore, EPA is proposing that electronic manifest systems using this signature method must adopt certain measures that would secure this signature method against the unbridled copying of signature bitmaps. Under today's proposal, ''secure digitized signatures'' must incorporate these additional features to enhance their authentication and data integrity capabilities:

- The signature software must block access to ''cut-and-paste'' editing functions;
- The signature software must only accept ''real time'' signature data input from the digitizer/pen device;
- The signature software shall record the signature data as a ''signature object'' that contains:
- The graphical image of the signature for display and print operations, in industry-standard bitmap format (e.g., TIFF or BMP),
- Signature capture information, particularly, the claimed identity of the signer (e.g., a user ID) and the date and time of signing, and
- Document binding data, particularly, an encrypted checksum or hash function of the data to which the signature relates.
- The signature software shall allow for verification of signature objects, to establish if data has been changed since the signature was captured.

These features are intended to address signature authenticity and data integrity. EPA has had some experience with the digitized signature method in its Manifest Automation Pilot tests, and based on early results from the 3rd phase of Internet tests, this method appears to be practical and reliable . There are several signature products that are now commercially available which appear to meet the standard proposed here.

14. Request for Comments on Proposed Signature Methods

Today's proposal would require electronic manifests to be electronically signed with either digital signatures meeting the § 262.25(c)–(f) standards or with secure digitized signatures meeting the standards of § 262.25(g). EPA believes that the proposed signature approaches would provide sufficient assurance that a signed manifest is authentic, and that it has not been altered since being signed by a waste handler. EPA believes that the proposed electronic signature methods represent effective ways to bind an individual to his or her unique electronic signature. We believe that these types of electronic signatures can establish a bond as reliable as the bond between an individual and their handwritten signature. Also, we believe that these signature technologies are more practical and proven than other authentication technologies that rely on biometrics (e.g., fingerprint readers or retina scans), as the biometric methods identified to date tend to have significant error rates which hamper their utility. Biometric methods also are not typically implemented in ways that link the biometric parameters being measured to the data being signed, so they are not as helpful in assuring data integrity as the methods proposed here.

The proposed methods do entail some additional cost to users. For example, the digital signature method requires the establishment of a PKI, and in addition, Certification Authorities typically would charge subscribers and relying parties fees to issue and validate digital certificates. Software integrating the signature method with the other manifest preparation and transmission functions would need to be acquired, and depending on the method selected, there may be additional costs associated with digitizers or other peripherals. The Agency is proposing these signature methods in spite of these incremental costs, because we believe that these methods would be instrumental in making electronically signed manifests trustworthy and legally enforceable. Thus, the additional security and

trustworthiness that should result under the proposed approaches balance the cost considerations. EPA requests comment on the electronic signature methods proposed here for the manifest. In particular, comments addressing the following issues would be very helpful to EPA.

- Do manifest signatures require the level of security offered by the digital signature technology?
- Is the proposed software-based implementation of the private signature key a reasonable accommodation of signature security, practical implementation considerations, and cost?
- Would the administrative complexity and cost of establishing or participating in PKIs deter waste handlers from implementing digital signature-based electronic manifest systems?
- Is it practical for waste handlers and their employees to sign manifests using digitizers or digital signature products? Are there human factors or other issues involved that would make such signature methods impractical for hazardous waste shipments?
- For digital signatures, would individuals and sponsoring firms be willing and able to maintain the confidentiality of their private keys, and accept accountability if private keys are compromised? Should EPA require registrants to enter into signature agreements that contain certifications that the private key would be protected from disclosure, unauthorized use, or delegation? Should registrants also be required to periodically re-certify that they have not violated their signature agreements, and if so, what would be the appropriate frequency of such re-certifications? Should the signature agreements and re-certifications be signed by hand?
- What types and quantity of proof of identity should be required to support the issuance of a digital certificate for use in the manifest program? Should applicants be required to present themselves in person to the Certificate or Registration Authority, or should less formal proof be acceptable?
- Is it practical to verify digital signatures on a document such as the manifest, which is signed sequentially by multiple waste handlers, and occasionally edited while it is being transmitted among handlers? Must multiple versions of each manifest document be maintained by the software so that the complete history of the document is preserved?
- How susceptible are digitally signed and electronically stored media to deterioration over time, such that a digital signature might become corrupted during storage and thus fail to validate? Are there practical solutions to this problem?
- Is it feasible to require validation of digital signatures and certificates over the long term? Are there practical ways to ensure long-term authentication and enforcement capability, without requiring indefinite signature validation mechanisms?
- With respect to the secure digitized signature method, does the proposed standard provide adequate security for manifest signatures? Does the similarity of digitized signature images to handwritten signatures offer advantages that manifest users would find attractive? Does software implementing this approach support open standards, rather than proprietary algorithms and standards?
- Is the secure digitized signature approach proposed here adequate to prevent ''replay attacks'' by which a digitized signature could be appended to another document and thus forged? Are there other practical measures that should be included to guard against copies being substituted for original digitized signatures? Are the algorithms that are used to bind these signatures to record data sufficiently strong to prevent attacks or misuse?
- Should the Agency require that there also be some visual feedback provided to signers during the digitized signature act, so that signers can clearly see how the system is capturing their signatures and thereby enter more accurate signature data? What additional cost would be incurred if digitizer pads were required to provide such feedback?
- Should the proposed secure digitized signature method also require that these systems capture dynamic signature parameters, e.g., speed of signature, pressure applied to the pad, and pen stroke measurements? Should the proposal also require that the captured dynamic signature information be used in real time to validate the digitized signature? Would such data significantly enhance the ability to establish the genuineness of a signature? Are the current products which provide this capability accurate and reliable? Would the forensic evidence produced by these products provide a sufficient and reliable basis for civil and criminal litigation? Which dynamic signature parameters are most relevant and reliable insofar as being helpful to verify an electronic signature as genuine?
- Should EPA be concerned that users of digitized signature systems might be more inclined to enter null or nonsense signatures on a digitizer pad than they would if they were signing a paper document?
- As an additional measure to enhance the security and authenticity of digitized signatures, should EPA require that digitized signatures also be digitally signed? EPA has not included this requirement in the proposed rule option, as it was the Agency's intent to establish the secure digitized signature method as a distinct alternative to the digital signature method. Specifically, we developed the proposed digitized signature method to allow hand signed electronic signatures to be verified without the administrative complexity of a public key infrastructure. While it is technically feasible to digitally sign a digitized signature, EPA is concerned that the additional security gains would be outweighed by the additional cost and complexity associated with implementing this approach.
- Is the proposed secure digitized method practical and cost-effective when compared to hand-signed forms or to the digital signature/PKI alternative?
- Is the Agency being too prescriptive in proposing only the ''digital signature'' and ''secure digitized signature'' methods, rather than authorizing the use of ''electronic signatures'' more broadly? If the Agency adopted a broader approach, what performance or technical criteria would be appropriate for authorizing the use of additional signature methods? What approval process would be followed to authorize any additional methods, and who would be responsible for reviewing and approving such methods? If numerous methods were to be authorized, how would EPA ensure that the manifest's multiple signatures could be readable and readily verifiable by all those who might encounter and wish to rely on the electronic manifests?
- Is it appropriate for the Agency to propose two alternative signature approaches? Would the two alternative methods conflict in practice, and if so, how can EPA minimize this problem? Does the interstate nature of waste transactions and the need for multiple signatures on the manifest provide justification for adopting one uniform method or standard for signatures? If only one signature approach makes sense for the manifest, should EPA adopt the digital signature or the secure digitized method?
- Is there merit to a Personal Identification Number (PIN) system, in which individuals would enter a unique sequence of alpha-numeric characters which they have adopted as their electronic signature. A PIN system may be less costly to implement than other electronic signature alternatives,

although such systems can require considerable company and agency oversight in order to issue, manage, and revoke PINs as appropriate. A PIN-based signature system may be appropriate for electronic transactions for which there is not as critical a need for security or strong authentication. However, in the context of developing electronic reporting standards for the Discharge Monitoring Report (a Clean Water Act requirement), EPA concluded that, in order to satisfy standards of proof for criminal prosecutions, it was preferable to require more than simply a PIN for authentication of a record. So, in the Discharge Monitoring Report rulemaking, EPA proposed the use of a PIN signature backed up with a follow-up certification that would be hand-signed and mailed to the Agency. This approach seems impractical for the manifest, and therefore, EPA has not included a PIN approach in today's proposal. However, we solicit comments on the practicality and security of PIN-based methods in the context of the manifest system, and how such an approach could be implemented securely and efficiently.

H. Preparer Signature Proposal

1. What is a ''Preparer Signature''?

The manifest is completed when the generator signs the Generator's Certification contained in Block 16 of the Uniform Hazardous Waste Manifest. The generator makes this certification before turning custody of the shipment over to the transporter, and the certification statement attests that the waste shipment is fully and accurately described on the manifest, and that the shipment is in all respects in proper condition for highway transportation according to applicable national and international laws. In addition, the certification includes statements regarding a generator's waste minimization program or, for SQGs, efforts to minimize waste. Currently, the generator's certification requires the hand signature of the generator or an authorized representative of the generator.

Today's proposal would allow an electronic manifest ''preparer'' to sign a generator's manifest. For purposes of the automated manifest, the proposal would enable such a preparer to sign the generator's certification on behalf of the generator with the preparer's electronic signature.

2. Why Is EPA Proposing To Allow Preparers To Sign Electronic Manifests for Generators?

EPA is aware that it is a common practice for an entity or individual other than the generator (e.g., employee or contractor) to perform the steps necessary to prepare a waste shipment for transportation, including the steps associated with preparing the manifest paperwork. Often, the transporter or the TSDF prepare the manifest paperwork as a part of the service it provides to its generator customers. EPA has already clarified, through an amendment to Item 16 of the manifest instructions, that the handwritten signature on paper manifests may be made by employees or other individuals on behalf of the generator. 51 FR 35190 at 35192 (October 1, 1986). Because the electronic manifest may also be prepared by entities or individuals other than the generator, it is appropriate to provide similar flexibility for the preparation and signing of the electronic manifest. Please note, however, that EPA is not reconsidering, reopening, or requesting comment on the existing rule allowing employees or other individuals to sign the paper manifest on behalf of a generator.

EPA believes that allowing preparers to sign an electronic manifest on behalf of a generator would be particularly important in ensuring that small generators may take advantage of the electronic manifest option. Hazardous waste transporters and TSDFs frequently prepare manifests as a service to smaller generators. While the small or infrequent generator would not be expected to obtain computer equipment or software to conduct automated manifesting, the transporters and TSDFs that deal in larger volumes of manifests would likely find automated manifesting more advantageous. Thus, allowing the preparer to sign the electronic manifest provides a way for small or infrequent generators to participate in the automated system. EPA estimates that small generator manifests may account for about 66% of the manifests circulated annually. So, providing a means to include these manifests would extend the burden reduction effects of manifest automation to these manifests as well, particularly, as they are received and processed by transporters, TSDFs, and State agencies.

3. How Would the Preparer Signature Feature Work?

Under today's proposal, a preparer may initiate electronic manifests for its generator customers only if the preparer has been authorized by the generator to prepare and sign the generator's manifests on behalf of the generator. EPA is further clarifying that the authorization need not be in any specific form, but there must be clear evidence of intent that the preparer is authorized to prepare and sign manifests on behalf of the generator. The generator can limit this authorization to a specific term, or to specific waste types, as appropriate. The generator can also revoke the authorization at any time.

Today's proposal would provide that electronic manifests may be signed electronically by preparers who have been authorized to prepare and sign electronic manifests on behalf of the generator. So, a transporter or TSDF under contract with the generator could arrive on-site for a waste shipment pick-up and have authorization from the generator to prepare the shipment and sign the manifest electronically on behalf of the generator. A person signing a manifest (paper or electronic) on behalf of a generator would not become liable as a RCRA ''generator'' simply by signing the manifest. The question of whether such a person might also be held responsible for complying with the generator requirements would depend on the facts and circumstances of individual cases. For example, a contractor can under other circumstances be a co-generator of a waste, and in such instances, may in fact assume generator responsibilities for completing the manifest. See 45 FR 72024 at 72026 (October 30, 1980).

Since an authorized preparer does not assume generator responsibilities simply by signing an electronic manifest on behalf of a generator, the generator would in all such cases still be identified on the manifest as the generator of the shipment. Today's proposal would only affect who might perform the physical act of signing the generator's certification in the course of initiating the electronic manifest. Once signed by the preparer, the electronic manifest would then be transmitted electronically to subsequent transporters and the TSDF, and any copies required by generation or destination states could also be supplied electronically, if the states involved allow electronic submission of manifest copies.

4. How Would a Preparer-Signed Electronic Manifest Be Closed Out?

Under today's proposal, the generator would remain responsible for overseeing that its off-site shipments are in fact received by the designated facility or TSDF. So, a preparer authorized to transmit manifests electronically must, at the time the

shipment is initiated, leave a manifest copy (hard copy) with the generator. The generator copy would include a notation that the manifest was initiated electronically by the preparer, and it would indicate the date that the manifest was initiated, and the date that the shipment was delivered to the first transporter. Upon receipt or rejection of the shipment by the designated TSDF, the TSDF would likewise communicate to the generator the fact of receipt, rejection, or any discrepancies. This communication could be provided in the form of a hard copy of the manifest, or a memorandum signed by the TSDF which references the manifest number for the shipment, which states that the waste shipment was received or rejected, and which describes any discrepancies. Thus, the generator would retain these records of receipt, rejection, or discrepancies among its records, just as it now retains a manifest copy signed by the TSDF. The generator would still be expected to reconcile or report any discrepancies or exceptions that might arise. So, under this proposal, the generator's role would not change with respect to close-out of the manifest and reconciling problems.

5. Request for Comments

EPA requests comments on the proposal to allow preparer signatures as a means of initiating generators' electronic manifests. Comments responding to these issues would be useful:

- Should the preparer approach for electronic manifests include additional safeguards to ensure accountability, particularly where preparers allied with transporters or TSDFs are allowed to perform these activities on the generator's behalf?
- Should the preparer signature approach be limited to digital signature systems only? With the secure digitized signature method, it should not be difficult for transporters to obtain digitized signatures from small or medium sized generators using remote, portable devices (with signature pads) that the transporter would bring to the generator's site. Should the rule require generator's signatures to be obtained when this is practical, or, should the preparer signature approach be more widely available regardless of the signature method used?
- Should preparers of electronic manifests be required to have written, hand-signed authorizations from generators authorizing the preparer to sign manifests electronically on behalf of the generator? While written authorization is not required to enable another person to sign one's paper manifest on their behalf, are there reasons unique to the activities of electronic preparers that warrant written authorization to sign an electronic manifest on the generator's behalf?
- Is there an effective alternative to the proposed approach for closing out preparer-initiated electronic manifests that would not require hard copies of manifests to be issued and retained by generators? Could the preparer receive verification of receipt or notice of rejections or discrepancies electronically on behalf of the generator? How would the generator's interests be preserved in such a case, particularly where the preparer is employed by the same entity that operates the receiving facility?

I. Third Party Storage of Manifest Records

1. What Does EPA Mean by Third-Party Storage?

Currently, RCRA facilities are required to maintain manifest records on-site for inspection by RCRA inspectors. Section 3007(a) of the RCRA statute requires that all hazardous waste facilities shall afford RCRA inspectors access at reasonable times to facilities that manage hazardous waste. This section also requires that RCRA inspectors shall be permitted reasonable access to facility records for examination or copying. Significantly, the Act only requires access to records such as manifests; it does not prescribe how that access must be provided.

As document storage methods undergo the transition from retention of paper files to storage or records on electronic media, it becomes less essential where the storage media resides. As long as there is reasonable access to electronic records at a RCRA facility, it should not matter whether the specific document actually resides on a disk at the facility, or whether it is downloaded from a network or server for which the storage media is physically located out of state. As long as the required reasonable access to the file is ensured, and electronic records can be called up, examined, printed, and copied at the facility, EPA does not believe that the Act or policy considerations preclude storage by such ''third-party'' storers (e.g., commercial network services or record archive services). Indeed, today's proposed rule would impose specific obligations on those storing records electronically to comply with computer security controls, and those that offer electronic storage services commercially may be in a better position than some RCRA waste handlers to bring their systems into compliance with these controls. So, it seems sensible to the Agency that our automated manifesting rules and policy allow flexibility on this issue.

Current facility standards for permitted TSDFs (40 CFR 264.71(a)(5)) and for interim status facilities (40 CFR 265.71(a)(5)) include the direction that manifest copies must be retained ''at the facility'' for 3 years. EPA believes that this requirement is met if an electronic copy can be produced and accessed at the facility, even though the physical device on which the record may be stored is in fact external to the facility.

2. What Are the Proposed Conditions on Third-Party Storage?

Today's proposal would permit facilities to engage commercial record storage services or networks to provide for electronic storage of manifest copies. This proposal would be conditioned on the records being readily retrievable during the full record retention period, on reasonable inspector access for examination and copying of manifest copies being ensured, and on compliance with this proposal's electronic record system controls. EPA emphasizes that RCRA facilities remain responsible for providing inspectors access to all electronic records; they cannot contract away their responsibility by engaging the services of a commercial storage service provider. Firms would be required to include terms in their contracts with third-party storers providing that records must remain readily accessible during the full record retention period, that reasonable inspector access for examination and copying of manifest records must be available, and that the third-party storage provider must comply with this rule's electronic record system controls.

3. Request for Comments

EPA requests comments on this proposal to permit third-party storage services to aid RCRA facilities in implementing electronic storage programs, by providing off-site storage and archiving media that would be accessible electronically from the RCRA facilities. Is this flexibility desirable to the regulated community, and would it provide an incentive for RCRA facilities to engage in automated manifesting? Would facilities object to sharing custody of their records with off-site vendors, or would they be more agreeable to allowing the off-site vendors to assume this proposal's computer and record security controls? If controversies arise with facilities over record access, would the Agency be frustrated in efforts to obtain records

from the third-party service provider? What, if any, RCRA liability should be assumed by the third-party vendor? What, if any, safeguards should EPA include to protect against the possibility that third-party storers may leave the business? EPA seeks comments on these issues related to third-party electronic storage.

VIII. Related Acts of Congress, Executive Orders, and Agency Initiatives

A. Regulatory Impact Analysis Pursuant to Executive Order 12866

Under Executive Order No. 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether a regulatory action is ''significant'' and therefore subject to OMB review and the requirements of the Executive Order. The Order defines a ''significant regulatory action'' as one that is likely to result in a rule that may: (1) 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; (2) create serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.''

It has been determined that today's proposed rule is a ''significant regulatory action,'' because it may raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order. 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. However, today's proposed rule is not ''economically significant'', because we expect that it would result in net reductions in compliance burdens and costs. The proposal would standardize the manifest form, streamlines certain manifest requirements, and would provide hazardous waste handlers with the option to prepare, transmit, sign, and store their manifests electronically. In those states that collect manifests and maintain databases to track manifest data, today's proposal would also enable the electronic submission of manifest copies to the states. These features are expected to reduce the paperwork burden and other hazardous waste manifesting costs on the regulated community (i.e. waste handlers and states).

In order to quantify and monetize the anticipated economic effects of today's proposed rule, the Agency conducted three separate evaluations of different levels of potential effects of this rule on hazardous waste handlers and on State government regulatory agencies. These three studies are briefly summarized below in this section of the Preamble. They have the following titles and analytic scope, and are available for public review and comment from the RCRA Docket:

—*''Supporting Statement for Information Collection Request Number 801.#'',* 19 July 2000: This study represents the narrowest scope of the three studies, focused primarily on estimating the annual burden hour reduction (and associated reduction in annual labor cost) for today's proposed rule, as it affects 1.76 million annual Federal RCRA manifests. This first study estimates burden hour reduction assuming that 50% of all annual manifests become electronic after promulgation of today's proposed rule.

—*''Economics Background Document: Economic Analysis of the USEPA's Proposed Modifications to the RCRA Hazardous Waste Manifest System'',* 12 May 2000: Building upon the burden hour reduction findings of the ICR, this second study expanded the scope of the economic impact analysis to include potential impacts of the rule on both Federal RCRA and state hazardous waste manifests (2.43 million annual manifests), as well as a cursory estimate of annualized electronic automation equipment costs (to states and to waste handlers) for implementing today's proposed rule. Consequently this study presents a relatively larger baseline estimate of annual manifest activity compared to the ICR study. This second study applies two alternative electronic manifest adoption rate scenarios: 25% and 50% of all annual manifests become electronic, applied to a future three-year time-span. No attempt was made in this study to project quantitatively the future trend in the number of manifests issued, or the effects of future technological changes in electronic data transmission or other costing factors, since this study was designed only to formulate a fairly simplistic analysis to support the proposed rule.

—*''Hazardous Waste Manifest Cost Benefit Analysis'',* October 2000: Building upon the second economic study, this third study is the broadest in scope, as it includes electronic manifest equipment costs associated with existing computerized systems in some companies, as well as includes a more extensive and detailed estimate of both initial and annually recurring costs (to states, to waste handlers, and to EPA) for implementing different, alternative versions (''models'') of the proposed electronic manifest automation system. This third study adopts the 2.43 million annual manifest baseline from the second study, but expands the estimated annual manifest activity to 3.01 million manifests, to include additional manifest transmissions for purpose of repeats and continuation sheets, applied to a future ten-year time-span. This study also expands the assumed number of manifests transmitted electronically, in relation to numbers of entities assumed adopting electronic manifests, which include 100% of large quantity waste generators, 25% of small quantity generators, 90% of transporters, and approximately 25% of the hazardous waste treatment, storage and disposal facilities involved in manifest activities. This study estimated costs and potential burden reduction benefits according to multiple alternative implementation scenarios (''models'').

Consequently, because each is unique in scope and units of analysis, EPA presents them in the RCRA Docket separately for public review and comment, rather than consolidating them into a single document in support of today's proposed rule. On the other hand, the basic approach of all three studies in estimating their respective different levels of economic effects is similar; to compare current (i.e. 1997–99) baseline manifesting burden hour and other cost requirements, against the burden and cost under today's proposed revisions to the manifest system. The calculations in each study were performed using a series of comparative spreadsheets, incorporating detailed unit labor and other cost estimates for carrying out numerous manifest-related tasks. It is important to indicate that all studies did not attempt to forecast the future trend in the number of manifests issued, or to forecast the effects of future technological changes in electronic data transmission equipment or other costing factors. Consequently, it is important that each study be interpreted as a relatively simple estimate of impacts,

subject to future annual variability, and to other potential sources of uncertainty.

Regulatory Burden Savings Estimates

Based on the findings of the first and second economic study listed above—which focused on estimating burden hours and cost reduction for today's proposed rule—under current Federal and State baseline regulations, the Agency estimates that about 92,350 individual hazardous waste generators and other handlers produce and manifest about 2.433 million hazardous waste shipments for off-site management annually, requiring about 4.416 million waste handler labor hours, costing about $187.0 million annually. State government waste management programs spend an additional 199,000 hours and $6.3 million annually to administer their current waste manifesting programs.

The manifest reform proposal projects an overall net regulatory burden reduction of between 765,000 (low adoption scenario) and 1.241 million (high adoption scenario) labor hours (a baseline savings of 17 to 27 percent), and a corresponding annual reduction in total nationwide manifesting costs of about $23.4 to $37.2 million (a 13 to 19 percent reduction in baseline cost). The major part (i.e. 96 to 99 percent) of these total nationwide savings would accrue to the private sector (waste handlers), but State regulatory agencies would also experience substantial reductions—on the order of 18 to 40 percent in annual burden hours, and 3 to 25 percent in cost—relative to State-level baseline administrative burdens for hazardous waste manifesting.

In terms of basic proposal elements, the manifest form change requirements alone appear to produce potentially a relatively small burden reduction of only about four to 13 percent cost savings from current practices. In addition, as described earlier in this Preamble, the requirement for a uniform nationwide form is an essential prerequisite for efficient electronic automation which is projected to result in quite substantial potential burden reductions for the private sector. The potential incremental benefits from electronic automation of the manifest system are estimated at 87 to 96 percent of current cost. Higher automation adoption rates than those assumed here are possible, given the national trends in internet communications, the potentials for commercial waste transporters and TSD companies to centralize the manifesting functions as an added service to generators, and the scale economies involved in doing so.

In contrast with electronic automation, the additional savings from the telefax option are in the one to two percent range. Labor and cost reductions from faxing would vary inversely with the degree of automation, i.e., the greater the use of electronic manifesting, the less is the need for the faxing of manifests.

In the present proposal, the actual savings resulting from both the automation and fax options depend on the adoption of these options by States as part of their authorized RCRA programs, including both States of origin and States of destination for interstate shipments, and, in some cases, intervening States as well. The Agency's benefit estimates assume that most if not all States would ultimately revise their regulations to allow for both electronic automation and the faxing of manifests within their borders. To the extent that this does not occur or does not take place reasonably quickly, the regulatory burden reductions projected here would either not transpire or would be postponed.

Based on the third economic study which was more expansive in scope by including electronic automation implementation costs, in addition to burden affects, the average annualized implementation cost for the proposed rule is estimated to range between $10.8 to $26.0 million. This range in implementation cost reflects two alternative implementation approaches considered in the study. EPA anticipates that today's proposed rule would offset this implementation cost, by reducing the national annual burden associated with the manifest system, resulting in a net, average annualized national burden cost savings of $82.2 to $86.8 million.

B. Regulatory Flexibility Analysis

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (i.e., small businesses, small organizations, and small governmental jurisdictions). However, no regulatory flexibility analysis is required if the head of an agency certifies the rule will not have a significant adverse economic impact on a substantial number of small entities. SBREFA further requires Federal agencies to provide a statement of the factual basis for certifying that a rule will not have a significant economic impact on a substantial number of small entities. The Agency is certifying that there will not be an adverse impact on small business populations as a result of today's rule proposals, and therefore no regulatory flexibility analysis or other SBREFA requirements are necessitated. This certification is based on the following reasons.

With respect to the manifest form changes and automation options, today's proposals include both regulatory and deregulatory features. However, the net effect of these changes should reduce, and not increase, the paperwork and related burdens of the RCRA hazardous waste manifest system. For businesses in general, including all small businesses, the form changes, although required, are designed to reduce the labor time and other costs of acquiring, completing, and submitting hazardous waste manifests. The Agency's proposals regarding the optional use of telefaxed forms and the electronic automation of form preparation and tracking are also designed to facilitate and encourage increased efficiency and reduced costs through the use of modern communications technologies. These possibilities were not available under existing manifest regulations. Although most small businesses waste generators would not be expected to initiate or acquire the automation technology directly, many or most would be expected to share in the savings due to automation undertaken by the waste transportation, treatment and disposal sectors which service the many waste generating sectors. Since these proposals are offered as options to the regulated community, they are unlikely to be employed in situations that do not involve cost savings to waste handlers and generators.

For the reasons discussed above, I hereby certify that this rule will not have a significant adverse economic impact on a substantial number of small entities. This rule, therefore, does not require a regulatory flexibility analysis.

C. Environmental Justice—Applicability of Executive Order 12898

Pursuant to Executive Order 12898, the Agency's goals are to ensure that no segment of the population, regardless of race, color, national origin, or income bears disproportionately high and adverse human health and environmental impacts as a result of EPA's policies, programs, and activities. The Agency conducted an analysis to identify whether environmental justice concerns might result from today's proposed modifications to the hazardous waste manifest system. To

conduct the analysis, we used two criteria, both of which would have to be met in order to flag an environmental justice concern: (i) Are there any adverse impacts from the proposed action, and if so, (ii) would the adverse impacts on minority populations and low-income populations be disproportionately high? We applied both criteria to each rule component: Manifest form changes, automation, use of fax, annual waste minimization certification, and special procedures for problem shipments. We found no adverse impact, and thus no disproportionately high adverse impact, on minority populations and low-income populations, for each component of the proposed rule.

The basic reason for the above finding is that the current features of the manifest system that protect human health and the environment are preserved or enhanced under today's proposed rule. For example, neither the proposed form changes nor the automation proposals would detract from the manifests basic ''cradle-to-grave'' tracking features that protect human health and the environment. The information essential to identifying the materials involved in shipments and aiding emergency responders would be retained. Manifest automation and faxing may be more convenient for some waste handlers than using regular mail and may result in increased compliance, as well as enable closer real-time tracking of shipments, improved data quality for recipients and better enforcement opportunities. Regarding the change for the waste minimization certification from a per manifest basis to annual basis, this is not expected to alter hazardous waste generation, handling or disposal practices, nor pose an incremental risk to human health and the environment. Similarly, clarification on the manifest of the special procedures for problem loads are designed to improve tracking and therefore would not have adverse effects on human health and the environment.

D. Protection of Children—Applicability of Executive Order 13045

The Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997) applies to any rule that EPA determines (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.

This proposed rule is not subject to Executive Order 13045 because this is not an economically significant regulatory action as defined by Executive Order 12866. In addition, the Agency does not have reason to believe the environmental health or safety risks addressed by this action present a disproportionate risk to children, because the manifest system does not itself give rise to environmental media transfer issues. The manifest serves as a tracking device which creates clear lines of accountability among the participants in the hazardous waste system. It also serves to protect human health and the environment during the transportation of hazardous waste by providing information about the waste to persons handling the waste and to emergency response personnel.

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 manifest automation component of this rulemaking involves information technology standards for electronic manifest formats and for electronic signatures. Today's proposal includes an electronic format for the manifest based upon the American National Standards Institute (ANSI) Accredited Standards Committee's (ASC) X12 standard format for Electronic Data Interchange or EDI. EPA is also proposing an Internet Forms document definition for the manifest based on the Extensible Mark-up Language (XML) Specifications developed by the World Wide Web Consortium. The World Wide Web Consortium, however, is not a voluntary consensus standards body within the meaning of the NTTAA, and EPA could not identify an applicable consensus standard for creating and transmitting Internet Forms. Therefore, EPA has decided to propose an XML document definition for Internet transmissions of the manifest, as an alternative to the ANSI ASC X12 formats that are customarily transmitted across Value Added Networks. It is possible that the ANSI ASC X12 standards body will develop standards for XML document definitions in the future, and EPA will monitor this situation as we develop a final rulemaking.

The rulemaking also proposes a digital signature method for signing electronic manifests, based on the Digital Signature Standard adopted by the National Institute of Standards and Technology and published in Federal Information Processing Standard (FIPS PUB) 186–1. The proposed digital signature method would require the use of the RSA digital signature algorithm discussed in ANSI X9.31. EPA has also proposed a ''secure digitized signature'' method for signing manifests electronically, since this method may be a cost-effective alternative to the digital signature method. The Agency could not identify an applicable consensus standard for digitized signatures.

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. 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 analysis, 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. 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 promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA 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. 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 to have meaningful and timely input in the development of regulatory proposals, and informing, educating, and advising small governments on compliance with the regulatory requirements.

This rule does not include a Federal mandate that may result in expenditures of $100 million or more to State, local, or tribal governments in the aggregate, because the UMRA generally excludes from the definition of ''Federal intergovernmental mandate'' duties that arise from participation in a voluntary federal program. States are not legally required to have or maintain a RCRA authorized program. Therefore, today's proposed rule is not subject to the requirements of sections 202 and 205 of UMRA. In addition, EPA has also determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments under section 203 of UMRA. Small governments would be affected only to the extent that they generate or otherwise handle hazardous wastes, and the net effect of today's proposal should be to reduce paperwork burdens and compliance costs for hazardous waste handlers. Therefore, EPA does not believe that this proposal would have a significant or unique effect on small governments.

G. 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. 801.#, 19 July 2000), copies of which are available to the public from Sandy Farmer, OP Regulatory Information Division; U.S. Environmental Protection Agency (MC 2137); Ariel Rios Building; 1200 Pennsylvania Ave., NW., DC 20460 or by calling (202) 260–2740.

According to the estimates provided in the ICR for this proposed rule, the average annual burden [5] to RCRA hazardous waste handlers as a result of the proposed revisions to the RCRA manifest system, represents a net reduction in burden of about 590,000 hours per year. These burden reductions represent 20% reduction in annual burden hours compared to the baseline burden of 2.920 million hours per year, as estimated in the RCRA manifest system baseline ICR No.801 (22 October 1999).

The public should send comments regarding the burden estimate, or any other aspect of this collection of information, including suggestions for reducing burden to EPA (at the address given above) and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20460, marked ''Attention: Desk Officer for EPA.''

H. Federalism—Applicability of 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.'' The Executive Order defines ''policies that have federalism implications'' 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 would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132.

The proposed rule would alter the information that a State may require a generator or transporter to submit on the Uniform Manifest, and it would also alter the States' current role in distributing manifests. However, these changes represent relatively minor adjustments to the current manifest system, and they do not alter substantially the relationship between the Federal government and the States, or the distribution of power and responsibilities among the various levels of government. The manifest would remain a tracking document and shipping paper that is primarily based on Federal requirements found in RCRA and in the hazardous materials transportation laws administered by DOT. As with existing hazardous waste manifest requirements, States would retain the authority to require generators and treatment, storage, and disposal facilities to provide information included in the remaining optional fields on the manifest and to require the submission of additional information related to the hazardous waste shipment under separate cover, so long as such requirements are not inconsistent with the Hazardous Materials Transportation Act (HMTA) or HMTA regulations.

In addition, the proposed rule would not impose substantial direct costs on States and localities. Although states with manifest data tracking programs may incur some start-up costs in converting their tracking systems to accept the revised paper manifest and/or electronic manifests, the proposal neither mandates that States collect manifests, nor mandates that States adopt the electronic manifest option as a part of their programs. Thus, Executive Order 13132 does not apply to this rule.

Although section 6 of Executive Order 13132 does not apply to this rule, EPA consulted substantially with representatives of State government in developing this proposal. The Agency invited State representatives to participate in two public meetings during which we presented our rulemaking objectives and strategies, and solicited comments and concerns. These public meetings were conducted on December 10–11, 1997, and on January 7–8, 1998. Representatives of 23 States and Territories participated in these meetings. In addition, State representatives were invited to participate in the meetings of the EPA work group which developed this proposed rule. Representatives from 4 States (Indiana, Pennsylvania, New Hampshire, and Rhode Island) were selected to participate in the work group meetings, and these States discussed proposed rule options and draft rule language extensively with EPA throughout the development of the proposal.

During our consultations with States on this proposal, the State

[5] 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 respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

representatives identified several concerns about: (1) The reductions in the optional fields which States have used to require additional information from facilities; (2) the changes proposed for printing and acquiring manifests; (3) the costs to States of converting to an electronic system, and whether electronic manifesting would be mandatory for States to adopt in their programs; and (4) the lack of court precedents upholding electronic signatures as a means to sign records. A summary of the concerns raised during consultations with the States, and EPA's response to those concerns, is provided below.

In the spirit of Executive Order 13132, and consistent with EPA policy to promote communications between EPA and State and local governments, EPA specifically solicits comment on this proposal from State and local officials.

State Concerns and EPA's Responses

1. *Reductions in Optional Fields.* The proposed rule would eliminate several optional fields from the current manifest, particularly, those optional fields that require State ID Numbers (in addition to EPA ID numbers) for generators, transporters, and facilities. The proposal would also eliminate the optional fields for entering transporters' phone numbers and the facility's phone number on the manifest, and replace these with the requirement that there be one emergency response phone number entered on all manifests. The State Manifest Document Number optional field would be replaced with the requirement that all manifests have a unique manifest tracking number.

Several State participants identified the concern that the proposed manifest would hinder States that wish to collect this information. In particular, State representatives indicated to EPA that several States use the State Generator ID field to list a generator's site address, since this may be a distinct address from the mailing address which generators are required to supply on the current form. EPA considered the points raised by State participants with regard to the optional fields during work group meetings. The Agency concluded that the benefits of reducing manifest variability and paperwork burden outweighed the interests States identified in continuing to collect these data on the manifest.

2. *Changes in printing and acquiring manifests.* Currently, generators obtain most of their manifests from State agencies. There are currently 24 States that print and distribute their own manifests for shipments generated in or designated for facilities in these States. The manifests printed by the states reflect the optional fields required to be used in these states, as well as copy submission requirements, mailing addresses for submitting copies, and a pre-printed manifest number that would track the manifest uniquely in the States' data bases. The proposal would adopt a standard Federal printing specification for the manifest, and allow States, waste handlers, and business form printers to register to print manifests according to this specification. There would be less variability among manifests, but the form could be obtained from more sources.

During the work group meetings, State participants discussed their interests in printing and distributing manifests. For several States, selling blank manifests is a source of revenue. In all States that print manifests, there is a concern that manifest document numbers must be assured of being unique and accurate. We were advised that this can be best accomplished by having manifest numbers pre-printed on the forms by the printer. The proposed registry system and Federal printing specification were developed based on State representatives' advice and recommendations. There was substantial discussion of this issue by the States, and their representatives indicated that the proposal would meet most of their concerns. The revenue issue is more difficult to resolve. Some States charge manifest fees only to defray their printing costs, while others collect program revenue beyond that required to recoup costs of supplying manifests. In some instances, manifest fees charged by States are required by legislation.

3. *Costs to States of Converting to Electronic Systems.* During the public meetings on the manifest revisions, State participants voiced concerns that States would incur significant costs in converting to electronic systems for collecting manifests. This issue would be more of a concern if EPA mandated use of the electronic manifest by the States.

Our economic analysis for today's proposal reveals that States that adopt electronic systems for collecting manifests would in fact experience significant cost reductions compared to the current baseline. While each State may incur about $100,000 initially in start-up costs ($38,000 in annualized costs) for automating their systems, we expect that States would realize between $213,000 and $1.58 million in cost savings from the proposed revisions. The electronic manifest accounts for most of these savings, which would more than offset the start-up costs. In addition, EPA has proposed that States would not be required to adopt the electronic manifest option. So, no State would be required to incur these start-up costs, and those States that choose to convert would presumably do so as a matter of self-interest.

4. *Lack of court precedents supporting electronic signatures.* During the development of this proposal, several States commented that the inclusion of the electronic manifest in the proposal was premature, since there are no court precedents upholding the use of electronic signatures. EPA appreciates this concern, which is not unique to this proposed rulemaking on the manifest. However, the Congress has recently enacted legislation which establishes that electronic records and electronic signatures should generally be accorded the same treatment under the law as documents signed by hand. See the Government Paperwork Elimination Act (GPEA), Public Law 105–277, Title XVII (1998). The Agency believes that this statute supplies the authority lacking in prior court decisions supporting the use of electronic signatures. The proposal also includes security controls aimed at ensuring that electronic signatures cannot be repudiated or misused. For example, ''digital signatures'' would be supported by a Public Key Infrastructure (PKI), including digital certificates (from a trusted Certificate Authority) binding an individual to their signature keys, password protection and non-disclosure obligations for the private signature key, and policies holding individuals accountable for acts taken under their signature.

I. Consultation With Tribal Governments

On November 6, 2000, the President issued Executive Order 13175 (65 FR 67249) entitled, ''Consultation and Coordination with Indian Tribal Governments.'' Executive Order 13175 takes effect on January 6, 2001, and revokes Executive Order 13084 (Tribal Consultation) as of that date. EPA developed this proposed rule, however, during the period when Executive Order 13084 was in effect; thus, EPA addressed tribal considerations under Executive Order 13084. EPA will analyze and fully comply with the requirements of Executive Order 13175 before promulgating the final rule. 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 of Indian Tribal governments, 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.''

Today's proposal would not significantly or uniquely affect the communities of Indian tribal governments, nor would it impose substantial direct compliance costs on them. This proposal does not create a mandate for tribal governments, nor does it impose any enforceable duties on these entities. Therefore, EPA has determined that no communities of Indian tribal governments would be affected by this proposed rule. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply.

IX. 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. 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. A State may receive authorization by following the approval process described under 40 CFR part 271. See 40 CFR part 271 for the overall standards and requirements for authorization.

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. The State must adopt such requirements to maintain authorization.

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. Although authorized States are still required to update their hazardous waste programs to remain equivalent to the Federal program, 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 only 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 40 CFR 271.1(i). Therefore, authorized States are not required to adopt Federal regulations, both HSWA and non-HSWA, that are considered less stringent.

B. Authorization of States for Today's Proposal

Except for one provision, we would promulgate today's proposal mainly under non-HSWA statutory authority. The section of today's proposal that would be promulgated under HSWA authority (specifically, RCRA section 3002(b)) is proposed § 262.27, which would consist of the waste minimization certification statement. Therefore, when promulgated, the Agency would add this section of the rule to Table 1 in 40 CFR 271.1(j), which identifies the Federal program requirements that are promulgated pursuant to the statutory authority that was added by HSWA. States may apply for final authorization for the HSWA provisions in Table 1, as discussed in the following section of this preamble. The proposed regulatory provision would contain the language which is in the current manifest form, but would not be in the proposed revised form except by reference to proposed § 262.27. Generators would still be required to certify to waste minimization statements on the manifest each time a manifest is initiated. Therefore, proposed § 262.27 would be effective under Federal authority before States receive authorization only when the revised manifest form is used in these States.

All the other parts of today's proposal would become effective under RCRA authority in authorized States only when they revise their programs and receive authorization for the final rule.

1. Would Authorized States Be Required To Adopt the New Uniform Manifest Form?

Under today's proposal, authorized States would be required to adopt the new Uniform Manifest form. To obtain and maintain authorization, States and territories are required to be consistent with the federal program and other State programs. Although sections 3006 and 3009 of RCRA allow States to have regulations that are different than the Federal requirements, as long as they are equivalent to or more stringent than or broader in scope, section 3006(b) also requires States to have regulations that are consistent with the federal regulations. The requirements of this statutory provision are codified in 40 CFR 271.4, which specifically applies the consistency requirement to the manifest system under 40 CFR 271.4(c). When EPA originally promulgated the Uniform Manifest in 1984, we found that consistency was extremely important where requirements addressing transportation are concerned. We found during the early years of implementing the RCRA program that a proliferation of many State-specific manifest forms could hamper the movement of hazardous waste to waste management facilities, and that differing manifest use and information requirements between States caused added burdens and confusion among those trying to comply with the Subtitle C regulations. See 49 FR 10490 at 10491 (March 20, 1984). Therefore, in 1984, EPA announced that consistency in the use of the Uniform Manifest would be required from authorized States, and that, with the exception of the limited information allowed in the optional fields, authorized States could not require any other manifest or information to accompany a waste shipment. Id. Based on 16 years of experience with the Uniform Manifest, EPA concludes that variability in the current manifest system should be reduced further, since the current level of variability continues to produce excessive burden, confusion, and compliance problems. Moreover, EPA restates that program consistency

under RCRA section 3006 and 40 CFR 271.4(c) would demand that authorized States must require the use of the Uniform Manifest as revised by today's proposals.

Under 40 CFR 271.4(c) and 271.10(f) and (h), in order to be consistent with the federal program, and receive approval from EPA, States must have a manifest system that includes a manifest format that follows the Federal format required in 40 CFR 262.20(a) and 262.21. Today's proposal would amend § 271.10(h) to correspond with the proposed changes to the manifest format. These amendments are discussed in detail in section IV of today's proposal. Key among these amendments are form revisions that would eliminate most optional fields and establish a new procedure for obtaining a standard manifest form from registered printers. The new, standard manifest format would present authorized states with fewer areas of potential variability than arise under existing regulations. For example, existing § 271.10(h)(1) allows authorized states to supplement the Uniform Manifest format with several pre-printed items, such as a State manifest number, light organizational marks to indicate proper placement of characters, information and instructions in the margins or on the back of the form, and references to specific State laws or regulations following the generator's certification language. The proposed amendments to § 271.10(h) would eliminate provisions addressing States' ability to supplement the form. However, proposed § 271.10(h) would retain language clarifying that States could require information to be supplied to address the two proposed optional fields—Waste Codes (Block A) and Biennial Reporting system type codes (Block B)—and to provide additional waste descriptions in Block 14 of the proposed form.

Because the new uniform manifest would (except for proposed § 262.27 as explained above) be promulgated pursuant to non-HSWA authority, it would not become effective as a RCRA requirement in authorized States until those States revise their programs and receive authorization. However, federal hazardous material transportation law preempts any State, local or Indian tribe requirement on ''the preparation, execution, and use of shipping documents related to hazardous materials and requirements related to the number, contents, and placement of those documents'' that is not substantively the same as requirements in the hazardous materials regulations. 49 U.S.C. 5125(b)(1)(C). The Department of Transportation currently requires the use of the Uniform Hazardous Waste Manifest for shipments of hazardous waste (which is also a hazardous material). 49 CFR 172.205. Thus, waste handlers would be required, under 49 CFR 172.205, to use the revised Uniform Hazardous Waste Manifest upon the two-year delayed compliance date of the final rule (see Section III.E. for further discussion regarding the two-year delayed compliance date).

EPA has involved the authorized States, as co-implementers of the RCRA program, in the development of today's proposal. We believe that there is support among the States for the manifest revisions. EPA also believes that the States would generally be able to revise their RCRA programs to include this amended manifest form within the proposed transition period, although some States may need to enact legislative changes to effect this change.

2. Would Authorized States Be Required To Adopt Electronic Manifesting?

A significant issue presented by today's proposal is whether the final rule should require that authorized States adopt the electronic manifest option as a part of their approved programs, in order to be consistent. Under RCRA section 3006, authorized State programs must be consistent with the Federal program and other State programs, and EPA's authorization regulations state that State manifest systems that do not meet EPA's requirements or that unreasonably impede the free movement of waste shall be deemed inconsistent. See 40 CFR 271.4(a) and (e).

We are tentatively proposing not to require States to adopt the electronic manifest option. However, we are considering whether States should be required to adopt the electronic manifest option in order to ensure consistency with the Federal program and other State programs. For example, EPA could require States to adopt the electronic manifest option if we were to conclude that the free movement of waste in commerce may be burdened unreasonably if individual States choose not to allow electronic manifests. Similarly, we may require State adoption of the electronic manifest option if we determine that the cumulative effect of a patchwork of States—some recognizing and others not recognizing electronic manifests—may itself unduly burden the free movement of waste. This result may render the State program inconsistent with the federal program under the provisions of 40 CFR 271.4(a). Other reasons that could support EPA's determination under § 271.4(a) to deem State programs that do not provide for electronic manifests to be inconsistent include the concern that the development of electronic manifesting systems by waste handlers would be frustrated significantly if States elected not to adopt the option, and that market forces and consensus processes would not be sufficient to promote and implement the electronic manifest option.

At this time, EPA believes that there are strong practical and business influences that would promote the adoption of electronic manifesting. Many States are in the forefront of efforts to provide electronic access to government services and to encourage electronic commerce, so requiring State programs to adopt the electronic manifest standards may not be necessary to accomplish progress in this area. Moreover, during the public meetings which EPA conducted as we developed this proposal, we stressed the voluntary and optional nature of the manifest automation component of the proposed rule. States likely understood that manifest automation would be optional for state programs as well as for the waste handlers who use the manifest.

Thus, EPA is tentatively proposing that authorized States would not be required to adopt the electronic manifest system as part of their state programs. Under today's proposal, the electronic manifest system would not be effective under RCRA in authorized States unless an authorized State revises its program and receives authorization for the final electronic manifest system requirements. In addition, under today's proposal, an electronic manifest would not be considered a ''shipping document'' under 49 U.S.C. 5125(b) and thus, hazardous materials transportation law would not preempt state programs that do not allow the use of an electronic manifest.

Although States could choose not to adopt the electronic manifest system, those that do would have to adopt the standards for the electronic formats, electronic signature standards, and computer security controls that we would promulgate when we finalize this proposal. In addition, State programs electing to adopt the electronic manifest option would need to adopt State counterparts to the final regulations that address the use of the electronic manifest by generators, transporters, and TSDFs. As explained in section VII.E.1. of this preamble, the need for a uniform manifest to allow the free movement of waste applies to the electronic manifest as well as the paper manifest, if not more. The state authorization

regulations addressing generator requirements, 40 CFR 271.10(f) and (h), already refer to the manifest regulations, which would impose on states that adopt the electronic manifest option the requirement that their programs be revised to require waste handlers to use the electronic manifest formats, electronic signature standards, and computer security controls described in today's proposal. These areas require a consistent implementation if electronic manifests are to be freely exchanged between waste handlers and state agencies located in various jurisdictions.

However, States would retain the latitude to either adopt or not adopt the preparer signature or third-party storage features of today's proposal. Thus, a state that did not adopt one or both of these features could choose to operate a more stringent program in these areas. The Agency requests comment on how electronic manifesting should be implemented among the various authorized States, how today's proposed standards would impact states that may already have requirements in place or efforts underway to address electronic records and electronic signatures, and how any adverse impacts on State programs might be mitigated.

Appendix A to the Preamble—Extensible Markup Language (XML) Document Type Definition for the Hazardous Waste Manifest

```
<!—This document represents the Document
    Type Definition for the Uniform
    Hazardous Waste Manifest—>
<!—Signature blocks are represented as
    #PCDATA until final recommendations
    are adopted for representing electronic
    signatures in XML documents—>
<!—References for the W3C Digital Signature
    Working Group:
  XML Signature Syntax and Processing—
  http://www.w3.org/2000/02/xmldsig#
  DTD for Digital Signatures—http://www/
    w3.org/TR/xmldsig-core/xmldsig-core-
    schema.dtd—>
<!ELEMENT manifest (title,
    manifest_tracking_number,
    generator_info, transporter_info+,
    tsdf_info, waste_description+,
    special_handling_instructions,
    generator_certification,
    international_shipments,
    transporter_certification+,
    tsdf_discrepancy, tsdf_certification,
    tsdf_brs_codes*)>
<!ELEMENT title (#PCDATA)>
<!ATTLIST title fname CDATA #FIXED
    ''UNIFORM HAZARDOUS WASTE
    MANIFEST''>
<!ELEMENT manifest_tracking_number
    (#PCDATA)>
<!ATTLIST manifest_tracking_number tno
    NMTOKEN #REQUIRED>
<!ELEMENT generator_info (generator_name,
    generator_us_epa_id, generator_street,
    generator_city, generator_state,
    generator_zip_code,
    generator_telephone_number,
    generator_emergency_
    response_telephone)>
<!ELEMENT generator_name (#PCDATA)>
<!ATTLIST generator_name gname CDATA
    #REQUIRED>
<!ELEMENT generator_us_epa_id
    (#PCDATA)>
<!ATTLIST generator_us_epa_id genepaid
    NMTOKEN #REQUIRED>
<!ELEMENT generator_street (#PCDATA)>
<!ATTLIST generator_street gstreet CDATA
    #REQUIRED>
<!ELEMENT generator_city (#PCDATA)>
<!ATTLIST generator_city gcity CDATA
    #REQUIRED>
<!ELEMENT generator_state (#PCDATA)>
<!ATTLIST generator_state gstatecode
    NMTOKEN #REQUIRED>
<!ELEMENT generator_zip_code
    (#PCDATA)>
<!ATTLIST generator_zip_code gzip CDATA
    #REQUIRED>
<!ELEMENT generator_telephone_number
    (#PCDATA)>
<!ATTLIST generator_telephone_number gtel
    NMTOKEN #REQUIRED>
<!ELEMENT generator_emergency_response_
    telephone (#PCDATA)>
<!ATTLIST generator_emergency_response_
    telephone gemr NMTOKEN
    #REQUIRED>
<!ELEMENT transporter_info
    (transporter_name,
    transporter_us_epa_id)+>
<!ELEMENT transporter_name (#PCDATA)>
<!ATTLIST transporter_name tname CDATA
    #REQUIRED>
<!ELEMENT transporter_us_epa_id
    (#PCDATA)>
<!ATTLIST transporter_us_epa_id transepaid
    NMTOKEN #REQUIRED>
<!ELEMENT tsdf_info (tsdf_name,
    tsdf_us_epa_id, tsdf_street, tsdf_city,
    tsdf_state, tsdf_zip_code)>
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<!ATTLIST tsdf_name tsname CDATA
    #REQUIRED>
<!ELEMENT tsdf_us_epa_id (#PCDATA)>
<!ATTLIST tsdf_us_epa_id tsdfepaid
    NMTOKEN #REQUIRED>
<!ELEMENT tsdf_street (#PCDATA)>
<!ATTLIST tsdf_street tstreet CDATA
    #REQUIRED>
<!ELEMENT tsdf_city (#PCDATA)>
<!ATTLIST tsdf_city tcity CDATA
    #REQUIRED
<!ELEMENT tsdf_state (#PCDATA)
<!ATTLIST tsdf_state tstatecode NMTOKEN
    #REQUIRED
<!ELEMENT tsdf_zip_code (#PCDATA)>
<!ATTLIST tsdf_zip_code tzip CDATA
    #REQUIRED>
<!ELEMENT waste_description
    (proper_shipping_name, hazard_class,
    dot_id_no, packing_group,
    no_of_containers, container_type,
    total_quantity, unit_wt_vol,
    waste_codes+)+>
<!ELEMENT proper_shipping_name
    (#PCDATA)>
<!ATTLIST proper_shipping_name pname
    CDATA #REQUIRED>
<!ELEMENT hazard_class (#PCDATA)>
<!ATTLIST hazard_class hclass NMTOKEN
    #REQUIRED>
<!ELEMENT dot_id_no (#PCDATA)>
<!ATTLIST dot_id_no dotid NMTOKEN
    #REQUIRED>
<!ELEMENT packing_group (#PCDATA)>
<!ATTLIST packing_group pgroup CDATA
    #REQUIRED>
<!ELEMENT no_of_containers (#PCDATA)>
<!ATTLIST no_of_containers nocon
    NMTOKEN #REQUIRED>
<!ELEMENT container_type (#PCDATA)>
<!ATTLIST container_type code CDATA
    #REQUIRED>
<!ELEMENT total_quantity (#PCDATA)>
<!ATTLIST total_quantity totquan CDATA
    #REQUIRED>
<!ELEMENT unit_wt_vol (#PCDATA)>
<!ATTLIST unit_wt_vol volcode CDATA
    #REQUIRED>
<!ELEMENT waste_codes (#PCDATA)
<!ATTLIST waste_codes wcode NMTOKEN
    #IMPLIED>
<!ELEMENT special_handling_instructions
    (#PCDATA)>
<!ATTLIST special_handling_instructions
    instr CDATA #IMPLIED>
<!ELEMENT generator_certification
    (generator_signature,
    generator_printed_name,
    generator_date)>
<!ELEMENT generator_signature
    (#PCDATA)>
<!ELEMENT generator_printed_name
    (#PCDATA)>
<!ATTLIST generator_printed_name gpname
    CDATA #REQUIRED>
<!ELEMENT generator_date (#PCDATA)>
<!ATTLIST generator_date gendate CDATA
    #REQUIRED>
<!ELEMENT international_shipments
    (intl_import, intl_export,
    port_of_entry_exit, intl_date,
intl_signature)>
<!ELEMENT intl_import (#PCDATA)>
<!ELEMENT intl_export (#PCDATA)>
<!ELEMENT port_of_entry_exit (#PCDATA)>
<!ELEMENT intl_date (#PCDATA)>
<!ATTLIST intl_date intldate CDATA
    #IMPLIED>
<!ELEMENT intl_signature (#PCDATA)>
<!ELEMENT transporter_certification
    (transporter_signature,
    transporter_printed_name,
    transporter_date)+>
<!ELEMENT transporter_signature
    (#PCDATA)>
<!ELEMENT transporter_printed_name
    (#PCDATA)>
<!ATTLIST transporter_printed_name
    tpname CDATA #REQUIRED>
<!ELEMENT transporter_date (#PCDATA)>
<!ATTLIST transporter_date transpdate
    CDATA #REQUIRED>
<!ELEMENT tsdf_discrepancy
    (discrepancy_quantity_type,
    container_residue, rejected_waste,
    manifest_reference_no, description)>
<!ELEMENT discrepancy_quantity_type
    (#PCDATA)>
<!ELEMENT container_residue (#PCDATA)>
<!ELEMENT rejected_waste (#PCDATA)>
<!ELEMENT manifest_reference_no
    (#PCDATA)>
<!ATTLIST manifest_reference_no mrno
    NMTOKEN #IMPLIED>
<!ELEMENT description (#PCDATA)>
<!ATTLIST description desc CDATA
    #IMPLIED>
```

```
<!ELEMENT tsdf_certification
    (tsdf_signature, tsdf_printed_name,
    tsdf_date)>
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<!ELEMENT tsdf_printed_name (#PCDATA)>
<!ATTLIST tsdf_printed_name tspname
    CDATA #REQUIRED>
<!ELEMENT tsdf_date (#PCDATA)>
<!ATTLIST tsdf_date tsdfdate CDATA
    #REQUIRED>
<!ELEMENT tsdf_brs_codes (tsdf_a, tsdf_b,
    tsdf_c, tsdf_d)>
<!ELEMENT tsdf_a (#PCDATA)>
<!ATTLIST tsdf_a codea NMTOKEN
    #IMPLIED>
<!ELEMENT tsdf_b (#PCDATA)>
<!ATTLIST tsdf_b codeb NMTOKEN
    #IMPLIED>
<!ELEMENT tsdf_c (#PCDATA)>
<!ATTLIST tsdf_c codec NMTOKEN
    #IMPLIED>
<!ELEMENT tsdf__d (#PCDATA)>
<!ATTLIST tsdf__d coded NMTOKEN
    #IMPLIED>
```

List of Subjects

40 CFR Part 260

Environmental protection, Administrative practices and procedure, Confidential business information, Hazardous waste.

40 CFR Part 261

Environmental protection, Hazardous waste, Recycling, Reporting and recordkeeping requirements.

40 CFR Part 262

Environmental protection, Exports, Hazardous materials transportation, Hazardous waste.

40 CFR Part 263

Environmental protection, Hazardous materials transportation, Hazardous waste.

40 CFR Part 264

Environmental protection, Air pollution control, Hazardous waste, Insurance, Packaging and containers, Reporting and recordkeeping requirements, Security measures, Surety bonds.

40 CFR Part 265

Environmental protection, Air pollution control, Hazardous waste, Insurance, Packaging and containers, Reporting and recordkeeping requirements, Security measures, Surety bonds, Water supply.

40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous materials transportation, Hazardous waste, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control, Water supply.

Dated: January 4, 2001.

Carol M. Browner,

Administrator.

For the reasons set out in the preamble, title 40, chapter I of the Code of Federal Regulations is 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.

Subpart B—Definitions

2. Section 260.10 is amended by removing the definition of ''Manifest Document Number'', revising the definition of ''manifest'' and adding in alphabetical order the definition of ''Manifest tracking number'' and ''Preparer'' to read as follows.

§ 260.10 Definitions.

* * * * *

Manifest means the shipping document EPA Form 8700–22 (including, if necessary, EPA Form 8700–22A), or an electronic format identified in § 262.20(a)(3), originated and signed in accordance with the applicable requirements of parts 262 through 265.

Manifest tracking number means the alphanumeric identification number (i.e., a unique three letter prefix followed by eight numerical digits), which is pre-printed in Item 3 of the Manifest by a registered source.

* * * * *

Preparer means someone authorized by the generator to prepare, complete, and/or sign the generator's Manifest on behalf of the generator.

* * * * *

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

3. The authority citation for part 261 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921, 6922, 6924(y) and 6938.

Subpart A—General

4. Section 261.7 is amended by revising paragraph (b)(1)(iii) to read as follows:

§ 261.7 Residues of hazardous waste in empty containers.

* * * * *

(b)(1) * * *

(iii)(A) No more than 3 percent by weight of the total capacity of the container remains in the container or inner liner if the container is less than or equal to 119 gallons in size; or

(B) No more than 0.3 percent by weight of the total capacity of the container remains in the container or inner liner if the container is greater than 119 gallons in size.

* * * * *

PART 262—STANDARDS APPLICABLE TO GENERATORS OF HAZARDOUS WASTE

5. The authority citation for part 262 continues to read as follows:

Authority: 42 U.S.C. 6906, 6912(a), 6922–6925, 6937, and 6938.

6. In § 262.20 the heading and paragraph (a) are revised to read as follows:

§ 262.20 Manifest Formats and General Requirements

(a)(1) *Manifest Requirement.* A generator who transports, or offers for transportation, hazardous waste for offsite treatment, storage, or disposal must prepare a manifest to describe the hazardous waste being shipped offsite and its routing to a designated facility.

(2) *Paper format.* Generators using a paper manifest form must prepare their manifest on EPA Form 8700–22 and, if necessary, Form 8700–22A, and must prepare their manifest according to the instructions in the appendix to this part 262.

(3) *Electronic formats.* Generators using an electronic format must use either the Electronic Data Interchange (EDI) format described in paragraph (a)(3)(i) of this section, or the Internet Forms format described in paragraph (a)(3)(ii) of this section. All electronic manifests must be used in accordance with the electronic manifest use requirements of § 262.24, signed in accordance with the electronic signature requirements of § 262.25, and generated and maintained on electronic systems which meet the security requirements of § 262.26. Generators using the electronic manifest must prepare the manifest according to the instructions included in the appendix to part 262.

(i) *EDI format.* The EDI format for the manifest must conform to the American National Standards Institute (ANSI) Accredited Standards Committee (ASC) X12 standards for Electronic Data Interchange and the requirements and mapping conventions promulgated by the Federal Electronic Data Interchange Standards Management Coordinating Committee (FESMCC) for the ANSI X12 Transaction Sets 856 (Ship Notice/

Manifest) and 861 (Receipt and Advice). When EPA decides to adopt a new version and release of the ANSI X12 standard or to modify the conventional mapping, EPA will publish a **Federal Register** notice announcing this change to the implementation convention and establishing a conversion date. Those persons using the EDI format would have a minimum of 60 days to conform to the new version or mapping. EPA would discontinue support for the previous implementation convention no sooner than 90 calendar days after the conversion date.

(ii) *Internet forms format.* The Internet Forms format for the manifest must conform to the EPA Approved Document Type Definition, which defines the data elements, tag identifiers, data element relationships, contents, and structure of the Hazardous Waste Manifest, in accordance with the Extensible Markup Language (XML) specifications maintained by the World Wide Web Consortium.

* * * * *

7. Section 262.21 is revised to read as follows:

§ 262.21 Manifest tracking numbers, manifest printing, and obtaining manifests.

(a) *Manifest tracking numbers.* (1) Paper and electronic manifests may not be transmitted without a manifest tracking number assigned in accordance with a numbering system approved by EPA.

(2) A person may not assign manifest tracking numbers without submitting an application to EPA and receiving approval of their manifest tracking number system. The application to EPA must contain the following information:

(i) Name of applicant's organization (e.g., name of state and department or name of company);

(ii) Name of contact person and telephone number;

(iii) Mailing address;

(iv) EPA identification number, if applicable;

(v) Brief description of applicant's government or business activity;

(vi) Applicant's proposed, unique three-letter prefix for its manifest tracking numbers, including an explanation of any limitations to the use of such a prefix, if any (e.g., historic numbers to avoid); and

(vii) Signed certification that the applicant will ensure that no tracking number will be intentionally duplicated and, if applicable, that all manifest printing specifications in paragraph (b) will be followed.

(b) *Manifest printing.* (1) Paper manifest forms must be printed according to the following specifications:

(i) The form must be printed in the same format as EPA Form 8700–22a and b;

(ii) A Manifest Tracking Number assigned in accordance with a numbering system approved by EPA under paragraph (a) of this section must be preprinted in Item Three of the form;

(iii) Boxes cannot be added to the form;

(iv) Boxes cannot be deleted from the form;

(v) The form must be printed in the dimensions of 8½ x 11 inches;

(vi) The form must be printed in black ink that can be photocopied or faxed;

(vii) The instructions in 40 CFR part 262, appendix 1 must be printed on the back of the form;

(viii) Follow the same copy naming structure as outlined below in § 262.21(c)(3);

(ix) The form must be printed as a 6 copy form and it must be indicated on the form that copies of the form must be distributed as follows:

(A) Page 1 (top copy): ''Designated facility to destination State'' (if required);

(B) Page 2: ''Designated facility to generator State'' (if required);

(C) Page 3: ''Designated facility to generator'';

(D) Page 4: ''Designated facility copy''

(E) Page 5: ''Transporter copy''; and

(F) Page 6 (bottom copy): ''Generator to generator State'' (if required).

(2) Information required to complete the manifest may be preprinted on the manifest form. In addition, the following may also be printed on the manifest form:

(i) In items 10 and 28 (DOT description), a hazardous materials (HM) column for use in distinguishing between federally regulated wastes and other materials according to 49 CFR 172.201(a)(1);

(ii) Anywhere on the form, light organizational marks to indicate proper placement of characters or to facilitate data entry; and/or

(iii) The State optional boxes may be lightly shaded in the optional boxes;

(iv) In the Generator's Certification box, reference to State laws or regulations following the Federal certification;

(3) Electronic manifests must meet the electronic format requirements described in § 262.20.

(c) *Obtaining manifests.* (1) A generator using a paper manifest may use manifest forms printed by any of the following sources so long as the source of the printed form has registered and received approval from EPA to assign manifest tracking numbers under paragraph (a) of this section, and the form is printed in accordance with the specifications in paragraph (b) of this section:

(i) Any state agency that prints the manifest;

(ii) Commercial Form Printers;

(iii) Any hazardous waste generator, transporter, or TSDF; and

(iv) Brokers or other preparers who prepare or arrange shipments of hazardous waste for transportation.

(2) A generator must contact the consignment state to determine whether that state requires generators to enter optional state information on the manifest. Generators must also contact the consignment state to determine whether they are required to submit a copy of the manifest to the state.

8. Section 262.23 is amended by revising the heading to read as follows:

§ 262.23 Use of the paper manifest.

* * * * *

9. Subpart B is amended by adding new § 262.24;

§ 262.24 Use of the electronic manifest.

(a) *Optional use.* In lieu of using the paper manifest, generators may use an electronic manifest format identified in § 262.20(a)(3). A generator may only use an electronic manifest if:

(1) At least the generator and the designated facility for the shipment are both able to send and receive electronic manifest transmissions using electronic systems that meet the security requirements of § 262.26, or the generator is able to access such an electronic system operated by the transporter who receives the waste shipment from the generator for off-site transportation,

(2) Both the generator (or authorized preparer) and designated facility for the shipment are able to electronically sign their electronic manifests with an electronic signature that meets the requirements of § 262.25, and

(3) If manifest copies are collected by any authorized state(s), the state(s) is able to accept electronic manifest copies in lieu of paper copies, or, the state(s) is provided with suitable paper copies of the manifest.

(b) *Manifest preparation and signature by authorized preparer.* A person who in fact prepares a generator's hazardous waste shipment for off-site transportation may sign the generator's certification on behalf of the generator. Such a preparer may sign the generator's certification on the manifest if:

(1) The generator has authorized the preparer to prepare shipments and

initiate manifests on behalf of the generator; and

(2) The preparer provides the generator with a copy of the manifest for the generator's records. In those cases where the preparer signs the generator's certification electronically but the generator is not able to retain an electronic copy of the manifest, the preparer must provide the generator with a paper copy of the manifest, with a notation in the generator's certification block indicating that the manifest was signed electronically by the preparer on behalf of the generator.

(c) *Manifest origination procedures.* A generator originating an electronic manifest must:

(1) Electronically sign the manifest certification in accordance with § 262.25;

(2) Transmit the manifest to the initial transporter and obtain back from this transporter a copy of the manifest bearing the signature of the initial transporter and the date of acceptance of the shipment. If the transporter is not able to accept and sign an electronic manifest, the generator must instead obtain from the transporter a handwritten signature and date of acceptance on a paper copy of the manifest or other shipping paper under 49 CFR part 272, subpart C. If a shipping paper is used to meet this requirement, it must bear the manifest tracking number assigned to the electronic manifest used for tracking the waste shipment.

(3) Retain one electronic copy in accordance with the retention period described in § 262.40(a). If the initial transporter is not able to accept and sign an electronic manifest, or if the generator signs an electronic manifest using the initial transporter's electronic system but is not able to take back an electronic copy, then the generator must retain a hard copy of the manifest or shipping paper signed by the initial transporter. The hard copy retained by the generator must display the manifest tracking number assigned to the shipment.

(4) Provide the initial transporter with one hard copy of the manifest or other hazardous materials shipping paper as defined in 49 CFR 171.8. This hard copy of the manifest or other shipping paper must be carried on the vehicle in accordance with 40 CFR 263.20(c) and the accessibility requirements of 49 CFR 177.817(e), and it must display the manifest tracking number assigned to the shipment.

(d) If any transporter listed on the manifest is not able to accept, sign, and transmit electronic manifest copies, then the generator must also send an electronic manifest copy to the designated facility. The copy transmitted to the designated facility must bear the generator's electronically signed certification, and either the initial transporter's electronic signature and date of acceptance, or a notation indicating that the transporter signed a manifest copy or other shipping paper by hand and the date that the shipment was received by the initial transporter.

(e) For shipments of hazardous waste within the United States solely by water (bulk shipments only), the generator must send an electronic copy of the manifest, dated and signed in accordance with this section, to the owner or operator of the designated facility or the last water (bulk shipment) transporter to handle the waste in the United States if exported by water. Copies of the electronic manifest are not required for each transporter.

(f) For rail shipments of hazardous waste within the United States which originate at the site of generation, the generator must send an electronic copy of the manifest, dated and signed in accordance with this section, to:

(1) The next non-rail transporter, if any; or

(2) The designated facility, if transported solely by rail; or

(3) The last rail transporter to handle the waste in the United States if exported by rail.

(g) For shipments of hazardous waste to a designated facility in an authorized State which has not yet obtained authorization to regulate that particular waste as hazardous, the generator must assure that the designated facility agrees to sign and return the manifest to the generator, and that any out-of-state transporter signs and forwards the manifest to the designated facility.

10. Subpart B is amended by adding new § 262.25;

§ 262.25 Electronic manifest signatures.

(a) An ''electronic signature'' means a method of signing an electronic document with a computer generated symbol or series of symbols in a way that indicates a particular person as the source of the document, and indicates such person's approval of the content of the document, or an intent to be bound by the document.

(b) All electronic manifests must be signed with electronic signatures which meet either the digital signature standard described in paragraphs (c) through (f) of this section, or the secure digitized signature standard described in paragraph (g) of this section.

(c) *Digital signatures.* A ''digital signature'' means an electronic signature that is based on private key/public key cryptography, and which allows both the identity of the signer and the integrity of the data to be verified.

(d) *Digital signature generation.* (1) The generation of digital signatures must conform to the Digital Signature Standard adopted by the National Institute of Standards and Technology (NIST) in Federal Information Processing Standard (FIPS PUB) 186–1, December 15, 1998. In accordance with FIPS PUB 186–1, the Secure Hash Algorithm (SHA) described in FIPS PUB 180–1 (NIST, April, 1995) and the RSA digital signature algorithm described in ANSI X9.31 must be used to generate and verify digital signatures for the hazardous waste manifest.

(2) Key lengths for encryption keys must be not less than 1024 bits.

(e) *Private key security.* (1) The private encryption key used to generate a manifest digital signature may reside on either software or hardware, e.g., a ''smart'' card or other hardware token. Access to the private key must be protected by at least one authority challenge, such as a PIN or password. The subscriber must keep the PIN or password confidential at all times.

(2) Individuals are responsible at all times for maintaining the confidentiality of their private keys. The private key must be protected at all times by the subscriber against disclosure, misuse, or compromise. An individual who uses a private key to sign electronic manifests must not delegate the use of their private key to another person.

(f) *Digital Certificate Requirements.* [Reserved]

(g) *Secure digitized signatures.* A ''secure digitized signature'' means an electronic signature that is created with a system which includes a digitizer device that collects signature data from a stylus that the signer moves across the surface of the device, and which includes software which can process signature input in the following manner:

(1) The signature software must block access to any editing or copying features that might otherwise allow a non-original signature image to be inserted in or copied to a document.

(2) The signature software must be designed to accept only original signature input created dynamically with the digitizer device.

(3) The signature software must record the signature input data as a signature object that contains:

(i) The graphical image of the signer's handwritten signature,

(ii) Signature capture information, including the claimed identity of the signer, and the date and time of the signature.

(iii) Document binding data, particularly, an encrypted checksum or hash function of the data to which the signature relates.

(4) The signature software must allow interrogation and verification of signature objects, to establish whether any data has been changed since a signature was captured. The software must alert the user if an invalid signature is detected.

(5) The signature software must be capable of presenting the graphical image of the captured signature in an industry standard bitmap format (e.g., TIFF or BMP), for display or print operations.

(h) Proof that an individual's electronic signature was affixed to an electronic manifest is evidence, and may suffice to establish, that the individual identified as the signor affixed the signature and did so with the intent to sign the electronic document to give it effect.

11. Subpart B is amended by adding new § 262.26;

§ 262.26 Electronic manifest systems and security.

(a) Electronic manifests must be generated and maintained by electronic systems that comply with paragraph (c) of this section. Electronic copies of manifests, which are electronically signed in accordance with § 262.25, and which are generated or maintained by electronic systems that meet the security requirements of paragraph (c) of this section, will be considered the legal equivalent to paper manifest copies bearing handwritten signatures, for purposes of satisfying any requirement in these regulations to initiate, use, or transmit a manifest, or to retain a record of a manifest copy or produce it for inspection.

(b) Electronic manifest copies as well as any computer systems (hardware and software), controls, and related documentation maintained under this section, must be readily available for, and subject to inspection by any EPA or authorized State inspector.

(c) Electronic systems used to satisfy the requirements in these regulations to initiate, use, transmit, or retain records of manifests, must employ controls and procedures to ensure the authenticity and integrity of their electronic records, and to ensure that the signer of these records cannot readily repudiate the signature and associated records as genuine. Such procedures and controls must include:

(1) Validation of computer systems by an independent, qualified information systems security professional who has prepared a written assessment of the system and has certified that the system generates and processes data accurately and reliably, that the system performs consistently and as intended, that the system is fully interoperable with any other electronic manifest system with which the system exchanges electronic manifests, that the system is designed and can be operated to meet the computer security standards of this section and good security practices common to trusted electronic commerce systems, and that appropriate precautions have been taken to ensure that these security measures cannot be avoided or defeated.

(2) The ability to generate accurate and complete records in both electronic (i.e, EDI and XML) formats and human readable formats, which can be made readily available for inspection, printing, or copying by EPA or State inspectors during the required record retention period.

(3) The ability to protect electronic records from all reasonably foreseeable causes of damage or corruption (including accidental or intentional erasures and alterations, and physical causes such as fire, heat, magnetism or water damage), to ensure their accurate and ready retrieval during the entire record retention period, including the retention of prior versions of hardware and software needed to access electronic records, and to create secure back-up copies of records or otherwise provide for data recovery in the event of damage or errors.

(4) The ability to limit system access to only authorized individuals, and to use authority checks (i.e., user IDs and passwords that uniquely identify each user to the system) to ensure that only authorized individuals can use the system, sign records, access input or output devices, alter a record, or perform discrete system operations,

(5) The ability to provide and maintain a secure computer-generated and time-stamped audit trail for independently recording the date and time of any operator entries and actions that create, modify, or delete records, and for establishing a complete and accurate history of each record in the system.

(6) Software-based operational system checks and work flow controls which implement and oversee the process for routing electronic manifests to waste handlers in the proper sequence, for prompting waste handlers to sign manifests electronically in the proper sequence and on the appropriate signature blocks, for ensuring that data entered by previous waste handlers cannot be altered once they have electronically signed the manifest, and for ensuring that electronic copies bearing the appropriate electronic signatures are distributed to all waste handlers involved with the waste shipment.

(7) Software-based features which ensure that manifest data appear on computer displays in a human readable format (including field labels) which waste handlers can readily verify before they apply their electronic signatures, and that at the time the system prompts a user to sign a manifest electronically, the signature prompt is accompanied by the following warning notice, which must be displayed clearly and conspicuously on the system display:

WARNING: Your electronic signature, when applied to this document, will constitute a signature for all legal purposes. The unauthorized use of an electronic signature, or the making of false statements in connection with an electronic signature, may be subject to civil penalties under State and Federal law, and to Federal criminal penalties under RCRA 3008(d)(3). Where a digital signature is used, only the person named as the subscriber on the digital certificate may apply the digital signature, and the right to use the digital signature cannot be delegated to another person. By using a digital signature, you are certifying that you have not compromised your private key or any password associated with your private key or signature device.

(8) Full interoperability of electronic manifest system features throughout the period that a manifest record resides on a system or is exchanged among waste handlers participating in an electronic system. Full interoperability of system features includes the ability to consistently process and present the required electronic manifest formats, the ability to consistently and reliably route manifests according to the software-based work flow and process controls, the ability to consistently generate and preserve audit trail data for each manifest record created by or received by the system, the ability to detect records that appear to have been altered, and the ability to consistently process and validate electronic signatures. You may exchange electronic manifests with another person's electronic system only if the other system has been assessed under paragraph (c)(1) of this section, and validated as fully interoperable with your system.

(9) Establishment of controls on distribution of, access to, and use of systems documentation that describes how the system operates, how the system components must be installed and configured, how system security features are implemented, or how the system is maintained. These controls extend as well to changes or revisions

to system documentation or operating procedures.

(10) Establishment of, and adherence to, written policies that hold individuals accountable and responsible for actions initiated under their electronic signatures, in order to deter record and signature falsification.

(d) *Third-party storage of manifest records.* (1) A generator's electronic manifest records may be stored by a networking service, record archiving service, or other commercial vendor of electronic record storage services provided that such records are maintained in a system that complies with the requirements of this section, including the requirement for reasonable inspector access to records during the entire record retention period, and the requirement for validation of the third-party system's operation by a qualified, independent information systems security professional.

(2) A generator who uses a third-party vendor of electronic record storage services to meet their record retention requirements remains responsible for the proper performance of their record retention requirements, including the requirement to provide reasonable inspector access to the records during the entire record retention period.

(e) *Receipt.* An electronic manifest is deemed to have been received by the recipient when it is accessible to the recipient in a format that can be read by the recipient. If a recipient receives a manifest record for which there is evidence that the data has been corrupted (e.g., garbled text, or hash functions or checksums that do not calculate correctly), the recipient must request that the sender re-transmit a corrected version of the record.

(f) *Acknowledgment of receipt.* When an electronic manifest transmission is received, the recipient must promptly generate and transmit to the sender an acknowledgment that confirms the receipt of data that can be translated by the recipient's system.

(g) *Date of receipt.* The acknowledgment generated by the recipient to confirm the receipt of translatable data will constitute conclusive evidence of receipt of the electronic manifest and will establish the date of receipt. An electronic transmission will not be considered complete until the sender receives the acknowledgment of receipt.

(h) *Retransmission.* If a positive acknowledgment is not received within 12 hours of a transmission, then the person who initiated the transmission must promptly re-transmit the electronic manifest.

(i) *Inability to transmit.* No person will be excused from the requirement to initiate or use a manifest because of a foreseeable or unforeseeable system failure that prevents the transmission of a valid electronic manifest. If a person is unable to initiate or transmit a valid manifest electronically, it must use the paper manifest required to be used in accordance with § 262.20(a)(2) and § 263.20 of this chapter.

(j) *Transmission log.* Each generator who operates an electronic manifest system to transmit or receive electronic manifests must maintain a transmission log covering all electronic manifests sent or received. This log must include for each manifest transmission sent or received, the date, time, and destination/source. The transmission log must also document who had access to the generator's sending or receiving system during the creation, transmission, or receipt of data. The transmission log must be maintained without modification and retained for three years among the generator's manifest records, in accordance with § 262.40(a).

12. Subpart B is amended by adding new § 262.27;

§ 262.27 Waste minimization certification.

A generator who initiates a shipment of hazardous waste must certify to one of the following statements in Item 16 of the uniform hazardous waste manifest:

(a) ''I am a large quantity generator. I have a program in place to reduce the volume and toxicity of waste generated to the degree I have determined to be economically practicable and I have selected the practicable method of treatment, storage, or disposal currently available to me which minimizes the present and future threat to human health and the environment;'' or

(b) ''I am a small quantity generator. I have made a good faith effort to minimize my waste generation and select the best waste management method that is available to me and that I can afford.''

13. Section 262.32 is amended by revising paragraph (b) to read as follows:

§ 262.32 Marking.

* * * * *

(b) Before transporting hazardous waste or offering hazardous waste for transportation off-site, a generator must mark each container of 119 gallons or less used in such transportation with the following words and information in accordance with the requirements of 49 CFR 172.304:

HAZARDOUS WASTE—Federal Law Prohibits Improper Disposal. If found, contact the nearest police or public safety authority or the U.S. Environmental Protection Agency.
Generator's Name and Address _____
Generator's EPA Identification Number ____
Manifest Tracking Number _____

14. Section 262.33 is revised to read as follows:

§ 262.33 Placarding.

Before transporting hazardous waste or offering hazardous waste for transportation off-site, a generator must placard or offer the initial transporter the appropriate placards according to Department of Transportation regulations for hazardous materials under 49 CFR part 172, subpart F. If placards are not required, a generator must mark each motor vehicle according to 49 CFR 171.3(b)(1).

15. Section 262.34 is amended by adding new paragraph (j) to read as follows.

§ 262.34 Accumulation time.

* * * * *

(j) A generator who sends a shipment of hazardous waste to a designated facility with the understanding that the designated facility can accept and manage the waste and then receives that shipment back as a rejected load or residue in accordance with the manifest discrepancy provisions of § 264.72 or § 265.72 of this chapter may accumulate the returned waste on-site in accordance with paragraphs (a) and (b) or (d), (e) and (f) of this section, depending on the amount of hazardous waste on-site in that calendar month, except that a small quantity generator can never accumulate more than 6,000 kg on site at any given time.

Subpart E—Exports of Hazardous Waste

16. Section 262.54 is amended by revising paragraphs (c) and (e) to read as follows:

§ 262.54 Special manifest requirements.

* * * * *

(c) In the International Shipments block, the primary exporter must check the export box and enter the point of exit (city and State) from the United States.

* * * * *

(e) The primary exporter may obtain the manifest from any source that is registered with the U.S. EPA as a supplier of manifests (e.g., states, waste handlers, and/or commercial forms printers).

* * * * *

Subpart F—Imports of Hazardous Waste

17. Section 262.60 is amended by revising paragraph (c) and by adding paragraphs (d) and (e) to read as follows:

§ 262.60 Imports of hazardous waste.

* * * * *

(c) A person who imports hazardous waste may obtain the manifest form from any source that is registered with the U.S. EPA as a supplier of manifests (e.g., states, waste handlers, and/or commercial forms printers).

(d) In the International Shipments block, the importer must check the import box and enter the point of entry (city and State) into the United States.

(e) The importer must provide the transporter with an additional copy of the manifest for delivery to the U.S. Customs official at the point the hazardous waste enters the United States in accordance with § 263.20(g)(4) of this chapter.

18. The Appendix to Part 262 is redesignated as appendix 1 to part 262 and revised to read as follows:

Appendix 1 to Part 262—Uniform Hazardous Waste Manifest and Instructions (EPA Forms 8700–22 and 8700–22A and Their Instructions) U.S. EPA Form 8700–22

Read all instructions before completing this form.

This form has been designed for use on a 12-pitch (elite) typewriter which is also compatible with standard computer printers; a firm point pen may also be used—press down hard.

Federal regulations require generators and transporters of hazardous waste and owners or operators of hazardous waste treatment, storage, and disposal facilities to complete this form (8700–22) and, if necessary, the continuation sheet (8700–22A) for both inter- and intrastate transportation of hazardous waste.

The following statement must be included with each Uniform Hazardous Waste Manifest, either on the form, in the instructions to the form, or accompanying the form:

Public reporting burden for this collection of information is estimated to average: 17 minutes for generators, 10 minutes for transporters, and 16 minutes for owners or operators of treatment, storage, and disposal facilities. This includes time for reviewing instructions, gathering data, completing and reviewing the form, and transmitting the form. Send comments regarding the burden estimate, including suggestions for reducing this burden, to: Chief, Information Policy Branch (2136), U.S. Environmental Protection Agency, Ariel Rios Building; 1200 Pennsylvania Ave., NW, Washington, D.C. 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503.

Copies and Copy Distribution

Original forms, carbon copies, carbonless copies, and photocopies of the manifest may be used. All copies must be legible. The top copy of the manifest must accompany the waste in transportation.

Paper manifest must be printed according to the following specifications:

- use the federal manifest format;
- register with EPA as a forms printer to ensure that you adhere to federal printing specifications and procedures subsequent to the registration process;
- preprint an eleven digit alphanumeric number (i.e., the three letter prefix followed by eight digits) under Item Three of the manifest as the Manifest Tracking Number.
- not add additional boxes to the form;
- not delete boxes from the form;
- print the form so that the manifest dimensions are 8½ × 11 inches;
- print the form in black ink so that it can be photocopied or faxed;
- print the standardized instructions outlined in 40 CFR part 262, appendix 1;
- follow the same copy naming structure as outlined below in § 262.21(c)(3);
- print the state optional boxes so that information in them is readable when the form is photocopied or faxed; and
- printer must print a 6 copy form.

Copies of the manifest shall be distributed as follows:

Page 1 (top copy): Designated facility to consignment State (if required);

Page 2: Designated facility to generator State (if required);

Page 3: Designated facility to generator;

Page 4: Designated facility retains

Page 5: Transporter retains; and

Page 6 (bottom copy): Generator to generator State (if required).

BILLING CODE 6560–50–P

UNIFORM HAZARDOUS WASTE MANIFEST

Please print or type.

GENERATOR

1. Generator's US EPA ID No.
2. Page 1 of
3. Manifest Tracking No.

Information in the shaded areas is not required by Federal law.

4. Generator's Name and Mailing Address

Generator's Phone:

5. Emergency Response Phone Number

6. Transporter 1 Company Name — US EPA ID Number

7. Transporter 2 Company Name — US EPA ID Number

8. Transporter 3 Company Name — US EPA ID Number

9. Designated Facility Name and Site Address — US EPA ID Number

10. US DOT Description *(Including Proper Shipping Name, Hazard Class, ID Number, and Packing Group)*	11. Containers No.	11. Containers Type	12. Total Quantity	13. Unit Wt/Vol	A. Waste Codes
a.					
b.					
c.					
d.					

14. Special Handling Instructions and Additional Information

15. **GENERATOR'S CERTIFICATION:** I hereby declare that the contents of this consignment are fully and accurately described above by the proper shipping name, and are classified, packaged, marked and labeled/placarded, and are in all respects in proper condition for transport according to applicable international and national government regulations.

I certify that the waste minimization statement identified in 40 CFR 262.27(a) (if I am a large quantity generator) or (b) (if I am a small quantity generator) or authorized equivalent state regulations is true with respect to this shipment.

Generator's Printed/Typed Name — Signature — *Month* *Day* *Year*

IMPORTS/EXPORTS

16. International Shipments

☐ Import into the U.S. ☐ Export from the U.S. Port of entry/exit _____

Transporter signature (for exports only) _____ Date leaving U.S. _____

TRANSPORTER

Transporter Acknowledgement of Receipt of Materials

17. Transporter 1 Printed/Typed Name — Signature — *Month* *Day* *Year*

18. Transporter 2 Printed/Typed Name — Signature — *Month* *Day* *Year*

19. Transporter 3 Printed/Typed Name — Signature — *Month* *Day* *Year*

FACILITY

20. Discrepancies/Other

☐ Discrepancy in quantity ☐ Discrepancy in type ☐ Container residue ☐ Rejected waste

Description _____ Manifest reference no. _____

21. Facility Owner or Operator: Certification of receipt of hazardous materials covered by this manifest except as noted in Item 20.

Printed/Typed Name — Signature — *Month* *Day* *Year*

B. Biennial Report System Type Codes (i.e., codes for hazardous waste treatment, disposal, and recycling systems)

a. c.

b. d.

BILLING CODE 6560–50–C

I. INSTRUCTIONS FOR GENERATORS

Item 1. Generator's U.S. EPA Identification Number

Enter the generator's U.S. EPA twelve digit identification number.

Item 2. Page 1 of ____

Enter the total number of pages used to complete this Manifest (i.e., the first page (EPA Form 8700–22) plus the number of Continuation Sheets (EPA Form 8700–22A), if any).

Item 3. Manifest Tracking Number

For paper manifests, this number must be pre-printed on the manifest by the forms printer.

Item 4. Generator's Mailing Address and Phone Number

Enter the name of the generator, the address to which the manifest signed by the designated facility should be mailed, and the generator's telephone number. Note, the telephone number (including area code) should be the number where the generator or his authorized agent may be reached to provide instructions in the event of an emergency or if the designated and/or alternate (if any) facility rejects some or all of the shipment. The emergency response phone number must:

1. be the number of the generator or the number of an agency or organization who is capable of and accepts responsibility for providing detailed information about the shipment;
2. reach a phone that is monitored 24 hours a day at all times the waste is in transportation (including transportation related storage); and
3. must reach someone who is either knowledgeable of the hazardous waste being shipped and has comprehensive emergency response and spill cleanup/incident mitigation information for the material being shipped or has immediate access to a person who has that knowledge and information about the shipment.

Item 5. Emergency Response Phone Number

Enter the number of the generator or the number of a party responsible for providing information about the shipment 24 hours a day.

Item 6. Transporter 1 Company Name, and U.S. EPA ID Number

Enter the company name and U.S. EPA ID number of the first transporter who will transport the waste.

Item 7. Transporter 2 Company Name, U.S. EPA ID Number

If applicable, enter the company name and U.S. EPA ID number of the second transporter who will transport the waste.

Item 8. Transporter 3 Company Name, U.S. EPA ID Number

If applicable, enter the company name and U.S. EPA ID number of the third transporter who will transport the waste.

If more than three transporters are needed, use a Continuation Sheet(s) (EPA Form 8700—22A).

Item 9. Designated Facility Name, Site Address, and U.S. EPA ID Number

Enter the company name and site address of the facility designated to receive the waste listed on this manifest and enter the U.S. EPA twelve digit identification number of the facility.

Item 10. U.S. DOT Description (Including Proper Shipping Name, Hazard Class or Division, Identification Number, and Packing Group)

Enter the U.S. DOT Proper Shipping Name, Hazard Class or Division, Identification Number (UN/NA) and Packing Group for each waste as identified in 49 CFR part 172. Include technical name(s) and reportable quantity references, if applicable. Any additional waste codes may be entered in Item 14 (special handling and additional information block), or if necessary, in Item 32 on the Continuation Sheet (EPA Form 8700–22A).

Note: If additional space is needed for waste descriptions, enter these additional descriptions in Item 28 on the Continuation Sheet (EPA Form 8700–22A).

Item 11. Containers (Number and Type)

Enter the number of containers for each waste and the appropriate abbreviation from Table I (below) for the type of container.

Table I. Types of Containers

BA = Burlap, cloth, paper, or plastic bags
CF = Fiber or plastic boxes, cartons, cases
CM = Metal boxes, cartons, cases (including roll-offs)
CW = Wooden boxes, cartons, cases
CY = Cylinders
DF = Fiberboard or plastic drums, barrels, kegs
DM = Metal drums, barrels, kegs
DT = Dump truck
DW = Wooden drums, barrels, kegs
HG = Hopper or gondola cars
TC = Tank cars
TP = Portable tanks
TT = Cargo tanks (tank trucks)

Item 12. Total Quantity

Enter, in designated boxes, the total quantity of waste. Round partial units to the nearest whole unit; do not enter decimals or fractions (unless appropriate for bulk shipments).

Item 13. Units of Measure (Weight/Volume)

Enter, in designated boxes, the appropriate abbreviation from Table II (below) for the unit of measure.

Table II. Units of Measure

G = Gallons (liquids only)
K = Kilograms
L = Liters (liquids only)
M = Metric Tons (1000 kilograms)
N = Cubic Meters
P = Pounds
T = Tons (2000 pounds)
Y = Cubic Yards

Item 14. Special Handling Instructions and Additional Information.

Note: This space may be used to record other information relevant to the waste shipment for which there is no specific space on the Manifest. These items are: universal waste shipments; additional waste codes; alternate facility designation; name, address, and phone number of any person other than the person identified in Item 4 (Generator's Name, Mailing Address, and Phone Number) preparing the manifest; and name, address, phone number, and EPA identification number of any person who shares generator responsibilities (i.e., co-generators) with the person identified in Item 4 (Generator's Name, Mailing Address, and Phone Number). This space may be also used to indicate special transportation; treatment, storage, or disposal information; bill of lading information, and/or the manifest tracking number of the original manifest for rejected loads and residues. If space is available, then generators can use this space for information relevant to their tracks. States may also require additional waste description associated with particular hazardous wastes listed on the Manifest. States cannot require information in this box other than information such as chemical names, constituent percentages, and physical state.

Item 15. Generator's Statement and Preparer's Certification

The generator must read, sign, and date the waste minimization certification statement. In signing the waste minimization certification statement, those generators who have not been exempted by statute or regulation from the duty to make a waste minimization certification under section 3002(b) of RCRA are also certifying that they have complied with the waste minimization requirements.

Generators may preprint the words, ''On behalf of'' in the signature block or may hand write this statement in the signature block prior to signing the generator certifications.

Note: For paper manifests, all of the above information except the handwritten signature required in item 15 may be pre-printed.

II. Instructions for International Shipment Block

Item 16. International Shipments

For export shipments, the primary exporter must check the export box, and enter the point of exit (city and state) from the United States. For import shipments, the importer must check the import box and enter the point of entry (city and state) into the United States. For exports, the transporter must sign and date the manifest to indicate the day the shipment left the United States. Transporters of hazardous waste shipments must deliver a copy of the manifest to the U.S. Customs when importing or exporting the waste across U.S. borders.

III. Instructions for Transporters

Item 17. Transporter 1 Acknowledgment of Receipt

Enter the name of the person accepting the waste on behalf of the first transporter. That person must acknowledge acceptance of the waste described on the Manifest by signing and entering the date of receipt. Only one signature per transportation company is required.

Item 18. Transporter 2 Acknowledgment of Receipt

If applicable, enter the name of the person accepting the waste on behalf of the second transporter. That person must acknowledge acceptance of the waste described on the Manifest by signing and entering the date of receipt.

Item 19. Transporter 3 Acknowledgment of Receipt

If applicable, enter the name of the person accepting the waste on behalf of the third transporter. That person must acknowledge acceptance of the waste described on the Manifest by signing and entering the date of receipt.

Note: Transporters carrying imports or exports of hazardous waste may also have responsibilities to enter information in the International Shipments Block. See above instructions for Item 16.

IV. Instructions for Owners and Operators of Treatment, Storage, and Disposal Facilities

Item 20. Discrepancy Indication Space

The authorized representative of the designated (or alternate) facility's owner or operator must note in this space any discrepancies between the waste described on the Manifest and the waste actually received at the facility. Manifest discrepancies are: significant differences (as defined by § § 264.72(b) and 265.72(b)) between the quantity or type of hazardous waste designated on the manifest or shipping paper, and the quantity and type of hazardous waste a facility actually receives; rejected wastes, which may be a full or partial shipment of hazardous waste that the TSDF cannot accept; or container residues, which are residues that exceed the quantity limits for ''empty'' containers set forth in 40 CFR 261.7(b).

For rejected loads and residues (40 CFR 264.72(d), (e), and (f), or 40 CFR 265.72(d), (e), or (f)), check the appropriate box if the shipment is a rejected load (i.e., rejected by the designated and/or alternate facility and is sent to an alternate facility or returned to the generator) or a regulated residue that cannot be removed from a container. Enter the reason for the rejection or the inability to remove the residue and a description of the waste. Also, reference the manifest tracking number for the new manifest being used to track the rejected waste or residue shipment on the original manifest. Indicate the original manifest tracking number in Item 14, the Special Handling Block of the new manifest.

Owners or operators of facilities located in unauthorized States (i.e., states in which the U.S. EPA administers the hazardous waste management program) who cannot resolve significant differences in quantity or type within 15 days of receiving the waste must submit to their Regional Administrator (see list below) a letter with a copy of the Manifest at issue describing the discrepancy and attempts to reconcile it (40 CFR 264.72(c) and 265.72(c)).

Owners or operators of facilities located in authorized States (i.e., those States that have received authorization from the U.S. EPA to administer the hazardous waste management program) should contact their State agency for information on State Discrepancy Report requirements.

EPA Regional Administrators

Regional Administrator, U.S. EPA Region I, John F. Kennedy Federal Building, One Congress St., Boston, MA 02203
Regional Administrator, U.S. EPA Region II, Jacob K. Javits Federal Building, 26 Federal Pl., New York, NY 10278
Regional Administrator, U.S. EPA Region III, 841 Chestnut Building, Philadelphia, PA 19107
Regional Administrator, U.S. EPA Region IV, 345 Courtland St, NE, Atlanta, GA 30365
Regional Administrator, U.S. EPA Region V, 77 W. Jackson Blvd., Chicago, IL 60604–3507
Regional Administrator, U.S. EPA Region VI, First Interstate Bank Tower at Fountain Place, 1445 Ross Ave, 12th Floor, Suite 1200, Dallas, TX 75202–2733
Regional Administrator, U.S. EPA Region VII, 726 Minnesota Ave., Kansas City, KS 66101
Regional Administrator, U.S. EPA Region VIII, 999 18th St., Suite 500, Denver, CO 80202–2405
Regional Administrator, U.S. EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105
Regional Administrator, U.S. EPA Region X, 1200 Sixth Ave., Seattle, WA 98101

Item 21. Facility Owner or Operator Certification of Receipt (Except As Noted in Item 20)

Enter the name of the person accepting the waste on behalf of the owner or operator of the facility. That person must acknowledge receipt or rejection of the waste described on the Manifest by signing and entering the date of receipt or rejection where indicated. Since the Facility Certification acknowledges receipt of the waste except as noted in the Discrepancy Space in Item 20, the certification should be signed for both waste receipt and waste rejection, with the rejection being explained in the space in Item 20.

Optional State Information

Blocks A and B are not required by Federal regulations for intra- or interstate transportation. However, States may require generators and owners or operators of treatment, storage, or disposal facilities to complete some or all of Blocks A or B as part of State manifest reporting requirements. Generators and owners and operators of treatment, storage, or disposal facilities should contact State officials to determine whether they must enter information in blocks A and B.

Block A—Waste Codes

Enter up to 3 Federal waste codes in the top part of Block A for wastes described in Item 10. Enter the federal waste codes in accordance with the following hierarchy: all acutely hazardous wastes, including all P listed wastes and all acutely hazardous F listed wastes; all U listed wastes (toxic); all K listed wastes (specific sources); all non-acute F listed wastes (non-specific sources); and all D wastes (characteristic). The use of this hierarchy is required except for ignitable or reactive wastes, which may be better described (for safety reasons) if the waste codes for these characteristics are listed first.

The bottom half of Block A is reserved for entering up to three state-specific waste codes. In general, the first state waste code listed should be the generator state waste code (if applicable) and the second state waste code listed should be the destination state waste code (if applicable).

If additional federal or state waste codes need to be reported, the generator should use Item 14 ''Special Handling Instructions and Additional Information.''

Block B—Biennial Report System Type Codes

Enter the most appropriate Biennial Report system type code for each waste listed in Item 10. The system type code is to be entered by the first treatment, storage, or disposal facility (TSDF) that receives the waste and is the code that best describes the way in which the waste is managed when shipped to the TSDF. The full list of the Biennial Report system type codes can be found in the electronic and hard copy versions of 40 CFR Part 262 Appendix 2-Biennial Report system type codes (full list of the system type codes) and in the instructions for completing the Biennial Report.

19. Add a new appendix 2 to part 262 to read as follows:

Appendix 2 to Part 262—Biennial Report System Type Codes for Block B of the Uniform Hazardous Waste Manifest

Shown below is the full list of Biennial Report system type codes found in the 1999 Hazardous Waste Report Instructions and Forms. These codes are to be used by the designated facility in completing Block B of the hazardous waste manifest where an authorized state required it. Any changes made to those codes during subsequent Biennial Report periods will be automatically adopted.

List of System Type Codes

Metals Recovery (for Reuse)

M011 High temperature metals recovery
M012 Retorting
M013 Secondary smelting
M014 Other metals recovery for reuse: e.g., ion exchange, reverse osmosis, acid leaching
M019 Metals recovery—type unknown

Solvents Recovery

M021 Fractionation/distillation
M022 Thin film evaporation
M023 Solvent extraction
M024 Other solvent recovery
M029 Solvents recovery—type unknown

Other Recovery

M031 Acid regeneration
M032 Other recovery: e.g., waste oil recovery, nonsolvent organics recovery
M039 Other recovery—type unknown

Incineration Treatment

M041 Incineration—liquids
M042 Incineration—sludges
M043 Incineration—solids

M044 Incineration—gases
M049 Incineration—type unknown

Energy Recovery (Reuse as Fuel)

M051 Energy recovery—liquids
M052 Energy recovery—sludges
M053 Energy recovery—solids
M059 Energy recovery—type unknown

Fuel Blending

M061 Fuel blending

Aqueous Inorganic Treatment

M071 Chrome reduction followed by chemical precipitation
M072 Cyanide destruction followed by chemical precipitation
M073 Cyanide destruction only
M074 Chemical oxidation followed by chemical precipitation
M075 Chemical oxidation only
M076 Wet air oxidation
M077 Chemical precipitation
M078 Other aqueous inorganic treatment: e.g., ion exchange, reverse osmosis
M079 Aqueous inorganic treatment—type unknown

Aqueous Organic Treatment

M081 Biological treatment
M082 Carbon adsorption
M083 Air/steam stripping
M084 Wet air oxidation
M085 Other aqueous organic treatment
M089 Aqueous organic treatment—type unknown

Aqueous Organic and Inorganic Treatment

M091 Chemical precipitation in combination with biological treatment
M092 Chemical precipitation in combination with carbon adsorption
M093 Wet air oxidation
M094 Other organic/inorganic treatment
M099 Aqueous organic and inorganic treatment—type unknown

Sludge Treatment

M101 Sludge dewatering
M102 Addition of excess lime
M103 Absorption/adsorption
M104 Solvent extraction
M109 Sludge treatment—type unknown

Stabilization

M111 Stabilization/chemical fixation using cementitious and/or pozzolanic materials
M112 Other stabilization
M119 Stabilization—type unknown

Other Treatment

M121 Neutralization only
M122 Evaporation only
M123 Settling/clarification only
M124 Phase separation (e.g., emulsion breaking, filtration) only
M125 Other treatment
M129 Other treatment—type unknown

Disposal

M131 Land treatment/application/farming
M132 Landfill
M133 Surface impoundment (to be closed as a landfill)
M134 Deepwell/underground injection
M135 Direct discharge to sewer/POTW
M136 Direct discharge to surface water under NPDES
M137 Other disposal

Transfer Facility Storage

M141 Transfer facility storage—waste was shipped off site without any on-site treatment, disposal, or recycling activity

PART 263—STANDARDS APPLICABLE TO TRANSPORTERS OF HAZARDOUS WASTE

20. The authority citation for part 263 is revised to read as follows:

Authority: 42 U.S.C. 6906, 6912, 6922–6925, 6937, and 6938.

21–23. Section 263.20 is amended by revising paragraphs (a) through (g) and adding paragraph (i) to read as follows:

§ 263.20 The manifest system.

(a)(1) *Manifest Requirement.* A transporter may not accept hazardous waste from a generator unless the transporter is also provided with a manifest signed in accordance with the requirements of § 262.23, or, for electronic manifests, the requirements of 40 CFR 262.24 and 262.25.

(2) *Exports.* In the case of exports other than those subject to subpart H of 40 CFR part 262, a transporter may not accept such waste from a primary exporter or other person if he knows the shipment does not conform to the EPA Acknowledgment of Consent; and unless, in addition to a manifest signed by the generator as provided in this section, the transporter shall also be provided with an EPA Acknowledgment of Consent which, except for shipments by rail, is attached to the manifest (or shipping paper for shipments using an electronic manifest or for exports by water (bulk shipment)). For exports of hazardous waste subject to the requirements of subpart H of 40 CFR part 262, a transporter may not accept hazardous waste without a tracking document that includes all information required by 40 CFR 262.84.

(b)(1) *Transporter signature requirement when paper manifest supplied.* Before transporting the hazardous waste, the transporter must sign by hand and date the manifest acknowledging acceptance of the hazardous waste from the generator. Before leaving the generator's property, the transporter must return a signed paper copy of the manifest to the generator.

(2) *Transporter signature requirement when electronic manifest supplied.*—(i) *Transporters participating in electronic manifest systems.* Before transporting the hazardous waste, a transporter participating with the generator in an electronic manifest system must sign electronically and date the manifest acknowledging acceptance of the hazardous waste from the generator, using an electronic signature in accordance with the provisions of § 262.25 of this chapter. Before leaving the generator's property, the transporter must return a signed electronic copy of the manifest to the generator.

(ii) *Transporters unable to participate in electronic systems.* If the generator participates in an electronic manifest system, but the transporter is not able to accept or sign electronic manifests, then the transporter must acknowledge acceptance of the hazardous waste from the generator by signing by-hand and dating a paper copy of the manifest or other shipping paper under 49 CFR part 172, subpart C. Before leaving the generator's property, the transporter must return a copy of this signed manifest or other shipping paper to the generator.

(iii) *Transporter signing electronic manifest on behalf of generator.* If a transporter acts as an authorized preparer of a generator's manifest and signs the generator's certification on behalf of the generator as provided under § 262.24(b) of this chapter, the transporter must, before transporting the hazardous waste, sign electronically and date the manifest acknowledging acceptance of the hazardous waste from the generator. The transporter must return a signed electronic copy to the generator before leaving the generator's property. If the generator is not able to accept an electronic copy from the transporter, the transporter must provide the generator with a signed paper copy of the manifest or other shipping paper, with a notation in the generator's certification block indicating that the manifest was signed electronically on behalf of the generator.

(c)(1) For shipments tracked with a paper manifest, the transporter must ensure that the manifest accompanies the hazardous waste shipment and is readily available to, and recognized by, authorities in the event of accident or inspection.

(2) For shipments tracked with an electronic manifest, the transporter must ensure that the electronic manifest is transmitted to the next transporter or to the designated facility prior to or at the time of the delivery of the shipment. In addition, the transporter must ensure that a paper copy of the manifest or other shipping paper as defined under 49 CFR part 172, subpart C accompanies the shipment, and is readily available to, and recognized by, authorities in the event of inspection or accident.

(3) In the case of exports, the transporter must ensure that a copy of the EPA Acknowledgment of Consent also accompanies the waste.

(d)(1) *Transporter delivery of waste for shipments covered by paper manifest.* A transporter who delivers a hazardous waste covered by a paper manifest to another transporter or to the designated facility must:

(i) Obtain the date of delivery and the handwritten signature of that transporter or of the owner or operator of the designated facility on the manifest;

(ii) Retain one copy of the manifest in accordance with § 263.22; and

(iii) Give the remaining paper copies of the manifest to the accepting transporter or designated facility.

(2) *Transporter delivery of waste for shipments covered by electronic manifest.* A transporter who delivers a hazardous waste covered by an electronic manifest to another transporter or to the designated facility must:

(i) If the delivering transporter participates in the electronic manifest system:

(A) Obtain the date of delivery and the electronic signature of that transporter or of the owner or operator of the designated facility on the manifest;

(B) Retain an electronic copy of the manifest in accordance with § 263.22; and

(C) Transmit the electronic manifest to the accepting transporter or designated facility.

(ii) If the delivering transporter does not participate in the electronic system on which the manifest has been transmitted to the accepting transporter or designated facility:

(A) Obtain the date of delivery and the handwritten signature of the accepting transporter or the owner or operator of the designated facility, on a paper copy of the manifest or other shipping paper under 49 CFR part 272, subpart C, and which bears the manifest tracking number assigned to the shipment by the electronic system; and

(B) Retain this signed copy of the manifest or other shipping paper in accordance with § 263.22.

(e) For shipments involving water (bulk shipment) transportation, the requirements of paragraphs (c), (d), and (f) of this section do not apply if:

(1) The hazardous waste is delivered by water (bulk shipment) to the designated facility;

(2) A shipping paper containing all the information required on the manifest (excluding the EPA Identification numbers, generator certification, and signatures) and, for exports, and EPA Acknowledgment of Consent accompanies the hazardous waste;

(3) The person delivering the hazardous waste to the initial water (bulk shipment) transporter obtains the date of delivery and signature of the water (bulk shipment) transporter on a paper or electronic manifest and forwards it to the designated facility;

(4) The delivering water transporter obtains the date of delivery and handwritten signature of the owner or operator of the designated facility on either a paper copy of the manifest or on the shipping paper; and

(5) A copy of the shipping paper or manifest is retained by each water (bulk shipment) transporter in accordance with § 263.22.

(f) For shipments involving rail transportation, the requirements of paragraphs (c), (d), and (e) of this section do not apply, and the following requirements do apply:

(1) When accepting hazardous waste from a non-rail transporter, the initial rail transporter must:

(i) Sign (by-hand or with an electronic signature) and date the manifest acknowledging acceptance of the hazardous waste;

(ii) Return or transmit a signed copy of the manifest to the non-rail transporter;

(iii) Forward at least three paper copies or an electronic copy of the manifest to:

(A) The next non-rail transporter, if any; or

(B) The designated facility, if the shipment is delivered to that facility by rail; or

(C) The last rail transporter designated to handle the waste in the United States; and

(iv) Retain one copy of the manifest and rail shipping paper in accordance with § 263.22.

(2) Rail transporters must ensure that a shipping paper containing all the information required on the manifest (excluding the EPA identification numbers, generator certification, and signatures) and, for exports, an EPA acknowledgment of Consent accompanies the hazardous waste at all times.

(3)(i) When delivering hazardous waste covered by a paper manifest to the designated facility, a rail transporter must:

(A) Obtain the date of delivery and the handwritten signature of the owner or operator of the designated facility on the manifest, or a handwritten signature on the shipping paper (if the manifest has not been received by the facility); and

(B) Retain a copy of the manifest or signed shipping paper in accordance with § 263.22.

(ii) When delivering hazardous waste covered by an electronic manifest to the designated facility, a rail transporter participating in the electronic manifest system must:

(A) Obtain the date of delivery and the electronic signature of the owner or operator of the designated facility on the manifest; and

(B) Retain an electronic copy of the signed manifest in accordance with § 263.22.

(iii) When delivering hazardous waste covered by an electronic manifest to the designated facility, a rail transporter not participating in the electronic manifest system must:

(A) Obtain the date of delivery and handwritten signature of the owner or operator of the designated facility on a paper copy of the manifest or shipping paper, which must bear the manifest tracking number assigned to the shipment by the electronic system; and

(B) Retain a copy of the signed manifest or shipping paper in accordance with § 263.22.

(4)(i) When delivering hazardous waste covered by a paper manifest to a non-rail transporter, a rail transporter must:

(A) Obtain the date of delivery and the handwritten signature of the next non-rail transporter on the manifest; and

(B) Retain a paper copy of the manifest in accordance with § 263.22.

(ii) When delivering hazardous waste covered by an electronic manifest to a non-rail transporter, a rail transporter participating in the electronic manifest system must:

(A) Obtain the date of delivery and the electronic signature of the next non-rail transporter on the electronic manifest; and

(B) Retain an electronic copy of the signed manifest in accordance with § 263.22.

(iii) When delivering hazardous waste covered by an electronic manifest to a non-rail transporter, a rail transporter not participating in the electronic manifest system must:

(A) Obtain the date of delivery and handwritten signature of the next non-rail transporter on a paper copy of the manifest or shipping paper, which must bear the manifest tracking number assigned to the shipment by the electronic system; and

(B) Retain a copy of the signed manifest or shipping paper in accordance with § 263.22.

(5) Before accepting hazardous waste from a rail transporter, a non-rail transporter must sign (by hand or with an electronic signature) and date the manifest and provide a copy to the rail transporter.

(g) Transporters who transport hazardous waste out of the United States must:

(1) Sign and date the manifest in the International Shipments block to indicate the date that the shipment left the United States;

(2) Retain one copy in accordance with § 263.22(d);

(3) Return a signed copy of the manifest to the generator; and

(4) Give a copy of the manifest to a U.S. Customs official at the point of departure from the United States.

* * * * *

(i) Transporters who transport hazardous waste into the United States must give a copy of the manifest to a U.S. Customs official at the point of entry into the United States.

24. Section 263.21 is amended by revising paragraph (b) to read as follows:

§ 263.21 Compliance with the manifest.

* * * * *

(b)(1) If the hazardous waste cannot be delivered in accordance with paragraph (a) of this section because of an emergency condition other than rejection of the waste by the designated facility, then the transporter must contact the generator for further directions and must revise the manifest according to the generator's instructions.

(2) If hazardous waste is rejected by the designated facility listed on the manifest while the transporter is there, then the transporter must obtain the date of rejection and signature of the owner or operator of the designated facility on the manifest, retain one copy of the manifest in accordance with § 263.22, and give the remaining copies of the manifest to the rejecting designated facility. When the transporter is taking back a full or partial shipment, that load must be accompanied by a new manifest.

25. Section 263.22 is amended by revising paragraph (a), and by adding new paragraphs (f) and (g) to read as follows:

§ 263.22 Recordkeeping.

(a)(1) A transporter of hazardous waste must keep a copy of each paper or electronic manifest signed by the generator, himself, and the next designated transporter or the owner or operator of the designated facility for a period of three years from the date the hazardous waste was accepted by the initial transporter.

(2) For shipments covered by an electronic manifest, if a provision of this subpart authorizes a transporter to obtain, in lieu of a signed electronic copy of the manifest, a hand-signed paper copy of the manifest or other shipping paper under 49 CFR part 172, subpart C, the transporter must keep a copy of each such manifest or shipping paper for a period of three years from the date the hazardous waste was accepted by the initial transporter.

* * * * *

(f) *Transmission log.* Each transporter who operates an electronic manifest system and transmits or receives electronic manifests must maintain a transmission log covering all electronic manifests sent or received. This log must include for each manifest transmission sent or received, the date, time, and destination/source. The transmission log must also document who had access to the transporter's sending or receiving system during the creation, transmission, or receipt of data. The transmission log covering each calendar year's transmissions must be maintained without modification and retained with the transporter's manifest records for a period of three years from their creation.

(g) *Third-party storage of electronic manifest records.* (1) Electronic manifest records may be stored by a networking service, record archiving service, or other commercial vendor of electronic record storage services provided that such records are maintained in a system that complies with the requirements of § 262.26 of this chapter, including the requirement for reasonable inspector access to records during their retention period, and the requirement for validation of the third-party system's operation by a qualified, independent information systems security professional.

(2) A transporter who uses a third-party vendor of electronic record storage services to meet their record retention requirements remains responsible for the proper performance of their record retention requirements, including the requirement to provide reasonable inspector access during the entire record retention period.

26. Subpart B is amended by adding new § 263.23 to read as follows:

§ 263.23 Electronic manifest systems.

(a) If a transporter of hazardous waste participates in an electronic manifest system, the electronic system used by the transporter to originate, use, sign, transmit, or store electronic manifests shall be designed and operated in accordance with the electronic format standards described in 40 CFR 262.20(a)(3), the electronic signature standards in 40 CFR 262.25, and the system controls and computer security requirements described in 40 CFR 262.26.

(b) Except where a provision of this part specifically requires a paper copy of a manifest or a handwritten signature, manifest copies which are electronically signed in accordance with 40 CFR 262.25 and which are originated, transmitted, or maintained by electronic systems that comply with paragraph (a) of this section, will be considered the legal equivalent to paper manifest copies bearing handwritten signatures.

(c) All computer systems (hardware and software), controls, and related documentation maintained under this section, shall be readily available for, and subject to inspection by any EPA or authorized state inspector.

(d) *Receipt.* An electronic manifest is deemed to have been properly received by the recipient when it is accessible to the recipient in a format that can be read by the recipient. If a recipient receives a manifest record for which there is evidence that the data has been corrupted (e.g., garbled text, or hash functions or checksums that do not calculate correctly), the recipient must request that the sender re-transmit a corrected version of the record.

(e) *Acknowledgment of receipt.* When an electronic manifest transmission is received, the recipient must promptly generate and transmit to the sender an acknowledgment that confirms the receipt of data that can be translated by the recipient's system.

(f) *Date of receipt.* The acknowledgment generated by the recipient to confirm the receipt of translatable data will constitute conclusive evidence of receipt of the electronic manifest and will establish the date of receipt. An electronic transmission will not be considered complete until the sender receives the acknowledgment of receipt.

(g) *Retransmission.* If a positive acknowledgment is not received within 12 hours of a transmission, then the person who initiated the transmission must promptly re-transmit the electronic manifest.

(h) *Inability to transmit.* No person will be excused from the requirement to initiate or use a manifest because of a foreseeable or unforeseeable system failure that prevents the transmission of a valid electronic manifest. If a person is unable to initiate or transmit a valid manifest electronically, it must use the paper manifest required to be used in accordance with 40 CFR 262.20(a)(2) and 40 CFR 263.20.

PART 264—STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

27. The authority citation for part 264 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6924, and 6925.

Subpart E—Manifest System, Recordkeeping, and Reporting

28–29. Section 264.71 is amended by revising paragraphs (a) and (b)(4) and adding paragraph (e) to read as follows:

§ 264.71 Use of manifest system.

(a)(1) If a facility receives hazardous waste with a manifest, the owner or operator, or his agent, must sign and date the manifest, as indicated in paragraphs (a)(2), (3), or (4) of this section to certify that the hazardous waste covered by the manifest was received, that the hazardous waste was received except as noted in the discrepancy space of the manifest, or that the hazardous waste was fully rejected as noted in the manifest discrepancy space.

(2) If a facility receives a hazardous waste shipment accompanied by a paper manifest, the owner or operator, or his agent must:

(i) Sign and date, by hand, each copy of the manifest;

(ii) Note any discrepancies (as defined in § 264.72(a)) on each copy of the manifest;

(iii) Immediately give the transporter at least one paper copy of the manifest;

(iv) Within 30 days of delivery, send a copy of the paper manifest to the generator; and

(v) Retain at the facility a paper copy of each manifest for at least three years from the date of delivery.

(3) If a facility receives a hazardous waste shipment covered by an electronic manifest, and the generator, transporter, and facility all participate in the electronic manifest system, the owner or operator, or his agent, must:

(i) Electronically sign and date the manifest, using an electronic signature in accordance with the provisions of 40 CFR 262.25, to certify that the hazardous waste covered by the manifest was received;

(ii) Note any discrepancies (as defined in § 264.72(a)) on the electronic manifest;

(iii) Immediately provide the transporter with one electronic copy of the signed manifest;

(iv) Immediately send an electronic copy of the signed manifest to the generator; and

(v) Retain at the facility an electronic copy of each manifest for at least three years from the date of delivery.

(4) If an owner or operator participates with a generator in an electronic manifest system, but receives a hazardous waste shipment from a transporter that does not participate in the electronic system, the owner or operator must:

(i) Hand-sign and date a paper copy of the manifest (or other shipping paper under 49 CFR part 172, subpart C) provided by the delivering transporter, and immediately give the transporter the copy of the hand-signed manifest or shipping paper;

(ii) Electronically sign (using an electronic signature in accordance with § 262.25) and date the electronic manifest covering the shipment that was forwarded to the facility by the generator, to certify that the hazardous waste covered by the manifest was received;

(iii) Note any significant discrepancies in the manifest (as defined in § 264.72(a)) on the electronic manifest;

(iv) Immediately return the electronically signed electronic copy of the manifest to the generator; and

(v) Retain at the facility an electronic copy the manifest for at least three years from the date of delivery.

(b) * * *

(4) Within 30 days after the delivery, send a copy of the signed and dated manifest or shipping paper (if the manifest has not been received within 30 days after delivery) to the generator. However, if the generator and the facility participate in an electronic manifest system, the owner or operator, or his agent, shall electronically sign and date (and note any discrepancies) the electronic manifest provided by the generator, and immediately send the signed electronic copy to the generator in lieu of a paper copy.

* * * * *

(e) A facility must contact the consignment state to determine whether that state requires facilities to enter optional state information on the manifest. Facilities must also contact the consignment state to determine whether they are required to submit a copy of the manifest to the state.

30. Section 264.72 is revised to read as follows:

§ 264.72 Manifest discrepancies.

(a) Manifest discrepancies are: Significant differences (as defined by paragraph (b) of this section) between the quantity or type of hazardous waste designated on the manifest or shipping paper, and the quantity and type of hazardous waste a facility actually receives; Rejected wastes, which may be a full or partial shipment of hazardous waste that the TSDF cannot accept; or Container residues, which are residues that exceed the quantity limits for ''empty'' containers set forth in 40 CFR 261.7(b).

(b) Significant differences in quantity are: For bulk waste, variations greater than 10 percent in weight; and for batch waste, any variation in piece count, such as a discrepancy of one drum in a truckload. Significant differences in type are obvious differences which can be discovered by inspection or waste analysis, such as waste solvent substituted for waste acid, or toxic constituents not reported on the manifest or shipping paper.

(c) Upon discovering a significant difference in quantity or type, the owner or operator must attempt to reconcile the discrepancy with the waste generator or transporter (e.g., with telephone conversations). If the discrepancy is not resolved within 15 days after receiving the waste, the owner or operator must immediately submit to the Regional Administrator a letter describing the discrepancy and attempts to reconcile it, and a copy of the manifest or shipping paper at issue.

(d)(1) Upon rejecting waste or identifying a container residue that exceeds the quantity limits for ''empty'' containers set forth in 40 CFR 261.7(b), the facility must contact the generator to obtain the generator's instructions for forwarding the waste to another facility that can manage the waste. The facility must send the waste according to the generator's instructions. If it is impossible to locate in a timely manner an alternative facility that can promptly receive the waste, the facility may, with permission of the generator, return the rejected waste or residue to the generator.

(2) While the facility is making arrangements for forwarding rejected wastes or residues to another facility under this section, it must ensure that either the delivering transporter retains custody of the waste, or, the facility must provide for secure, temporary custody of the waste pending delivery of the waste to the first transporter designated on the new manifest prepared under paragraph (e) or (f) of this section.

(e) For rejected loads and residues that are to be sent off-site to an alternate facility, the facility is required to prepare a new manifest in accordance with § 262.20(a) of this chapter and the following instructions:

(1) Write the generator's name, address and U.S. EPA ID number in the

generator's name and mailing address box (Items 1 and 4) of a new manifest.

(2) Write the name of the alternate designated facility and the facility's U.S. EPA ID number in the designated facility block (Item 9) of a new manifest.

(3) Copy the manifest tracking number found in Block A or Item 3 of the old manifest to the Special Handling and Additional Information Block of the new manifest, and indicate that the shipment is a residue or rejected waste from the previous shipment,

(4) Copy the manifest tracking number found in Item 3 of the new manifest to the manifest reference number line in the Discrepancy Block of the old manifest (Item 20) of this chapter.

(5) Write the DOT description for the rejected load or the residue in the Item 10 (U.S. DOT Description) of the new manifest and write the container types, quantity, and volume(s) of waste.

(6) Sign the Generator's Certification to certify, as the offeror of the shipment, that the waste has been properly packaged, marked and labeled and is in proper condition for transportation.

(f) For rejected wastes and residues that must be sent back to the generator, the facility is required to prepare a new manifest in accordance with § 262.20(a) of this chapter and the following instructions:

(1) Write the facility's name, address and U.S. EPA ID number in the generator's name and mailing address box (Items 1 and 4) of a new manifest.

(2) Write the name of the initial generator and the generator's U.S. EPA ID number in the designated facility block (Item 9) of the new manifest.

(3) Copy the manifest tracking number found in Block A or Item 3 of the old manifest to the Special Handling and Additional Information Block of the new manifest, and indicate that the shipment is a residue or rejected waste from the previous shipment,

(4) Copy the manifest tracking number found in Item 3 of the new manifest to the manifest reference number line in the Discrepancy Block of the old manifest (Item 20),

(5) Write the DOT description for the rejected load or the residue in the Item 10 (U.S. DOT Description) of the new manifest and write the container types, quantity, and volume(s) of waste.

(6) Sign the Generator's Certification to certify, as offeror of the shipment, that the waste has been properly packaged, marked and labeled and is in proper condition for transportation,

(g) If a facility rejects a waste or identifies a container residue that exceeds the quantity limits for ''empty'' containers set forth in 40 CFR 261.7(b) after it has already signed a manifest or shipping paper to certify to the receipt of the materials under 40 CFR 264.71(a) or (b), the facility must amend its copy of the manifest to indicate the rejected wastes or residues in the discrepancy space of the amended manifest. The facility must also copy the manifest tracking number from Item 3 of the new manifest to the discrepancy space of the amended manifest, and must re-sign and date the manifest to certify to the information as amended. The facility must retain the amended manifest for at least three years from the date of amendment, and must within 30 days, send a copy of the amended manifest to the delivering transporter and to the generator.

31. Section 264.76 is revised to read as follows:

§ 264.76 Unmanifested waste report.

(a) If a facility accepts for treatment, storage, or disposal any hazardous waste from an off-site source without an accompanying manifest, or without an accompanying shipping paper as described by § 263.20(e) of this chapter, and if the waste is not excluded from the manifest requirement by this chapter, then the owner or operator must prepare and submit a letter to the Regional Administrator within fifteen days after receiving the waste. The unmanifested waste report must contain the following information:

(1) The EPA identification number, name and address of the facility;

(2) The date the facility received the waste;

(3) The EPA identification number, name and address of the generator and the transporter, if available;

(4) A description and the quantity of each unmanifested hazardous waste the facility received;

(5) The method of treatment, storage, or disposal for each hazardous waste;

(6) The certification signed by the owner or operator of the facility or his authorized representative; and

(7) A brief explanation of why the waste was unmanifested, if known.

(b) [Reserved]

32. Subpart E is amended by adding new § 264.78 to read as follows:

§ 264.78 Electronic manifest systems.

(a) If an owner or operator of a facility that treats, stores, or disposes of hazardous waste participates in an electronic manifest system, the electronic system used by the owner or operator to originate, use, sign, transmit, or store electronic manifests must be designed and operated in accordance with the electronic format standards described in 40 CFR 262.20(a)(3), the electronic signature standards in 40 CFR 262.25, and the system controls and computer security requirements described in 40 CFR 262.26.

(b) Except where a provision of this part specifically requires a paper copy of a manifest or a handwritten signature, manifest copies which are electronically signed in accordance with the provisions on electronic manifest signatures in 40 CFR 262.25, and which are originated, transmitted, or maintained by electronic systems that comply with paragraph (a) of this section, will be considered the legal equivalent to paper manifest copies bearing handwritten signatures.

(c) Electronic manifest copies as well as any computer systems (hardware and software), controls, and related documentation maintained under this section, must be readily available for, and subject to inspection by any EPA or authorized state inspector.

(d) *Transmission log.* An owner or operator of a facility which transmits or receives electronic manifests must maintain a transmission log covering all electronic manifests sent or received. This log must include for each manifest transmission sent or received, the date, time, and destination/source identity. The transmission log must also identify who had access to the facility's system during the creation, transmission, or receipt of data. This transmission log must be maintained without modification and retained for 3 years among the facility's manifest records.

(e) *Third-party storage of electronic manifest records.* (1) Electronic manifest records may be stored by a networking service, record archiving service, or other commercial vendor of electronic record storage services provided that such records are maintained in a system that complies with the requirements of 40 CFR 262.26, including the requirement for reasonable inspector access to records during their retention period, and the requirement for validation of the third-party system's operation by a qualified, independent information systems security professional.

(2) A facility owner or operator who uses a third-party vendor of electronic record storage services to meet their record retention requirements remains responsible for the proper performance of their record retention requirements, including the requirement to provide reasonable inspector access during the entire record retention period.

(f) *Receipt.* An electronic manifest is deemed to have been received by the recipient when it is accessible to the recipient in a format that can be read by the recipient. If a recipient receives a manifest record for which there is

evidence that the data has been corrupted (e.g., garbled text, or hash functions or checksums that do not calculate correctly), the recipient must request that the sender re-transmit a corrected version of the record.

(g) *Acknowledgment of receipt.* When an electronic manifest transmission is received, the recipient must promptly generate and transmit to the sender an acknowledgment that confirms the receipt of data that can be translated by the recipient's system.

(h) *Date of receipt.* The acknowledgment generated by the recipient to confirm the receipt of translatable data will constitute conclusive evidence of receipt of the electronic manifest and will establish the date of receipt. An electronic transmission will not be considered complete until the sender receives the acknowledgment of receipt.

(i) *Retransmission.* If a positive acknowledgment is not received within 12 hours of a transmission, then the person who initiated the transmission must promptly re-transmit the electronic manifest.

(j) *Inability to transmit.* No person will be excused from the requirement to initiate or use a manifest because of a foreseeable or unforeseeable system failure that prevents the transmission of a valid electronic manifest. If a person is unable to initiate or transmit a valid manifest electronically, it must use the paper manifest required to be used in accordance with § 262.20(a)(2) and § 263.20 of this chapter.

PART 265—INTERIM STATUS STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

33. The authority citation for part 265 continues to read as follows:

Authority: 42 U.S.C. 6905, 6906, 6912(a), 6922, 6923, 6924, 6925, 6935, 6936, and 6937, unless otherwise noted.

Subpart E—MANIFEST SYSTEM, RECORDKEEPING, AND REPORTING

34–35. Section 265.71 is amended by revising paragraphs (a) and (b)(4) and adding paragraph (e) to read as follows:

§ 265.71 Use of manifest system.

(a)(1) If a facility receives hazardous waste with a manifest, the owner or operator, or his agent, must sign and date the manifest, as indicated in paragraphs (a)(2), (3), or (4) of this section to certify that the hazardous waste covered by the manifest was received, that the hazardous waste was received except as noted in the discrepancy space of the manifest, or that the hazardous waste was fully rejected as noted in the manifest discrepancy space.

(2) If a facility receives a hazardous waste shipment accompanied by a paper manifest, the owner or operator, or his agent must:

(i) Sign and date, by hand, each copy of the manifest;

(ii) Note any discrepancies (as defined in § 265.72(a)) on each copy of the manifest;

(iii) Immediately give the transporter at least one paper copy of the manifest;

(iv) Within 30 days of delivery, send a copy of the paper manifest to the generator; and

(v) Retain at the facility a paper copy of each manifest for at least three years from the date of delivery.

(3) If a facility receives a hazardous waste shipment covered by an electronic manifest, and the generator, transporter, and facility all participate in the electronic manifest system, the owner or operator, or his agent, must:

(i) Electronically sign and date the manifest, using an electronic signature in accordance with the provisions of 40 CFR 262.25, to certify that the hazardous waste covered by the manifest was received;

(ii) Note any discrepancies (as defined in § 265.72(a)) on the electronic manifest;

(iii) Immediately provide the transporter with one electronic copy of the signed manifest;

(iv) Immediately send an electronic copy of the signed manifest to the generator; and

(v) Retain at the facility an electronic copy of each manifest for at least three years from the date of delivery.

(4) If an owner or operator participates with a generator in an electronic manifest system, but receives a hazardous waste shipment from a transporter that does not participate in the electronic system, the owner or operator must:

(i) Hand-sign and date a paper copy of the manifest (or other shipping paper under 49 CFR part 172, subpart C) provided by the delivering transporter, and immediately give the transporter the copy of the hand-signed manifest or shipping paper;

(ii) Electronically sign (using an electronic signature in accordance with § 262.25) and date the electronic manifest covering the shipment that was forwarded to the facility by the generator, to certify that the hazardous waste covered by the manifest was received;

(iii) Note any significant discrepancies in the manifest (as defined in § 265.72(a)) on the electronic manifest;

(iv) Immediately return the electronically signed electronic copy of the manifest to the generator; and

(v) Retain at the facility an electronic copy the manifest for at least three years from the date of delivery.

(b) * * *

(4) Within 30 days after the delivery, send a copy of the signed and dated manifest or shipping paper (if the manifest has not been received within 30 days after delivery) to the generator. However, if the generator and the facility participate in an electronic manifest system, the owner or operator, or his agent, shall electronically sign and date (and note any discrepancies) the electronic manifest provided by the generator, and immediately send the signed electronic copy to the generator in lieu of a paper copy.

* * * * *

(e) A facility must contact the consignment state to determine whether that state requires facilities to enter optional state information on the manifest. Facilities must also contact the consignment state to determine whether they are required to submit a copy of the manifest to the state.

36. Section 265.72 is revised to read as follows:

§ 265.72 Manifest discrepancies.

(a) Manifest discrepancies are: Significant differences (as defined by paragraph (b) of this section) between the quantity or type of hazardous waste designated on the manifest or shipping paper, and the quantity and type of hazardous waste a facility actually receives; Rejected wastes, which may be a full or partial shipment of hazardous waste that the TSDF cannot accept; or Container residues, which are residues that exceed the quantity limits for ''empty'' containers set forth in 40 CFR 261.7(b).

(b) Significant differences in quantity are: For bulk waste, variations greater than 10 percent in weight; and for batch waste, any variation in piece count, such as a discrepancy of one drum in a truckload. Significant differences in type are obvious differences which can be discovered by inspection or waste analysis, such as waste solvent substituted for waste acid, or toxic constituents not reported on the manifest or shipping paper.

(c) Upon discovering a significant difference in quantity or type, the owner or operator must attempt to reconcile the discrepancy with the waste generator or transporter (e.g., with telephone conversations). If the discrepancy is not resolved within 15

days after receiving the waste, the owner or operator must immediately submit to the Regional Administrator a letter describing the discrepancy and attempts to reconcile it, and a copy of the manifest or shipping paper at issue.

(d)(1) Upon rejecting waste or identifying a container residue that exceeds the quantity limits for ''empty'' containers set forth in 40 CFR 261.7(b), the facility must contact the generator to obtain the generator's instructions for forwarding the waste to another facility that can manage the waste. The facility must send the waste according to the generator's instructions. If it is impossible to locate in a timely manner an alternative facility that can promptly receive the waste, the facility may, with permission of the generator, return the rejected waste or residue to the generator.

(2) While the facility is making arrangements for forwarding rejected wastes or residues to another facility under this section, it must ensure that either the delivering transporter retains custody of the waste, or, the facility must provide for secure, temporary custody of the waste pending delivery of the waste to the first transporter designated on the new manifest prepared under paragraph (e) or (f) of this section.

(e) For rejected loads and residues that are to be sent off-site to an alternate facility, the facility is required to prepare a new manifest in accordance with § 262.20(a) of this chapter and the following instructions:

(1) Write the generator's name, address and U.S. EPA ID number in the generator's name and mailing address box (Items 1 and 4) of a new manifest.

(2) Write the name of the alternate designated facility and the facility's U.S. EPA ID number in the designated facility block (Item 9) of a new manifest.

(3) Copy the manifest tracking number found in Block A or Item 3 of the old manifest to the Special Handling and Additional Information Block of the new manifest, and indicate that the shipment is a residue or rejected waste from the previous shipment,

(4) Copy the manifest tracking number found in Item 3 of the new manifest to the manifest reference number line in the Discrepancy Block of the old manifest (Item 20) of this chapter.

(5) Write the DOT description for the rejected load or the residue in the Item 10 (U.S. DOT Description) of the new manifest and write the container types, quantity, and volume(s) of waste.

(6) Sign the Generator's Certification to certify, as the offeror of the shipment, that the waste has been properly packaged, marked and labeled and is in proper condition for transportation.

(f) For rejected wastes and residues that must be sent back to the generator, the facility is required to prepare a new manifest in accordance with § 262.20(a) of this chapter and the following instructions:

(1) Write the facility's name, address and U.S. EPA ID number in the generator's name and mailing address box (Items 1 and 4) of a new manifest.

(2) Write the name of the initial generator and the generator's U.S. EPA ID number in the designated facility block (Item 9) of the new manifest.

(3) Copy the manifest tracking number found in Block A or Item 3 of the old manifest to the Special Handling and Additional Information Block of the new manifest, and indicate that the shipment is a residue or rejected waste from the previous shipment,

(4) Copy the manifest tracking number found in Item 3 of the new manifest to the manifest reference number line in the Discrepancy Block of the old manifest (Item 20),

(5) Write the DOT description for the rejected load or the residue in the Item 10 (U.S. DOT Description) of the new manifest and write the container types, quantity, and volume(s) of waste.

(6) Sign the Generator's Certification to certify, as offeror of the shipment, that the waste has been properly packaged, marked and labeled and is in proper condition for transportation,

(g) If a facility rejects a waste or identifies a container residue that exceeds the quantity limits for ''empty'' containers set forth in 40 CFR 261.7(b) after it has already signed a manifest or shipping paper to certify to the receipt of the materials under 40 CFR 265.71(a) or (b), the facility must amend its copy of the manifest to indicate the rejected wastes or residues in the discrepancy space of the amended manifest. The facility must also copy the manifest tracking number from Item 3 of the new manifest to the discrepancy space of the amended manifest, and must re-sign and date the manifest to certify to the information as amended. The facility must retain the amended manifest for at least three years from the date of amendment, and must within 30 days, send a copy of the amended manifest to the delivering transporter and to the generator.

37. Section 265.76 is revised to read as follows:

§ 265.76 Unmanifested waste report.

(a) If a facility accepts for treatment, storage, or disposal any hazardous waste from an off-site source without an accompanying manifest, or without an accompanying shipping paper as described by § 263.20(e) of this chapter, and if the waste is not excluded from the manifest requirement by this chapter, then the owner or operator must prepare and submit a letter to the Regional Administrator within fifteen days after receiving the waste. The unmanifested waste report must contain the following information:

(1) The EPA identification number, name and address of the facility;

(2) The date the facility received the waste;

(3) The EPA identification number, name and address of the generator and the transporter, if available;

(4) A description and the quantity of each unmanifested hazardous waste the facility received;

(5) The method of treatment, storage, or disposal for each hazardous waste;

(6) The certification signed by the owner or operator of the facility or his authorized representative; and

(7) A brief explanation of why the waste was unmanifested, if known.

(b) [Reserved]

38. Subpart E is amended by adding new § 265.78;

§ 265.78 Electronic manifest systems.

(a) If an owner or operator of a facility that treats, stores, or disposes of hazardous waste participates in an electronic manifest system, the electronic system used by the owner or operator to originate, use, sign, transmit, or store electronic manifests must be designed and operated in accordance with the electronic format standards described in 40 CFR 262.20(a)(3), the electronic signature standards in 40 CFR 262.25, and the system controls and computer security requirements described in 40 CFR 262.26.

(b) Except where a provision of this Part specifically requires a paper copy of a manifest or a handwritten signature, manifest copies which are electronically signed in accordance with the provisions on electronic manifest signatures in 40 CFR 262.25, and which are originated, transmitted, or maintained by electronic systems that comply with paragraph (a) of this section, will be considered the legal equivalent to paper manifest copies bearing handwritten signatures.

(c) Electronic manifest copies as well as any computer systems (hardware and software), controls, and related documentation maintained under this section, must be readily available for, and subject to inspection by any EPA or authorized state inspector.

(d) *Transmission log.* An owner or operator of a facility which transmits or receives electronic manifests must

maintain a transmission log covering all electronic manifests sent or received. This log must include for each manifest transmission sent or received, the date, time, and destination/source identity. The transmission log must also identify who had access to the facility's system during the creation, transmission, or receipt of data. This transmission log must be maintained without modification and retained for 3 years among the facility's manifest records.

(e) *Third-party storage of electronic manifest records.* (1) Electronic manifest records may be stored by a networking service, record archiving service, or other commercial vendor of electronic record storage services provided that such records are maintained in a system that complies with the requirements of 40 CFR 262.26, including the requirement for reasonable inspector access to records during their retention period, and the requirement for validation of the third-party system's operation by a qualified, independent information systems security professional.

(2) A facility owner or operator who uses a third-party vendor of electronic record storage services to meet their record retention requirements remains responsible for the proper performance of their record retention requirements, including the requirement to provide reasonable inspector access during the entire record retention period.

(f) *Receipt.* An electronic manifest is deemed to have been received by the recipient when it is accessible to the recipient in a format that can be read by the recipient. If a recipient receives a manifest record for which there is evidence that the data has been corrupted (e.g., garbled text, or hash functions or checksums that do not calculate correctly), the recipient must request that the sender re-transmit a corrected version of the record.

(g) *Acknowledgment of receipt.* When an electronic manifest transmission is received, the recipient must promptly generate and transmit to the sender an acknowledgment that confirms the receipt of data that can be translated by the recipient's system.

(h) *Date of receipt.* The acknowledgment generated by the recipient to confirm the receipt of translatable data will constitute conclusive evidence of receipt of the electronic manifest and will establish the date of receipt. An electronic transmission will not be considered complete until the sender receives the acknowledgment of receipt.

(i) *Retransmission.* If a positive acknowledgment is not received within 12 hours of a transmission, then the person who initiated the transmission must promptly re-transmit the electronic manifest.

(j) *Inability to transmit.* No person will be excused from the requirement to initiate or use a manifest because of a foreseeable or unforeseeable system failure that prevents the transmission of a valid electronic manifest. If a person is unable to initiate or transmit a valid manifest electronically, it must use the paper manifest required to be used in accordance with § 262.20(a)(2) and § 263.20 of this chapter.

PART 271—REQUIREMENTS FOR AUTHORIZATION OF STATE HAZARDOUS WASTE PROGRAMS

39. The authority citation for part 271 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), and 6926.

40. Section 271.1(j) is amended by adding the following entries to Table 1 in chronological order by date of publication 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
* * *	* * *	* * *	* * *
[*Insert date of publication of final rule in the Federal Register (FR)*].	Waste Minimization Certification in the Revised Manifest Rule.	[*Insert FR page numbers*]	[*Insert date of X months from date of publication of final rule*].

* * * * *

41. Section 271.10 is amended by revising paragraphs (f) and (h) to read as follows:

§ 271.10 Requirements for generators of hazardous wastes.

* * * * *

(f) The State must require that all generators of hazardous waste who transport (or offer for transport) such hazardous waste off-site:

(1) Use a manifest system that ensures that interstate and intrastate shipments of hazardous waste are designated for delivery, and, in the case of intrastate shipments, are delivered to facilities that are authorized to operate under an approved State program or the federal program.

(i) The manifest system must include, in the case of shipments covered by a paper manifest, the use of the paper manifest format as required by § 262.20(a)(2), § 262.21 and § 262.23. No other manifest form, shipping document, or information, other than that required by federal law, may be required by the State to travel with the shipment.

(ii) If the state chooses to allow electronic manifesting, then the manifest system must include, in the case of shipments covered by an electronic manifest, the use of the electronic manifest formats as required by § 262.20(a)(3), § 262.21 and § 262.24. No other electronic manifest format or information, other than that required by federal law, may be required by the state as a means to identify electronically the quantity, composition, origin, routing, and destination of a hazardous waste shipment during its transportation from the point of generation to the point of storage, treatment, or disposal.

(iii) If the state chooses to allow electronic manifesting, then the manifest system must also include the electronic signature requirements in § 262.25 and the electronic manifest systems and security provisions in § 262.26.

(2) Initiate the manifest and designate on the manifest the storage, treatment, or disposal facility to which the waste is to be shipped.

(3) Ensure that all wastes offered for transportation are accompanied by a paper manifest, except:

(i) Shipments subject to § 262.20(e) or (f),

(ii) Shipments by rail or water that are covered by a paper manifest, as specified in 40 CFR 262.23(c) and (d),

(iii) Shipments by rail or water that are covered by an electronic manifest, as specified in 40 CFR 262.24(e) and (f), or

(iv) Shipments covered by an electronic manifest, as specified in 40 CFR 262.24(c).

* * * * *

(h) The State must follow the Federal manifest format for the form and instructions (40 CFR 262.20 and Appendix 1) and may implement certain optional fields to the limited extent described below.

(1) In addition to the federally required information, either the State in which the generator is located or the State in which the designated facility is located may require completion of the following items:

(i) Waste codes (either federal or state codes associated with particular wastes) (Block A), and/or

(ii) Biennial Report system type codes (codes associated with particular waste treatment, or disposal methods) (Block B).

(iii) The additional waste code or Biennial Report system type code information required by the State must fit within the space of Blocks A and B on the form (and, if a continuation sheet is used, Blocks C and D) using normal 12-point pitch. The additional information must be required by state statute or regulation. The State may not require any information that duplicates information required elsewhere on the form.

(2) A state may require additional waste descriptions associated with the particular hazardous wastes listed on the Manifest to be entered in Item 14. This information is limited to information such as chemical names, constituent percentages, physical state, and waste management method. A state may not require information other than information as described in paragraphs (h)(1) and (2) of this section.

(3) No State may impose enforcement sanctions on a transporter during transportation of the shipment for failure of the form to include optional State information items.

(4) Either the State to which a shipment is manifested (consignment State) or the State in which the generator is located (generator State), or both, may require that copies of the manifest form be submitted to the State.

(i) Unless otherwise provided in part 271, the state program shall have standards for generators which are at least as stringent as any amendment to 40 CFR Part 262 which is promulgated after July 1, 1984.

42. Section 271.11 is amended by revising paragraph (c) to read as follows:

§ 271.11 Requirements for transporters of hazardous waste.

* * * * *

(c)(1) The State must require transporters to carry the manifest during transport, except:

(i) In the case of shipments by rail or water, transporters may carry a shipping paper, as specified in 40 CFR 263.20(e) and (f);

(ii) If the State chooses to allow electronic manifesting, transporters must carry either a paper copy of the manifest, or other shipping paper as specified in 40 CFR 263.20(b), (c), (d), and (f).

(2) The State must require the transporter to deliver waste only to the facility designated on the manifest.

(3) The State program must provide requirements for shipments by rail or water equivalent to those under 40 CFR 263.20(e) and (f).

(4) If the State chooses to allow electronic manifesting, the State program must include requirements equivalent to those provisions contained in 40 CFR 263.20(b), (c), (d), and

(f) which address transporters' use of the electronic manifest, requirements equivalent to the provisions in 40 CFR 263.22(a), (f), and (g) which address recordkeeping of electronic manifest records, and requirements equivalent to those under 40 CFR 263.23 which address electronic manifest systems.

(5) For exports of hazardous waste, the state must require the transporter to refuse to accept hazardous waste for export if he knows the shipment does not conform to the EPA Acknowledgment of Consent, to carry an EPA Acknowledgment of Consent to the shipment, and to provide a copy of the manifest to the U.S. Customs official at the point the waste leaves the United States.

(6) For imports of hazardous waste, the State must require the transporter to provide a copy of the manifest to the U.S. customs official at the point the waste enters the United States.

* * * * *

43. Section 271.12 is amended by revising paragraph (i) to read as follows:

§ 271.12 Requirements for hazardous waste management facilities.

* * * * *

(i) Compliance with the manifest system, including:

(1) The requirement that facility owners or operators return a signed copy of the manifest to the generator to certify delivery of the hazardous waste shipment or to identify discrepancies;

(2) If the State chooses to allow electronic manifesting, requirements equivalent to those provisions in 40 CFR 264.71 addressing the use of the electronic manifest, and requirements equivalent to those in 40 CFR 264.78 addressing electronic manifest systems; and

* * * * *

[FR Doc. 01–11909 Filed 5–21–01; 8:45 am]

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Federal Register

Tuesday,
May 22, 2001

Part III

Department of Education

Dropout Prevention Demonstration Program; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2001; Notice

DEPARTMENT OF EDUCATION

[CFDA No. 84.215W]

Dropout Prevention Demonstration Program; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2001

Note to Applicants: This notice is a complete application package. Together with the statute authorizing these grants and the Education Department General Administrative Regulations (EDGAR), this notice contains all of the information, application forms, and instructions needed to apply for a grant under this competition. These grants are funded under Title X, Part A of the Elementary and Secondary Education Act of 1965, as amended (20 U.S.C. 8001 *et seq.*).

Purpose of Program: To strengthen and expand dropout prevention demonstration projects that combine, in a coherent fashion, strategies that have been demonstrated to be effective in (1) assisting students at risk of dropping out to remain in and graduate from high school, and (2) raising standards and expectations for these students.

Eligible Applicants: State educational agencies (SEAs) and local educational agencies (LEAs).

Deadline for Transmittal of Applications: July 23, 2001.

E-Mail Notification of Intent To Apply for Funding: The Department will be able to develop a more efficient process for reviewing grant applications if it has a better understanding of the number of entities that intend to apply for funding under this competition. Therefore, the Secretary strongly encourages each potential applicant to send the Department a short e-mail indicating its intent to submit an application for funding. The e-mail should only note the applicant's intent to submit the application, and should not include information regarding the proposed application. The Secretary requests that this e-mail notification be sent no later than June 21, 2001. The e-mail notification should be sent to dropoutprevention@ed.gov. Applicants that fail to provide this e-mail notification may still apply for funding.

Deadline for Intergovernmental Review: September 19, 2001.

Estimated Available Funds: $5,000,000.

Estimated Range of Awards: $200,000–$500,000.

Maximum Award Amount: The total amount of funding that an SEA or LEA may receive under this competition is $500,000.

Estimated Number of Awards: 10 to 15.

Project Period: 12 months.

Page Limits: Applicants are strongly encouraged to limit the application narrative to the equivalent of not more than 30 double-spaced pages. Information concerning the standards for page size and text is found in the Instructions for the Application Narrative in the Appendix to this notice.

Applicable Regulations: The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 75, 77, 79, 80, 81, 82, 85, 86, 97, 98, and 99.

Supplementary Information:

Many of our communities, particularly those with substantial numbers of Hispanic, Native American, and African American students, are plagued by large numbers of students dropping out of high school. Although there is no one reason why students drop out, there are two strong predictors that can help educators identify the students most at risk of dropping out: poor academic performance and poverty. According to the National Center for Education Statistics' (NCES) annual dropout report, the single strongest school-related dropout predictor is poor academic performance; students who are performing below grade level or who repeat one or more grades are much more likely to drop out than are other students. Additionally, studies show that children from families living in poverty are much more likely to drop out of school than are children from families that are not living in poverty.

Students are more likely to drop out of school during critical transition points, particularly as they are transitioning from middle to high school. The beginning of high school can be a challenging time for students, especially for those who are performing below grade level. High school puts greater academic demands on students and can make school extremely difficult for students that are already academically behind. Therefore, students at risk of dropping out should be identified as early as possible to ensure a greater chance of high school completion. Studies show that intensive dropout prevention strategies targeted at the middle school level with continued support throughout the high school years can be particularly effective in preventing students from dropping out of high school.

The dropout problem is a complex issue that must be addressed through an array of strategies that are both targeted and demonstrated to be effective. States and districts should seek to understand why students decide to leave school and what happens to them after they drop out. The Dropout Prevention Demonstration Program will help communities to build upon, strengthen, or replicate prevention strategies, and to combine them in a comprehensive program that will address the needs of the targeted population.

Description of Program

The Dropout Prevention Demonstration Program is funded under Section 10101 of Title X of the Elementary and Secondary Education Act. The goal of the program is to strengthen and expand projects that utilize strategies demonstrated to be effective for ensuring that students at-risk of dropping out remain in and graduate from high school. The strategies should be combined in a coherent plan so that the needs of the targeted population are effectively addressed. Such strategies should include, but are not limited to:

(1) Accelerated learning strategies for improved academic performance;

(2) Systematic monitoring of attendance;

(3) Family outreach;

(4) Counseling services;

(5) Career and higher education awareness and preparation;

(6) Social support services;

(7) Small schools;

(8) Linkages between feeder elementary, middle, and high schools that serve the same children;

(9) Involvement of business and community groups;

(10) Coordination of project activities with those supported by other Federal, State, and local programs; and

(11) On-going evaluation, data collection, and dropout tracking as a means to increase the quality of services offered to students.

Reporting Requirements and Expected Outcomes

Successful applicants will be required to submit a final performance report and a copy of the project's final evaluation no more than 60 days after the end of the project period. The final evaluation should include baseline data that provides an overview of the dropout conditions that existed at the district prior to the implementation of the project, including specific data on the student population served by the project. It should also describe the quality and nature of the project's implementation, especially as it relates to improving the conditions for dropout prevention within a district and any available outcome data (including achievement data and progress on other school-related indicators).

Waiver of Proposed Rulemaking

In accordance with the Administrative Procedure Act (5 U.S.C. 553), it is the practice of the Secretary to offer interested parties the opportunity to comment on proposed rules. Ordinarily, this practice would have applied to the priorities in this notice. Section 437(d)(1) of the General Education Provisions Act (GEPA), however, exempts rules that apply to the first competition under a new or substantially revised program from this requirement. This competition is the first held under this program. To ensure timely awards, in accordance with section 437(d)(1) of GEPA, the Secretary has decided to forego public comments with respect to the absolute priorities in this notice. These priorities will apply to the FY 2001 grant competition only.

Absolute Priorities

The following absolute priorities apply to all applicants seeking funding under this competition. An applicant must meet these priorities in order to be eligible for funding.

(1) Dropout rate priority

(a) If an SEA is the applicant, the SEA must propose to assist one or more LEAs, each of which must have a high school dropout rate of at least 10 percent.

(b) If an LEA is the applicant, the LEA must have a high school dropout rate of at least 10 percent.

(c) If an LEA applies in consortium with other LEAs, each LEA must have a high school dropout rate of at least 10 percent.

(d) If an applicant LEA does not serve high school students, the high school dropout rate of the LEA in which a plurality of the applicant's students attend high school must be at least 10 percent.

(e) The high school dropout rate(s) of the LEA(s) must be included as part of the application.

(2) Schools and services priority

(a) The applicant must identify the specific school(s) that will participate in the project and include an assurance from officials at those schools indicating a commitment to participate in the project.

(b) Project services must focus on assisting children in grades 6 through 9.

(3) Collaboration priority

Each applicant must propose to work in collaboration with entities such as institutions of higher education or other public and private agencies, organizations, or institutions.

Definitions: The following definitions apply for the purposes of this program—

A ''high school dropout'' means a student in grade 9–12 who—

(i) Was enrolled in the district at some time during the 1999–2000 school year;

(ii) Was not enrolled at the beginning of the 2000–2001 school year;

(iii) Has not graduated or completed a program of studies by the maximum age established by a State;

(iv) Has not transferred to another public school district or to a nonpublic school or to a State-approved educational program; and

(v) Has not left school because of death, illness, or a school-approved absence.

''High school dropout rate'' means the number of high school dropouts (as defined above) divided by the total number of students enrolled in grades 9–12 at the beginning of the 1999–2000 school year.

Selection Criteria

The maximum score for the selection criteria is 100 points. The maximum score for each criterion is indicated in parenthesis. Within each criterion, the Secretary evaluates each factor equally.

In all instances where the word ''project'' appears in the selection criteria, reference should be made to the Dropout Prevention Demonstration Program.

The Secretary will use the following selection criteria and factors in evaluating applications for grants:

(a) *Need for project.* (10 points) In determining the need for the proposed project, the Secretary considers the following factors:

(1) The magnitude or severity of the problem to be addressed by the proposed project.

(2) The magnitude of the need for the services to be provided or the activities to be carried out by the proposed project.

(b) *Significance.* (20 points) In determining the significance of the proposed project, the Secretary considers the following factors:

(1) The potential contribution of the proposed project to increase knowledge or understanding of educational problems, issues, or effective strategies related to dropout prevention.

(2) The potential replicability of the proposed project or strategies, including, as appropriate, the potential for implementation in a variety of settings.

(c) *Quality of design.* (40 points) In determining the quality of the project design, the Secretary considers the following factors:

(1) The extent to which the goals, objectives, and outcomes to be achieved by the proposed project are clearly specified and measurable.

(2) The extent to which the applicant proposes to strengthen and expand a dropout prevention project that utilizes strategies that have been demonstrated to be effective in addressing the needs of the target population.

(3) The extent to which the proposed dropout prevention strategies will be combined in a coherent fashion and coordinated with other services and programs that are provided to the target population.

(4) The likelihood that the services to be provided by the proposed project will improve the academic achievement of the targeted population and lead to decreased dropout rates for these students.

(d) *Adequacy of resources.* (10 points) In determining the adequacy of resources for the proposed project, the Secretary considers the following factors:

(1) The extent to which project funds will be coordinated with State, local, and other Federal funds as appropriate, such as Title I, Comprehensive School Reform Demonstration Program, GEAR UP, Smaller Learning Communities, and 21st Century Community Learning Center funds.

(2) The extent to which the costs are reasonable in relation to the objectives, design, and the number of students to be served.

(e) *Quality of the project evaluation.* (20 points) In determining the quality of the evaluation to be conducted of the proposed project, the Secretary considers the following factors:

(1) The extent to which the methods of evaluation are thorough, feasible, and appropriate to the goals, objectives, and outcomes of the proposed project.

(2) The extent to which the methods of evaluation include the use of objective performance measures that are clearly related to the intended outcomes of the project and will produce quantitative and qualitative data to the extent possible.

(3) The extent to which the evaluation will provide guidance about effective strategies suitable for replication in other settings.

Intergovernmental Review of Federal Programs

This program is subject to the requirements of Executive Order 12372 (Intergovernmental Review of Federal Programs) and the regulations in 34 CFR part 79.

The objective of the Executive order is to foster an intergovernmental partnership and to strengthen federalism by relying on State and local

processes for State and local government coordination and review of proposed Federal financial assistance.

Applicants must contact the appropriate State Single Point of Contact to find out about, and to comply with, the State's process under Executive order 12372.

If you want to know the name and address of any State Single Point of Contact (SPOC) you may view the latest SPOC list on the OMB Web site at the following address: http://www.whitehouse.gov/omb/grants.

In States that have not established a process or chosen a program for review, State, areawide, regional, and local entities may submit comments directly to the Department.

Any State Process Recommendation and other comments submitted by a State Single Point of Contact and any comments from State, areawide, regional, and local entities must be mailed or hand-delivered by the date indicated in this notice to the following address: The Secretary, E.O. 12372–CFDA #84.215W, U.S. Department of Education, Room 7E200, 400 Maryland Avenue, SW., Washington, DC 20202–0125.

Proof of mailing will be determined on the same basis as applications (see 34 CFR 75.102). Recommendations or comments may be hand-delivered until 4:30 p.m. (EST) on the date indicated in this notice.

Please note that the above address is not the same address as the one to which the applicant submits its completed application. *Do not send applications to the above address.*

Instructions for Transmittal of Applications

(A) *If You Submit Your Application Electronically:* The U.S. Department of Education is expanding its pilot project of electronic submission of applications to include certain formula and discretionary grant programs. The Dropout Prevention Demonstration Program (CFDA #84.215W) is one of the programs included in the pilot project. If you are an applicant under the Dropout Prevention Demonstration Program, you may submit your application to us in either electronic or paper format.

If you chose to submit your application electronically, you must submit it through the Internet using the software provided on the e-Grants Web site (http://e-grants.ed.gov) by 4:30 p.m. (EST) on the deadline date.

The regular hours of operation of the e-Grants Web site are 6 a.m. until 12 midnight (EST) on Monday, Tuesday, Thursday, and Friday, and 6 a.m. until 7 p.m. on Wednesday and Saturday. The system is unavailable on the second Saturday of every month, Sundays, and Federal holidays.

The pilot project involves the use of the Electronic Grant Application System (e-APPLICATION, formerly e-GAPS) portion of the Grant Administration and Payment System (GAPS). We request your participation in this pilot project. We shall continue to evaluate its success and solicit suggestions for improvement.

If you participate in this e-APPLICATION pilot, please note the following:

- Your participation is voluntary.
- You will not receive any additional point value or penalty, because you submit a grant application in electronic or paper format.
- You can submit all documents electronically, including the Application for Federal Assistance (ED 424), Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications.
- Fax a signed copy of the Application for Federal Assistance (ED 424) after following these steps:

1. Print ED 424 from the e-APPLICATION system.
2. Make sure that your agency's Authorized Representative signs this form.
3. Before faxing this form, submit your electronic application via the e-APPLICATION system. You will receive an automatic acknowledgement, which will include a PR/Award number (an identifying number unique to your application).
4. Place the PR/Award number in the upper right hand corner of ED 424.
5. Fax ED 424 to the Application Control Center within three working days of submitting your electronic application. We will indicate a fax number in e-APPLICATION at the time of your submission.

- We may request that you give us original signatures on all other forms at a later date.

You may access the electronic grant application for the Dropout Prevention Demonstration Program at: http://e-grants.ed.gov.

We have included below additional information about the e-APPLICATION pilot project (see Parity Guidelines between Paper and Electronic Applications below).

(B) *If You Send Your Application by Mail:* You must mail the original and two copies of the application on or before the deadline date to: U.S. Department of Education, Application Control Center, Attention: CFDA #84.215W, Washington, DC 20202–4725.

You must show one of the following as proof of mailing:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary.

If you mail an application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

(C) *If You Deliver Your Application by Hand:* You or your courier must hand deliver the original and two copies of the application by 4:30 p.m. (EST) on or before the deadline date to: U.S. Department of Education, Application Control Center, Attention: CFDA #84.215W, Room 3633, Regional Office Building 3, 7th and D Streets, SW., Washington, DC 20202.

The Application Control Center accepts application deliveries daily between 8 a.m. and 4:30 p.m. (EST), except Saturdays, Sundays, and Federal holidays. The Center accepts application deliveries through the D Street entrance only. A person delivering an application must show identification to enter the building.

Notes for all Applicants Regarding Transmittal of Applications

(1) If you submit your application by mail, note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

(2) If you send your application by mail or deliver it by hand or by a courier service, the Application Control Center will mail a Grant Application Receipt Acknowledgment to you. If you do not receive the notification of application receipt within 15 days from the date of mailing the application, you should call the U.S. Department of Education Application Control Center at (202) 708–9493.

(3) If you send your application by mail or deliver it by hand or by a courier service, you must indicate on the envelope and—if not provided by the Department—in Item 3 of the Application for Federal Education Assistance (ED 424; revised November 12, 1999) the CFDA number—and suffix letter, if any—of the competition under

which you are submitting your application.

(4) If you submit your application through the Internet via the e-Grants Web site, you will receive an automatic acknowledgment when we receive your application.

Parity Guidelines Between Paper and Electronic Applications

Users of e-APPLICATION, a data driven system, will be entering data on-line while completing their applications. This will be more interactive than just e-mailing a soft copy of a grant application to us. If you participate in this voluntary pilot project by submitting an application electronically, the data you enter on-line will go into a database and ultimately will be accessible in electronic form to our reviewers.

This pilot project is another step in the Department's transition to an electronic grant award process. In addition to e-APPLICATION, the Department is conducting a limited pilot of electronic peer review (e-READER) and electronic annual performance reporting (e-REPORTS).

To help ensure parity between electronic and paper copies of grant applications, we are asking each applicant that submits a paper application to adhere to the following guidelines:

- Submit your application on 8½″ by 11″ paper.
- Leave a 1-inch margin on all sides.
- Use consistent font throughout your document. You may also use boldface type, underlining, and italics. However, please do not use colored text.
- Please use black and white, also, for illustrations, including charts, tables, graphs and pictures.
- For the narrative component, your application should consist of the number and text of each selection criterion followed by the narrative. The text of the selection criterion, if included, does not count against any page limitation.
- Place a page number at the bottom right of each page beginning with 1; and number your pages consecutively throughout your document.

Application Instructions and Forms

The appendix to this notice contains all required forms and instructions, including instructions for preparing the application narrative, a statement regarding estimated public reporting burden, a notice to applicants regarding compliance with section 427 of the General Education Provisions Act (GEPA), various assurances and certifications, a list of relevant definitions from the authorizing statute and EDGAR, and a checklist for applicants.

In applying for an award under this competition, you must organize your application in the following order and include the following four parts. The parts and additional materials are as follows:

Part I: Application for Federal Assistance (ED 424, Exp. 06/30/2001) and instructions.

Part II: Budget Information-Non-Construction Programs (ED Form No. 524) and instructions.

Part III: Application Narrative.

Part IV: Assurances and Certifications:

a. Assurances—Non-Construction Programs (Standard Form 424B).

b. Certifications Regarding Lobbying; Debarment, Suspension, and Other Responsibility Matters; and Drug-Free Workplace Requirements (ED 80–0013) and instructions.

c. Certifications regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions (ED 80–0014, 9/90) and instructions.

Note: ED Form 80–0014 is intended for the use of grantees and should not be transmitted to the Department.

d. Disclosure of Lobbying Activities (Standard Form LLL) (if applicable) and instructions.

An applicant may submit information on photostatic copies of the application, budget forms, assurances, and certifications as printed in this notice in the **Federal Register**. For applicants that do not submit electronically, the application form, assurances, and certifications must each have an original signature. These applicants are required to submit ONE original signed application, including ink signatures on all forms and assurances, and TWO copies of the application, one bound and one unbound copy suitable for photocopying. Please mark each application as ''original'' or ''copy.'' To aid with the review of applications, the Department encourages applicants to submit two additional paper copies of the application. The Department will not penalize applicants who do not provide additional copies. No grant may be awarded unless a completed application form, including the signed assurances and certifications, has been received. (For applicants that submit electronically, see separate instructions under ''Instructions For Transmittal of Applications'' above).

FOR FURTHER INFORMATION CONTACT: Christine Jackson, Dropout Prevention Demonstration Program, Academic Improvement and Demonstration Programs, Office of Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Avenue, SW., Room 2W104, FOB–6, Washington, DC 20202–6254. Telephone: (202) 260–2516. e-mail: christine.jackson@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–888–877–8339.

Individuals with disabilities may obtain this notice in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph. Please note, however, that the Department is not able to reproduce in an alternative format the standard forms included in the notice.

Electronic Access to This Document

You may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: www.ed.gov/legislation/FedRegister.

To use PDF you must have the Adobe Acrobat Reader, which is available free at the previous sites. If you have questions about using the PDF, call the U.S. Government Printing Office (GPO) at (202) 512–1530 or (toll free, at 1–888–293–6498), or in the Washington, DC area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: http://www.access.gpo.gov/nara/index.html.

Program Authority: 20 U.S.C. 8001 *et seq.*

Dated: May 16, 2001.

Thomas M. Corwin,

Acting Deputy Assistant Secretary for Elementary and Secondary Education.

APPENDIX

Instructions for the Application Narrative

The narrative is the section of the application where the selection criteria used by reviewers in evaluating the application are addressed. The narrative must encompass each function or activity for which funds are being requested. Before preparing the application narrative, an applicant should read carefully the description of the program and the selection criteria the Secretary uses to evaluate applications.

Applicants should note that there is a 30-page suggested page limit for the application narrative. The following standards apply: (1) A ''page'' is 8.5″ × 11″ (one side only) with one-inch margins (top, bottom, and sides). (2) All text in the application narrative must be double-spaced (no more than three lines per vertical inch). If using a proportional

computer font, use no smaller than a 12-point font, and an average character density no greater than 18 characters per inch. If using a nonproportional font or a typewriter, do not use more than 12 characters to the inch.

The suggested page limit does not apply to the cover sheet, the one-page abstract, budget section, appendices, and forms and assurances. However, all of the application narrative must be included in the narrative section.

1. Begin with a one-page Abstract summarizing the proposed Dropout Prevention Demonstration project, including a short description of the population to be served by the project.

2. Include a table of contents listing the parts of the narrative in the order of the selection criteria and the page numbers where the parts of the narrative are found. Be sure to number the pages.

3. Describe how the applicant meets the absolute priorities.

4. Describe fully the proposed project in light of the selection criteria in the order in which the criteria are listed in the application package. Do not simply paraphrase the criteria.

5. Provide the following in response to the attached GEPA Sec. 427 ''Notice to all Applicants'': (1) a reference to the portion of the application in which information appears as to how the applicant is addressing steps to promote equitable access and participation, or (2) a separate statement that contains that information.

6. When applying for funds as a consortium, individual eligible applicants must enter into an agreement signed by all members. The consortium's agreement must detail the activities each member of the consortium plans to perform, and must bind each member to every statement and assurance made in the consortium's application. The designated applicant must submit the consortium's agreement with its application.

7. Applicants may include supporting documentation as appendices to the narrative. This material should be concise and pertinent to the competition. Note that the Secretary considers only information contained in the application in ranking applications for funding consideration. Letters of support sent separately from the formal application package are not considered in the review by the technical review panels. (34 CFR 75.217)

8. Attach copies of all required assurances and forms.

Estimated Public Reporting Burden

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB Control Number. The valid OMB control number for this information collection is 1810–0637. (Expiration Date: 5/31/2004). The time required to complete this information collection is estimated to average 30 hours per response, including the time to review instructions, search existing data resources, gather the data needed, and complete and review the information collection.

If you have any comments concerning the accuracy of the time estimate or suggestions for improving this form, please write to: Christine Jackson, Dropout Prevention Demonstration Program, U.S. Department of Education, 400 Maryland Avenue, SW., Room 2W104, FOB–6, Washington, DC 20202–6254.

If you have comments or concerns regarding the status of your individual submission of this form, write directly to: Christine Jackson, Dropout Prevention Demonstration Program, U.S. Department of Education, 400 Maryland Avenue, SW., Room 2W104, FOB–6, Washington, DC 20202–6254.

Checklist for Applicants

The following forms and other items must be included in the application in the order listed below:

1. Application for Federal Assistance (ED 424).

2. Budget Information—Non-Construction Programs ED Form No. 524) and budget narrative.

3. Application Narrative, including information that addresses section 427 of the General Education Provisions Act (see the section ''NOTICE TO ALL APPLICANTS''), and relevant appendices.

4. Applicable LEA high school dropout rates.

5. List of participating school(s) and assurances from appropriate school officials.

6. List of entity or entities with which the applicant will collaborate.

7. LEA consortium agreement, if applicable.

8. Assurances—Non-Construction Programs (SF 424B).

9. Certifications Regarding Lobbying; Debarment, Suspension, and Other Responsibility Matters; and Drug-Free Workplace Requirements (ED 80–0013).

10. Disclosure of Lobbying Activities (Standard Form LLL).

BILLING CODE 4000–01–P

Application for Federal Education Assistance

Note: If available, please provide application package on diskette and specify the file format.

U.S. Department of Education

Form Approved
OMB No. 1875-0106
Exp. 06/30/2001

Applicant Information

1. Name and Address
Legal Name:
Address:
City State County ZIP Code + 4

Organizational Unit

2. Applicant's D-U-N-S Number

3. Applicant's T-I-N

4. Catalog of Federal Domestic Assistance #: 8 4 2 1 5 W → Title: Dropout Prevention Demonstration Program

5. Project Director:
Address:
City State ZIP Code + 4
Tel. #: ( ) - Fax #: ( ) -
E-Mail Address:

6. Is the applicant delinquent on any Federal debt? ☐ Yes ☐ No
(If "Yes," attach an explanation.)

7. Type of Applicant *(Enter appropriate letter in the box.)*

A State	H Independent School District
B County	I Public College or University
C Municipal	J Private, Non-Profit College or University
D Township	K Indian Tribe
E Interstate	L Individual
F Intermunicipal	M Private, Profit-Making Organization
G Special District	N Other *(Specify)*:

8. Novice Applicant ☐ Yes ☐ No

Application Information

9. Type of Submission:

—PreApplication	*—Application*
☐ Construction	☐ Construction
☐ Non-Construction	☐ Non-Construction

10. Is application subject to review by Executive Order 12372 process?
☐ Yes *(Date made available to the Executive Order 12372 process for review):* ___/___/___
☐ No *(If "No," check appropriate box below.)*
☐ Program is not covered by E.O. 12372.
☐ Program has not been selected by State for review.

11. Proposed Project Dates: Start Date: ___/___/___ End Date: ___/___/___

12. Are any research activities involving human subjects planned at any time during the proposed project period? ☐ Yes ☐ No
a. If "Yes," Exemption(s) #: *OR* b. Assurance of Compliance #:
c. IRB approval date: ☐ Full IRB or ☐ Expedited Review

13. Descriptive Title of Applicant's Project:

Estimated Funding

14a. Federal	$	.00
b. Applicant	$	.00
c. State	$	.00
d. Local	$	.00
e. Other	$	.00
f. Program Income	$	.00
g. TOTAL	$	.00

Authorized Representative Information

15. To the best of my knowledge and belief, all data in this preapplication/application are true and correct. The document has been duly authorized by the governing body of the applicant and the applicant will comply with the attached assurances if the assistance is awarded.

a. Typed Name of Authorized Representative

b. Title

c. Tel. #: ( ) - Fax #: ( ) -

d. E-Mail Address:

e. Signature of Authorized Representative Date: ___/___/___

REV. 11/12/99

ED 424

Instructions for ED 424

1. **Legal Name and Address.** Enter the legal name of applicant and the name of the primary organizational unit which will undertake the assistance activity.

2. **D-U-N-S Number.** Enter the applicant's D-U-N-S Number. If your organization does not have a D-U-N-S Number, you can obtain the number by calling 1-800-333-0505or by completing a D-U-N-S Number Request Form. The form can be obtained via the Internet at the following URL: **http://www.dnb.com/dbis/aboutdb/intlduns.htm.**

3. **Tax Identification Number.** Enter the tax identification number as assigned by the Internal Revenue Service.

4. **Catalog of Federal Domestic Assistance (CFDA) Number.** Enter the CFDA number and title of the program under which assistance is requested.

5. **Project Director.** Name, address, telephone and fax numbers, and e-mail address of the person to be contacted on matters involving this application.

6. **Federal Debt Delinquency.** Check **"Yes"** if the applicant's organization is delinquent on any Federal debt. (This question refers to the applicant's organization and not to the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.) Otherwise, check **"No."**

7. **Type of Applicant.** Enter the appropriate letter in the box provided.

8. **Novice Applicant.** Check **"Yes"** only if assistance is being requested under a program that gives special consideration to novice applicants and you meet the program requirements for novice applicants. By checking "Yes" the applicant certifies that it meets the novice applicant requirements specified by ED. Otherwise, check **"No."**

9. **Type of Submission.** Self-explanatory.

10. **Executive Order 12372.** Check **"Yes"** if the application is subject to review by Executive Order 12372. Also, please enter the month, date, and four (4) digit year (e.g., 12/12/2000). Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process. Otherwise, check **"No."**

11. **Proposed Project Dates.** Please enter the month, date, and four (4) digit year (e.g., 12/12/2000).

12. **Human Subjects.** Check "Yes" **or** "No". If research activities involving human subjects are **not** planned **at any time** during the proposed project period, check **"No." The remaining parts of item 12 are then not applicable.**

    If research activities involving human subjects, whether or not exempt from Federal regulations for the protection of human subjects, **are** planned **at any time** during the proposed project period, either at the applicant organization or at any other performance site or collaborating institution, check **"Yes."** If **all** the research activities are designated to be exempt under the regulations, enter, in item 12a, the exemption number(s) corresponding to one or more of the six exemption categories listed in **"Protection of Human Subjects in Research"** attached to this form. Provide sufficient information in the application to allow a determination that the designated exemptions in item 12a, are appropriate. **Provide this narrative information in an "Item 12/Protection of Human Subjects Attachment" and insert this attachment immediately following the ED 424 face page. Skip the remaining parts of item 12.**

    If **some or all** of the planned research activities involving human subjects are covered (nonexempt), skip item 12a and continue with the remaining parts of item 12, as noted below. In addition, follow the instructionsin **"Protection of Human Subjects in Research"** attached to this form to prepare the six-point narrative about the nonexempt activities. **Provide this six-point narrative in an "Item 12/Protection of Human Subjects Attachment" and insert this attachment immediately following the ED 424 face page.**

    If the applicant organization has an approved Multiple Project Assurance of Compliance on file with the Grants Policy and Oversight Staff (GPOS), U.S. Department of Education, or with the Office for Protection from Research Risks (OPRR), National Institutes of Health, U.S. Department of Health and Human Services, that covers the specific activity, enter the Assurance number in item 12b and the date of approval by the Institutional Review Board (IRB) of the proposed activities in item 12c. This date must be no earlier than one year before the receipt date for which the application is submitted and must include the four (4) digit year (e.g., 2000). Check the type of IRB review in the appropriate box. An IRB may use the expedited review procedure if it complies with the requirements of 34 CFR 97.110. If the IRB review is delayed beyond the submission of the application, enter **"Pending"** in item 12c. If your application is recommended/selected for funding, a follow-up certification of IRB approval from an official signing for the applicant organization must be sent to and received by the designated ED official within 30 days after a specific formal request from the designated ED official. **If the applicant organization does not have** on file with GPOS or OPRR **an approved Assurance of Compliance** that covers the proposed research activity, enter **"None"** in item 12b and skip 12c. In this case, the applicant organization, by the signature on the application, is declaring that it will comply with 34 CFR 97 within 30 days after a specific formal request from the designated ED official for the Assurance(s) and IRB certifications.

13. **Project Title.** Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.

14. **Estimated Funding.** Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate **only** the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 14.

15. **Certification.** To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office.

    Be sure to enter the telephone and fax number and e-mail address of the authorized representative. Also, in item 15e, please enter the month, date, and four (4) digit year (e.g., 12/12/2000) in the date signed field.

Paperwork Burden Statement

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless such collection displays a valid OMB control number. The valid OMB control number for this information collection is **1875-0106**. The time required to complete this information collection is estimated to average between 15 and 45 minutes per response, including the time to review instructions, search existing data resources, gather the data needed, and complete and review the information collection. **If you have any comments concerning the accuracy of the estimate(s) or suggestions for improving this form, please write to:** U.S. Department of Education, Washington, D.C. 20202-4651. **If you have comments or concerns regarding the status of your individual submission of this form write directly to:** Joyce I. Mays, Application Control Center, U.S. Department of Education, 7th and D Streets, S.W. ROB-3, Room 3633, Washington, D.C. 20202-4725.

PROTECTION OF HUMAN SUBJECTS IN RESEARCH (Attachment to ED 424)

I. Instructions to Applicants about the Narrative Information that Must be Provided if Research Activities Involving Human Subjects are Planned

If you marked item 12 on the application "Yes" and designated exemptions in 12a, **(all research activities are exempt),** provide sufficient information in the application to allow a determination that the designated exemptions are appropriate. Research involving human subjects that is exempt from the regulations is discussed under **II.B. "Exemptions,"** below. The Narrative must be succinct. **Provide this information in an "Item 12/Protection of Human Subjects Attachment" and insert this attachment immediately following the ED 424 face page.**

If you marked "Yes" to item 12 on the face page, and designated no exemptions from the regulations **(some or all of the research activities are nonexempt),** address the following six points for each nonexempt activity. In addition, if research involving human subjects will take place at collaborating site(s) or other performance site(s), provide this information before discussing the six points. Although no specific page limitation applies to this section of the application, be succinct. Provide the six-point narrative and discussion of other performance sites in an **"Item 12/Protection of Human Subjects Attachment" and insert this attachment immediately following the ED 424 face page.**

(1) Provide a detailed description of the proposed involvement of human subjects. Describe the characteristics of the subject population, including their anticipated number, age range, and health status. Identify the criteria for inclusion or exclusion of any subpopulation. Explain the rationale for the involvement of special classes of subjects, such as children, children with disabilities, adults with disabilities, persons with mental disabilities, pregnant women, prisoners, institutionalized individuals, or others who are likely to be vulnerable.

(2) Identify the sources of research material obtained from individually identifiable living human subjects in the form of specimens, records, or data. Indicate whether the material or data will be obtained specifically for research purposes or whether use will be made of existing specimens, records, or data.

(3) Describe plans for the recruitment of subjects and the consent procedures to be followed. Include the circumstances under which consent will be sought and obtained, who will seek it, the nature of the information to be provided to prospective subjects, and the method of documenting consent. State if the Institutional Review Board (IRB) has authorized a modification or waiver of the elements of consent or the requirement for documentation of consent.

(4) Describe potential risks (physical, psychological, social, legal, or other) and assess their likelihood and seriousness. Where appropriate, describe alternative treatments and procedures that might be advantageous to the subjects.

(5) Describe the procedures for protecting against or minimizing potential risks, including risks to confidentiality, and assess their likely effectiveness. Where appropriate, discuss provisions for ensuring necessary medical or professional intervention in the event of adverse effects to the subjects. Also, where appropriate, describe the provisions for monitoring the data collected to ensure the safety of the subjects.

(6) Discuss why the risks to subjects are reasonable in relation to the anticipated benefits to subjects and in relation to the importance of the knowledge that may reasonably be expected to result.

II. Information on Research Activities Involving Human Subjects

A. Definitions.

A research activity involves human subjects if the activity is research, as defined in the Department's regulations, and the research activity will involve use of human subjects, as defined in the regulations.

—Is it a research activity?

The ED Regulations for the Protection of Human Subjects, Title 34, Code of Federal Regulations, Part 97, define research as "a systematic investigation, including research development, testing and evaluation, designed to develop or contribute to generalizable knowledge." *If an activity follows a deliberate plan whose purpose is to develop or contribute to generalizable knowledge, such as an exploratory study or the collection of data to test a hypothesis, it is research.* Activities which meet this definition constitute research whether or not they are conducted or supported under a program which is considered research for other purposes. For example, some demonstration and service programs may include research activities.

—Is it a human subject?

The regulations define human subject as "a living individual about whom an investigator (whether professional or student) conducting research obtains (1) data through intervention or interaction with the individual, or (2) identifiable private information." *(1) If an activity involves obtaining information about a living person by manipulating that person or that person's environment, as might occur when a new instructional technique is tested, or by communicating or interacting with the individual, as occurs with surveys and interviews, the definition of human subject is met. (2) If an activity involves obtaining private information about a living person in such a way that the information can be linked to that individual (the identity of the subject is or may be readily determined by the investigator or associated with the information), the definition of human subject is met.* [Private information includes information about behavior that occurs in a context in which an individual can reasonably expect that no observation or recording is taking place, and information which has been provided for specific purposes by an individual and which the individual can reasonably expect will not be made public (for example, a school health record).]

B. Exemptions.

Research activities in which the only involvement of human subjects will be in one or more of the following six categories of ***exemptions*** are not covered by the regulations:

(1) Research conducted in established or commonly accepted educational settings, involving normal educational practices, such as (a) research on regular and special education instructional strategies, or (b) research on the effectiveness of or the comparison among instructional techniques, curricula, or classroom management methods.

(2) Research involving the use of educational tests (cognitive, diagnostic, aptitude, achievement), survey procedures, interview procedures or observation of public behavior, unless: (a) information obtained is recorded in such a manner that human subjects can be identified, directly or through identifiers linked to the subjects; and (b) any disclosure of the human subjects' responses outside the research could reasonably place the subjects at risk of criminal or civil liability or be damaging to the subjects' financial standing, employability, or reputation. ***If the subjects are children, this exemption applies only to research involving educational tests or observations of public behavior when the investigator(s) do not participate in the activities being observed.*** [Children are defined as persons who have not attained the legal age for consent to treatments or procedures involved in the research, under the applicable law or jurisdiction in which the research will be conducted.]

(3) Research involving the use of educational tests (cognitive, diagnostic, aptitude, achievement), survey procedures, interview procedures or observation of public behavior that is not exempt under section (2) above, if the human subjects are elected or appointed public officials or candidates for public office; or federal statute(s) require(s) without exception that the confidentiality of the personally identifiable information will be maintained throughout the research and thereafter.

(4) Research involving the collection or study of existing data, documents, records, pathological specimens, or diagnostic specimens, if these sources are publicly available or if the information is recorded by the investigator in a manner that subjects cannot be identified, directly or through identifiers linked to the subjects.

(5) Research and demonstration projects which are conducted by or subject to the approval of department or agency heads, and which are designed to study, evaluate, or otherwise examine: (a) public benefit or service programs; (b) procedures for obtaining benefits or services under those programs; (c) possible changes in or alternatives to those programs or procedures; or (d) possible changes in methods or levels of payment for benefits or services under those programs.

(6) Taste and food quality evaluation and consumer acceptance studies, (a) if wholesome foods without additives are consumed or (b) if a food is consumed that contains a food ingredient at or below the level and for a use found to be safe, or agricultural chemical or environmental contaminant at or below the level found to be safe, by the Food and Drug Administration or approved by the Environmental Protection Agency or the Food Safety and Inspection Service of the U.S Department of Agriculture.

Copies of the Department of Education's Regulations for the Protection of Human Subjects, 34 CFR Part 97 and other pertinent materials on the protection of human subjects in research are available from the Grants Policy and Oversight Staff (GPOS) Office of the Chief Financial and Chief Information Officer, U.S. Department of Education, Washington, D.C., telephone: (202) 708-8263, and on the U.S. Department of Education's Protection of Human Subjects in Research Web Site at http://ocfo.ed.gov/humansub.htm.

U.S. DEPARTMENT OF EDUCATION

BUDGET INFORMATION

NON-CONSTRUCTION PROGRAMS

OMB Control Number: 1890-0004

Expiration Date: 02/28/2003

Name of Institution/Organization

Applicants requesting funding for only one year should complete the column under "Project Year 1." Applicants requesting funding for multi-year grants should complete all applicable columns. Please read all instructions before completing form.

SECTION A - BUDGET SUMMARY
U.S. DEPARTMENT OF EDUCATION FUNDS

Budget Categories	Project Year 1 (a)	Project Year 2 (b)	Project Year 3 (c)	Project Year 4 (d)	Project Year 5 (e)	Total (f)
1. Personnel						
2. Fringe Benefits						
3. Travel						
4. Equipment						
5. Supplies						
6. Contractual						
7. Construction						
8. Other						
9. Total Direct Costs (lines 1-8)						
10. Indirect Costs						
11. Training Stipends						
12. Total Costs (lines 9-11)						

ED Form No. 524

Name of Institution/Organization	Applicants requesting funding for only one year should complete the column under "Project Year 1." Applicants requesting funding for multi-year grants should complete all applicable columns. Please read all instructions before completing form.

SECTION B - BUDGET SUMMARY
NON-FEDERAL FUNDS

Budget Categories	Project Year 1 (a)	Project Year 2 (b)	Project Year 3 (c)	Project Year 4 (d)	Project Year 5 (e)	Total (f)
1. Personnel						
2. Fringe Benefits						
3. Travel						
4. Equipment						
5. Supplies						
6. Contractual						
7. Construction						
8. Other						
9. Total Direct Costs (lines 1-8)						
10. Indirect Costs						
11. Training Stipends						
12. Total Costs (lines 9-11)						

SECTION C - OTHER BUDGET INFORMATION (see instructions)

ED Form No. 524

Public reporting burden for this collection of information is estimated to vary from 13 to 22 hours per response, with an average of 17.5 hours per response, including the time 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 U.S. Department of Education, Information Management and Compliance Division, Washington, D.C. 20202-4651; and the Office of Management and Budget, Paperwork Reduction Project 1875-0102, Washington DC 20503.

INSTRUCTIONS FOR ED FORM 524

General Instructions

This form is used to apply to individual U.S. Department of Education discretionary grant programs. Unless directed otherwise, provide the same budget information for each year of the multi-year funding request. Pay attention to applicable program specific instructions, if attached.

Section A - Budget Summary
U.S. Department of Education Funds

All applicants must complete Section A and provide a breakdown by the applicable budget categories shown in lines 1-11.

Lines 1-11, columns (a)-(e): For each project year for which funding is requested, show the total amount requested for each applicable budget category.

Lines 1-11, column (f): Show the multi-year total for each budget category. If funding is requested for only one project year, leave this column blank.

Line 12, columns (a)-(e): Show the total budget request for each project year for which funding is requested.

Line 12, column (f): Show the total amount requested for all project years. If funding is requested for only one year, leave this space blank.

Section B - Budget Summary
Non-Federal Funds

If you are required to provide or volunteer to provide matching funds or other non-Federal resources to the project, these should be shown for each applicable budget category on lines 1-11 of Section B.

Lines 1-11, columns (a)-(e): For each project year for which matching funds or other contributions are provided, show the total contribution for each applicable budget category.

Lines 1-11, column (f): Show the multi-year total for each budget category. If non-Federal contributions are provided for only one year, leave this column blank.

Line 12, columns (a)-(e): Show the total matching or other contribution for each project year.

Line 12, column (f): Show the total amount to be contributed for all years of the multi-year project. If non-Federal contributions are provided for only one year, leave this space blank.

Section C - Other Budget Information
Pay attention to applicable program specific instructions, if attached.

1. Provide an itemized budget breakdown, by project year, for each budget category listed in Sections A and B.

2. If applicable to this program, enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period. In addition, enter the estimated amount of the base to which the rate is applied, and the total indirect expense.

3. If applicable to this program, provide the rate and base on which fringe benefits are calculated.

4. Provide other explanations or comments you deem necessary.

OMB Approval No. 0348-0040

ASSURANCES - NON-CONSTRUCTION PROGRAMS

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0040), Washington, DC 20503.

PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.

NOTE: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant, I certify that the applicant:

1. Has the legal authority to apply for Federal assistance and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project cost) to ensure proper planning, management and completion of the project described in this application.

2. Will give the awarding agency, the Comptroller General of the United States and, if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.

3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.

5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§4728-4763) relating to prescribed standards for merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).

6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§290 dd-3 and 290 ee 3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and, (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

8. Will comply, as applicable, with provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§276a to 276a-7), the Copeland Act (40 U.S.C. §276c and 18 U.S.C. §874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§327-333), regarding labor standards for federally-assisted construction subagreements.

10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.

11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§1451 et seq.); (f) conformity of Federal actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. §§7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93-523); and, (h) protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93-205).

12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. §470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§469a-1 et seq.).

14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. §§2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§4801 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and OMB Circular No. A-133, "Audits of States, Local Governments, and Non-Profit Organizations."

18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations, and policies governing this program.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL	TITLE
APPLICANT ORGANIZATION	DATE SUBMITTED

Standard Form 424B (Rev. 7-97) Back

CERTIFICATIONS REGARDING LOBBYING; DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS; AND DRUG-FREE WORKPLACE REQUIREMENTS

Applicants should refer to the regulations cited below to determine the certification to which they are required to attest. Applicants should also review the instructions for certification included in the regulations before completing this form. Signature of this form provides for compliance with certification requirements under 34 CFR Part 82, "New Restrictions on Lobbying," and 34 CFR Part 85, "Government-wide Debarment and Suspension (Nonprocurement) and Government-wide Requirements for Drug-Free Workplace (Grants)." The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Department of Education determines to award the covered transaction, grant, or cooperative agreement.

1. LOBBYING

As required by Section 1352, Title 31 of the U.S. Code, and implemented at 34 CFR Part 82, for persons entering into a grant or cooperative agreement over $100,000, as defined at 34 CFR Part 82, Sections 82.105 and 82.110, the applicant certifies that:

(a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement;

(b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;

(c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontracts) and that all subrecipients shall certify and disclose accordingly.

2. DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS

As required by Executive Order 12549, Debarment and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 85.105 and 85.110—

A. The applicant certifies that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this application been convicted of or had a civil judgement rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (2)(b) of this certification; and

(d) Have not within a three-year period preceding this application had one or more public transaction (Federal, State, or local) terminated for cause or default; and

B. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

3. DRUG-FREE WORKPLACE (GRANTEES OTHER THAN INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610 -

A. The applicant certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an on-going drug-free awareness program to inform employees about:

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will:

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency, in writing, within 10 calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to: Director, Grants Policy and Oversight Staff, U.S. Department of Education, 400 Maryland Avenue, S.W. (Room 3652, GSA Regional Office Building No. 3), Washington, DC 20202-4248. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted:

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

B. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address. city, county, state, zip code)

_____

_____

_____

Check [ ] if there are workplaces on file that are not identified here.

DRUG-FREE WORKPLACE (GRANTEES WHO ARE INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610-

A. As a condition of the grant, I certify that I will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant; and

B. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, I will report the conviction, in writing, within 10 calendar days of the conviction, to: Director, Grants Policy and Oversight Staff, Department of Education, 400 Maryland Avenue, S.W. (Room 3652, GSA Regional Office Building No. 3), Washington, DC 20202-4248. Notice shall include the identification number(s) of each affected grant.

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above certifications.

NAME OF APPLICANT	PR/AWARD NUMBER AND / OR PROJECT NAME
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
SIGNATURE	DATE

ED 80-0013 12/98

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion — Lower Tier Covered Transactions

This certification is required by the Department of Education regulations implementing Executive Order 12549, Debarment and Suspension, 34 CFR Part 85, for all lower tier transactions meeting the threshold and tier requirements stated at Section 85.110.

Instructions for Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," " person," "primary covered transaction," " principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion-Lower Tier Covered Transactions," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may but is not required to, check the Nonprocurement List.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification

(1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

NAME OF APPLICANT	PR/AWARD NUMBER AND/OR PROJECT NAME
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
SIGNATURE	DATE

ED 80-0014, 9/90 (Replaces GCS-009 (REV.12/88), which is obsolete)

DISCLOSURE OF LOBBYING ACTIVITIES

Approved by OMB 0348-0046

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure.)

1. Type of Federal Action:	2. Status of Federal Action:	3. Report Type:
☐ a. contract b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance	☐ a. bid/offer/application b. initial award c. post-award	☐ a. initial filing b. material change **For Material Change Only:** year _____ quarter _____ date of last report _____

4. Name and Address of Reporting Entity:	5. If Reporting Entity in No. 4 is a Subawardee, Enter Name and Address of Prime:
☐ Prime ☐ Subawardee Tier _____, *if known*: **Congressional District**, *if known*:	 **Congressional District**, *if known*:
6. Federal Department/Agency:	**7. Federal Program Name/Description:** CFDA Number, *if applicable*: _____
8. Federal Action Number, *if known*:	**9. Award Amount**, *if known*: $
10. a. Name and Address of Lobbying Registrant (*if individual, last name, first name, MI*):	**b. Individuals Performing Services** (*including address if different from No. 10a*) (*last name, first name, MI*):
11. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less that $10,000 and not more than $100,000 for each such failure.	Signature: _____ Print Name: _____ Title: _____ Telephone No.: _____ Date: _____
Federal Use Only:	Authorized for Local Reproduction Standard Form LLL (Rev. 7-97)

INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.

2. Identify the status of the covered Federal action.

3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.

4. Enter the full name, address, city, State and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.

5. If the organization filing the report in item 4 checks "Subawardee," then enter the full name, address, city, State and zip code of the prime Federal recipient. Include Congressional District, if known.

6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.

7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.

8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."

9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.

10. (a) Enter the full name, address, city, State and zip code of the lobbying registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.

    (b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).

11. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB Control Number. The valid OMB control number for this information collection is OMB No. 0348-0046. Public reporting burden for this collection of information is estimated to average 10 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, DC 20503.

OMB Control No. 1801-0004 (Exp. 8/31/2001)

NOTICE TO ALL APPLICANTS

The purpose of this enclosure is to inform you about a new provision in the Department of Education's General Education Provisions Act (GEPA) that applies to applicants for new grant awards under Department programs. This provision is Section 427 of GEPA, enacted as part of the Improving America's Schools Act of 1994 (Pub. L. 103-382).

To Whom Does This Provision Apply?

Section 427 of GEPA affects applicants for new grant awards under this program. **ALL APPLICANTS FOR NEW AWARDS MUST INCLUDE INFORMATION IN THEIR APPLICATIONS TO ADDRESS THIS NEW PROVISION IN ORDER TO RECEIVE FUNDING UNDER THIS PROGRAM.**

(If this program is a State-formula grant program, a State needs to provide this description only for projects or activities that it carries out with funds reserved for State-level uses. In addition, local school districts or other eligible applicants that apply to the State for funding need to provide this description in their applications to the State for funding. The State would be responsible for ensuring that the school district or other local entity has submitted a sufficient section 427 statement as described below.)

What Does This Provision Require?

Section 427 requires each applicant for funds (other than an individual person) to include in its application a description of the steps the applicant proposes to take to ensure equitable access to, and participation in, its Federally-assisted program for students, teachers, and other program beneficiaries with special needs. This provision allows applicants discretion in developing the required description. The statute highlights six types of barriers that can impede equitable access or participation: gender, race, national origin, color, disability, or age. Based on local circumstances, you should determine whether these or other barriers may prevent your students, teachers, etc. from such access or participation in, the Federally-funded project or activity. The description in your application of steps to be taken to overcome these barriers need not be lengthy; you may provide a clear and succinct description of how you plan to address those barriers that are applicable to your circumstances. In addition, the information may be provided in a single narrative, or, if appropriate, may be discussed in connection with related topics in the application.

Section 427 is not intended to duplicate the requirements of civil rights statutes, but rather to ensure that, in designing their projects, applicants for Federal funds address equity concerns that may affect the ability of certain potential beneficiaries to fully participate in the project and to achieve to high standards. Consistent with program requirements and its approved application, an applicant may use the Federal funds awarded to it to eliminate barriers it identifies.

What are Examples of How an Applicant Might Satisfy the Requirement of This Provision?

The following examples may help illustrate how an applicant may comply with Section 427.

(1) An applicant that proposes to carry out an adult literacy project serving, among others, adults with limited English proficiency, might describe in its application how it intends to distribute a brochure about the proposed project to such potential participants in their native language.

(2) An applicant that proposes to develop instructional materials for classroom use might describe how it will make the materials available on audio tape or in braille for students who are blind.

(3) An applicant that proposes to carry out a model science program for secondary students and is concerned that girls may be less likely than boys to enroll in the course, might indicate how it intends to conduct "outreach" efforts to girls, to encourage their enrollment.

We recognize that many applicants may already be implementing effective steps to ensure equity of access and participation in their grant programs, and we appreciate your cooperation in responding to the requirements of this provision.

Estimated Burden Statement for GEPA Requirements

The time required to complete this information collection is estimated to vary from 1 to 3 hours per response, with an average of 1.5 hours, including the time to review instructions, search existing data resources, gather and maintain the data needed, and complete and review the information collection. **If you have any comments concerning the accuracy of the time estimate(s) or suggestions for improving this form, please write to**: U.S. Department of Education, Washington, DC 20202-4651.

[FR Doc. 01–12761 Filed 5–21–01; 8:45 am]
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Federal Register

Tuesday,
May 22, 2001

Part IV

Environmental Protection Agency

40 CFR Parts 9, 141, and 142

National Primary Drinking Water Regulations; Arsenic and Clarifications to Compliance and New Source Contaminants Monitoring: Delay of Effective Date; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 9, 141, and 142

[WH–FRL–6983–8]

RIN 2040–AB75

National Primary Drinking Water Regulations; Arsenic and Clarifications to Compliance and New Source Contaminants Monitoring: Delay of Effective Date

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; delay of effective date.

SUMMARY: Today's action delays the effective date of the arsenic in drinking water regulation published on January 22, 2001 (66 FR 6976), to February 22, 2002. The effective date for the arsenic regulation was previously delayed 60 days on March 23, 2001 (66 FR 16134), to May 22, 2001. The effective date for clarifications to compliance and new-source contaminants monitoring in the January 22 arsenic regulation remains unchanged as January 22, 2004.

On March 20, 2001, EPA's Administrator publicly announced that the Agency would take steps to reassess the scientific and cost issues associated with the arsenic rule published on January 22, 2001, and seek further public input on important issues with that rule. On April 23, 2001, EPA published in the **Federal Register** (66 FR 20580) a proposal to delay the effective date of the arsenic rule for an additional nine months in order to conduct reviews of the science and costing analysis and make the results available for public review. Today's action extends the effective date for the arsenic rule from May 22, 2001, to February 22, 2002, in order to conduct the reviews described in the April 23, 2001 **Federal Register** (66 FR 20580). For now, the current standard of 50 µg/L remains the applicable arsenic drinking water standard until the 2006 compliance date for the January 2001 final rule.

DATES: As of May 22, 2001, the effective date of the National Primary Drinking Water Regulations; Arsenic and Clarifications to Compliance and New Source Contaminants Monitoring, amending 40 CFR parts 9, 141 and 142, published in the **Federal Register** on Monday, January 22, 2001, at 66 FR 6976 and delayed on Friday, March 23, 2001, at 66 FR 16134, is further delayed for nine months, from the scheduled effective date of May 22, 2001, to a new effective date of February 22, 2002, except for the amendments to §§ 141.23(c)(9), 141.23(i)(1), 141.23(i)(2), 141.24(f)(15), 141.24(f)(22), 141.24(h)(11), 141.24(h)(20), 142.16(e), 142.16(j), and 142.16(k) which are effective on January 22, 2004. The amendment to § 141.6 in this rule is also effective February 22, 2002.

ADDRESSES: You can review copies of the public comments received on the proposed nine-month extension of the effective date, EPA responses, and all other supporting documents in docket W–99–16–IV at the U.S. EPA Water Docket (4101), East Tower Basement room 57, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: The Safe Drinking Water Hotline, phone: (800) 426–4791 or (703) 285–1093, e-mail: *hotline-sdwa@epa.gov* for general information and copies of arsenic documents. For technical inquiries, contact: James Taft, (202) 260–5519, e-mail: *taft.james@epa.gov*. Contact the Water Docket at (202) 260–3027 to review the supporting documents and public comments on the proposed nine-month extension as well as EPA's responses to those comments.

SUPPLEMENTARY INFORMATION: *Availability of Docket.* For an appointment to review the docket for this nine-month extension of the effective date, call 202–260–3027 between 9 a.m. and 3:30 p.m. Eastern Time, Monday through Friday and refer to Docket W–99–16–IV. Every user is entitled to 100 free pages, and after that the Docket charges 15 cents a page. Users are invoiced after they copy $25, which is 267 photocopied pages.

Regulated Entities

A public water system (PWS), as defined in 40 CFR 141.2, provides water to the public for human consumption through pipes or other constructed conveyances, if such system has ''at least fifteen service connections or regularly serves an average of at least twenty-five individuals daily at least 60 days out of the year.'' A public water system is either a community water system (CWS) or a non-community water system (NCWS). A community water system, as defined in § 141.2, is ''a public water system which serves at least fifteen service connections used by year-round residents or regularly serves at least twenty-five year-round residents.'' The definition in § 141.2 for a non-transient non-community water system (NTNCWS) is ''a public water system that is not a CWS and that regularly serves at least 25 of the same persons over 6 months per year.'' Entities potentially regulated by this action are community water systems and non-transient, non-community water systems. The following table provides examples of the regulated entities under this rule.

TABLE OF REGULATED ENTITIES

Category	Examples of potentially regulated entities
Industry	Privately owned/operated community water supply systems using ground water or mixed ground water and surface water.
State, Tribal, and Local Government	State, Tribal, or local government-owned/operated water supply systems using ground water or mixed ground water and surface water.
Federal Government	Federally owned/operated community water supply systems using ground water or mixed ground water and surface water.

The table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that EPA is now aware could potentially be regulated by this action. Other types of entities not listed in this table could also be regulated. To determine whether your facility is regulated by this action, you should carefully examine the applicability criteria in §§ 141.11 and 141.62 as revised by the January 22, 2001 (66 FR 6976) arsenic rule.

Abbreviations Used in This Rule

§—section
µg/L—micrograms per liter, same as ppb
APA—Administrative Procedure Act
BAT—Best available technologies
CCR—Consumer confidence reports (Subpart O)

CFR—Code of Federal Regulations
CWS—Community water system
EPA—U.S. Environmental Protection Agency
FACA—Federal Advisory Committee Act
FR—Federal Register
MCL—Maximum Contaminant Level
MCLG—Maximum Contaminant Level Goal
mg/L—milligrams per liter
NAS—National Academy of Sciences, private entity chartered in 1863 to advise the government
NCWS—Non-community water system
NDWAC—National Drinking Water Advisory Council, chartered under FACA to advise EPA
NPDWR—National primary drinking water regulation
NRC—National Research Council, operating arm of NAS
NTNCWS—Non-transient non-community water system
NTTAA—National Technology Transfer and Advancement Act
OMB—Office of Management and Budget
POTWs—Publicly owned treatment works (treat wastewater)
ppb—parts per billion, same as μg/L
PRA—Paperwork Reduction Act
PWS—Public water systems
RFA—Regulatory Flexibility Act
SBREFA—Small Business Regulatory Enforcement Fairness Act
SDWA—Safe Drinking Water Act
TDS—Total dissolved solids
UMRA—Unfunded Mandates Reform Act
U.S.—United States
WHO—World Health Organization

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I. Background and History

A. What is in EPA's January 22, 2001, Final Rule and What Requirements Will Be Affected by a Delay in the Effective Date?

1. Final Arsenic Regulations

In the Monday, January 22, 2001, **Federal Register** (EPA 2001a), EPA issued final regulations for arsenic and clarifications to compliance and new-source contaminants monitoring (66 FR 6976). The Agency established a health-based, non-enforceable Maximum Contaminant Level Goal (MCLG) for arsenic of zero milligrams per liter (mg/L) and an enforceable Maximum Contaminant Level (MCL) for arsenic of 0.01 mg/L (*i.e.*, 10 micrograms per liter (μg/L)). Until the January 2001 arsenic regulation becomes effective, the existing arsenic regulation (*i.e.*, no MCLG and an MCL of 50 μg/L) issued December 24, 1975 (40 FR 59566) remains in effect. (Although EPA lists drinking water standards in Title 40 of the Code of Federal Regulations (40 CFR) in units of mg/L, except where noted, the Agency will refer to arsenic concentrations in μg/L in this preamble.) As part of the January 2001 arsenic regulation, EPA also listed the approved analytical methods to measure compliance, the best available technologies (BAT) and small system technologies that could achieve compliance with the MCL, and the public reporting requirements (changed by revising the MCL to 10 μg/L). The January 2001 rule contained an effective date of March 23, 2001, and a compliance date for this final arsenic regulation of January 22, 2006, five years after publication for all systems.

2. Clarifications for Monitoring and Compliance for New Systems and New Sources

On January 22, 2001 (66 FR 6976), EPA also published regulations for inorganic, volatile organic, and synthetic organic contaminants (EPA, 2001a), and these regulations are not affected by today's action. Sections 141.23(i)(1), 141.23(i)(2), 141.24(f)(15), and 141.24(h)(11) covered the clarifications for monitoring and compliance when a system fails to collect the required number of samples. Sections 141.23(c)(9), 141.24(f)(22), 141.24(h)(20), and 142.16(k) recognized the State-specified time period and sampling frequency for new public water systems and systems using a new source of water for demonstrating compliance with drinking water regulations.

EPA's review of the arsenic rule does not include a review of the clarifications to compliance and new source compliance monitoring regulations issued on January 22, 2001 (66 FR 6976). Therefore, the ''effective date for purposes of compliance'' for these regulations remains January 22, 2004, as specified in the January 2001 rule in § 141.6(k).

While provisions of the January 2001 final rule will move arsenic into the standardized monitoring framework for inorganics (*i.e.*, §§ 141.23(a)(4)(i), (a)(5), (c), (i)(1), (i)(2), and (k)(2), (k)(3)), the compliance date for the revised arsenic regulations remains January 23, 2006. Until then, the revisions to § 141.11(a) and (b) retain the existing monitoring and compliance requirements of § 141.23(l)—(p) for arsenic.

3. Primacy Requirements

Section 1413(a)(1) of the Safe Drinking Water Act (SDWA), as amended in 1996, requires States with primary enforcement responsibility to adopt drinking water regulations that are no less stringent than EPA's regulations. By statute, States are required to do so no later than two years after EPA promulgates national primary

drinking water regulations unless EPA provides up to a two-year extension. Specifically, States will be required to specify the initial monitoring requirements for new PWSs and new sources (§ 142.16(k)) mentioned in the previous section. In addition, States will have to adopt the wording for submitting more information for newly regulated contaminants per § 142.16(e) and less information than now required for revising primacy for an existing contaminant per § 142.16(j).

EPA is reviewing the final arsenic regulation, and may ultimately decide to revise the MCL published on January 22, 2001. EPA is also aware of the practical implications of such possible decisions on State primacy requirements and State schedules for implementing these changes. As a result, EPA will be working closely with States in this regard and will be addressing the issue of State primacy requirements in more detail in future **Federal Register** actions.

4. Changes in Consumer Confidence Reports (CCR) for Arsenic

The January 2001 revisions to the CCR rule that included new reporting requirements for arsenic will be delayed until February 22, 2002. The final rule issued for the consumer confidence rule (63 FR 44512) on August 19, 1998, at § 141.154(b) required CWSs that detect arsenic between 25 μg/L and 50 μg/L to include an informational statement about EPA's review of the arsenic standard beginning with the report for calendar year 1998 (see § 141.152(a)). Section 141.153(d)(4) requirements stipulate that if arsenic is detected, the CCR must list the MCL (*i.e.*, 50 parts per billion (ppb)), the highest contaminant level used to determine compliance, the range of detected levels (specified in § 141.153(d)(4)(iv)), and likely source(s) of contamination. Section 141.153(d)(6) requires that, for any data indicating violations of the arsenic MCL (*i.e.*, 50 parts per billion (ppb)), the CCR must explain the length of the violation, actions taken to address the violation, and the potential adverse health effects described in appendix A to subpart O.

The final arsenic rule (EPA 2001a) issued on January 22, 2001 (66 FR 6976), made two changes to the annual consumer confidence reports for arsenic. The January 2001 arsenic rule changed the informational reporting for arsenic in § 141.154(b) to require additional information for CWSs that detected between 5 μg/L and 10 μg/L starting with the calendar year 2001 report (due July 1, 2002). The January 2001 rule (66 FR 6976) also added § 141.154(f) to require reporting of health effects information for systems that detect arsenic between 10 μg/L and 50 μg/L beginning with the report due July 1, 2002 and ending January 22, 2006, before the new MCL becomes effective for compliance purposes.

Because of the review of the January 2001 arsenic rule, the reporting requirements in §§ 141.154(b) and (f) relating to arsenic will also need to be reconsidered and may, at the least, need to be amended to delay the due date for reporting. EPA will be considering changes to these CCR requirements for arsenic as part of the forthcoming arsenic rulemaking discussed in section II of today's preamble.

The effect of today's 9-month delay of the effective date is that, for the CCR reports for calendar year 2001, CWSs will continue to implement the CCR requirements for arsenic contained in the August 19, 1998 rule until February 22, 2002, rather than any of the new requirements of the January 22, 2001 rule.

B. What Did EPA Announce on March 20, 2001?

On March 20, 2001, the Administrator announced plans to seek independent reviews of the science and cost estimates supporting the arsenic standard. The March 23, 2001, **Federal Register** notice (66 FR 16134) delayed the effective date for parts of the arsenic rule by 60 days, from March 23, 2001, to May 22, 2001 (EPA, 2001b). That delay was in accordance with the memorandum of January 20, 2001, from the Assistant to the President and White House Chief of Staff, entitled ''Regulatory Review Plan,'' published in the **Federal Register** on January 24, 2001 (66 FR 7702).

C. What Did EPA Propose on April 23, 2001?

On April 23 (66 FR 20580), EPA proposed (EPA, 2001c) a further delay of the effective date for parts of the arsenic rule, until February 22, 2002, to allow additional time for reconsideration of specific aspects of the arsenic rule as explained in the next section. EPA accepted public comments during a 14-day comment period on the proposed delay of the effective date.

D. Why Did EPA Propose Further Review of the Arsenic Rule?

Consistent with the Administrator's public announcement on March 20, the purpose of proposing a 9-month delay to the effective date was to allow additional time for review of the science and costing analyses underlying the arsenic in drinking water rule. EPA understands and appreciates that the question of setting a final arsenic in drinking water standard is a controversial one for several reasons. From an economic standpoint, the new regulation can be expected to have significant impacts on a number of drinking water utilities, especially those serving less than 10,000 people in areas of high naturally occurring arsenic. Stakeholders have an understandable desire to ensure that any new regulation be based on accurate and reliable compliance cost and benefit estimates. Stakeholders also want to be confident that the health risks associated with a new standard have been appropriately evaluated and are based on the best available science.

II. What Will Be the Process for Reviewing the Arsenic Rule?

A. Overview

EPA considered a number of possible mechanisms for conducting the necessary reviews of the underlying science and cost of compliance estimates associated with the arsenic in drinking water rule, and is also considering establishing a third mechanism to review the benefits of the rule. The Agency's criteria for conducting the reviews are to ensure that reviewers are recognized experts in their fields and are as impartial and objective as possible; that the reviews can be completed quickly; and that the results of the review be made publicly available for comment. At present, EPA is using two distinct mechanisms for the review and will continue to consider other steps to ensure timely and thorough review of the standard.

- Review of Health Effects of Arsenic and Consideration of Key Issues Associated with the Risk Analysis: National Academy of Sciences' National Research Council.
- Review of Process for Developing Cost of Compliance Estimates: Specially convened subgroup of the National Drinking Water Advisory Council.

In the case of the National Research Council, EPA is relying on the same independent judgment, objective analysis, and scientific expertise that is reflected in the March 1999 NRC report (NRC, 1999), entitled, ''Arsenic in Drinking Water'' in reviewing the Agency's interpretation and application of existing arsenic research as well as new studies of arsenic health effects science that have been published since the 1999 report. With regard to costing issues, the National Drinking Water Advisory Council has a charter, under the Federal Advisory Committee Act, to advise the Agency on an array of drinking water issues associated with

implementing the national drinking water program and has previously provided recommendations to the Agency in the development of the arsenic in drinking water rule.

As its next step in the process for review of the arsenic MCL, EPA plans to release a proposal requesting comment on a range of arsenic MCLs from 3 μg/L to 20 μg/L. The purpose of this proposal is to provide for additional public comment on the range of arsenic MCLs and the science, cost and benefit and other analysis related to the arsenic rule. EPA will also provide the public an opportunity to comment on the results of the independent science and cost reviews. EPA then plans to analyze the results of these reviews together with any public comment on the range of arsenic MCLs to reach a final decision on how to proceed with regard to the arsenic MCL. As it becomes available, further information on this process will also be available on EPA's arsenic in drinking water webpage at www.epa.gov/safewater/arsenic.html and from the Safe Drinking Water Hotline phone: (800) 426–4791, or (703) 285–1093, e-mail: *Hotline-sdwa@epa.gov.*

B. Approach to Review of Health Science

Under a cooperative agreement with EPA, on May 21 the National Academy of Sciences (NAS) will convene a subcommittee of the National Research Council's (NRC) Committee on Toxicology to prepare a report updating the scientific analyses, uncertainties, and findings of the 1999 NRC report ''Arsenic in Drinking Water.'' Specifically, the subcommittee will review relevant toxicological and health-effects studies published and data developed since the 1999 NRC report, including the toxicological risk-related analyses performed by EPA in support of its regulatory decision-making for arsenic in drinking water. The subcommittee will address only scientific topics relevant to toxicological risk and health effects of arsenic.

The subcommittee will meet approximately three times to discuss and evaluate issues and plans to produce a consensus report in August 2001. The subcommittee will hear presentations from government agencies, industry, and other interested or affected parties. Notices of meetings open to the public are to be posted on the website www.national-academies.org. EPA has asked NRC to make its final report publicly available, and the report will be available in EPA's arsenic rulemaking record.

C. Approach to Review of Cost of Compliance Estimates

The National Drinking Water Advisory Council (NDWAC) is chartered under the Federal Advisory Committee Act (FACA) to advise, consult with, and make recommendations to EPA. The Agency has asked the NDWAC to convene a panel of nationally recognized technical experts to review the cost of compliance estimates associated with the final arsenic rule. In particular, the working group is to review the costing methodologies, assumptions, and information underlying the costs applicable for various categories of water system sizes as well as the aggregated national estimate of system costs underlying the final arsenic rule. As a part of this review, the group should evaluate significant alternative costing approaches or critiques where there is adequate information upon which to evaluate the basis for such alternate estimates or approaches.

Working group members will be asked to attend a series of meetings (approximately three) over the summer of 2001, participate in discussion of key issues and assumptions at these meetings, and review work products of the working group. EPA has asked NDWAC to ensure the working group prepares a report and makes a recommendation to the full NDWAC based on their review of the national cost estimates. The NDWAC, in turn, would submit a report and make a recommendation to EPA. All NDWAC working group meetings and full NDWAC meetings are open to the public, and meeting information is posted on the calendar accessible from *www.epa.gov/safewater.* The report and the final recommendations of the NDWAC will be made available for public review and comment by EPA and will also be available in the arsenic rulemaking record.

III. Response to Comments

A. Comments Specific to the Proposal To Further Delay the Effective Date of the January 22, 2001, Arsenic Rule Until February 22, 2002

The Agency received over 12,000 comments on the April 23, 2001, proposal to delay the effective date of the January 22, 2001, final rule (66 FR 6976) another nine months until February 22, 2002, to allow additional time for reconsideration of the provisions of this final rule. The majority of the comments came from private citizens sending electronic mail (*i.e.*, e-mail). Many of these commenters did not support the extension and cited several reasons for their position: their concerns about the health hazards posed by arsenic in drinking water and the consequences of a delayed effective date on implementation deadlines; their belief that the decade or more of scientific reviews, public hearings, and other deliberations that supported the revised arsenic MCL were sufficient and that additional time is not warranted; and their belief that the standard published on January 22, 2001, is appropriate and should not be delayed further since the 10 μg/L MCL conforms with the standard set by other entities, such as the World Health Organization (WHO). A few commenters believed that the 14-day comment period on the April 23, 2001, proposal was too short to obtain meaningful comment.

Other commenters, most of whom represented the drinking water industry, small system water providers, and States, believed that a short delay to re-examine some of the consequences of the final rule was warranted, especially to carefully consider the financial impact on small systems (*i.e.*, systems serving populations of 10,000 or fewer). These commenters supported a comprehensive and independent review of the underlying science (health studies used and interpretations of these studies) and costing associated with the arsenic final rule. These commenters strongly supported the Agency's plan to use NAS (NRC) and NDWAC expert panels.

The following sections respond to the comments that were specifically directed towards the issue of whether or not to delay the effective date. Section III.B. provides a more general response to the many issues raised by the commenters that were not directly tied to the delay of the effective date.

1. Health Concerns

The overwhelming number of commenters expressed concern about a nine-month delay of the effective date of the revised arsenic rule, due in part to concerns about immediate health impacts due to a delay in implementation of the rule. EPA does not believe that this short delay of the effective date will result in health effects of any kind for several reasons. First of all, the delay EPA issues today is very short; EPA has committed to reviewing the science and cost issues related to the revised final arsenic rule as expeditiously as possible and no later than early next year. Second, the compliance date for the revised arsenic rule was five years in the future even under the January 2001 rule so that there would have been no immediate implementation of the new standard in

any case. Moreover, EPA does not anticipate that this short delay will mean a delay in these compliance deadlines.

2. Adequacy of Existing Scientific Research

Many commenters expressed their belief that extensive research supports the 10 μg/L MCL published in the January 2001 rule and that there is an insufficient technical and procedural basis for reconsidering the rule. Many of these commenters urged the Agency to simply allow the effective date to occur on May 22, 2001, without impediment. The Agency understands these concerns, but wishes to allow time for serious reconsideration of the arsenic standard published on January 22, 2001. A relatively short delay of the effective date provides flexibility for fully reconsidering the rule and a full range of options consistent with SDWA section 1412(b)(9) (concerning review and revisions of existing drinking water regulations). While the Agency agrees that the January 2001 rule was supported by extensive data and analysis, the Agency also agrees with other commenters who argued that this rule is very important and the issues of cost and science that are central to the rulemaking deserve one final review before concluding this rulemaking. Thus, EPA believes that the ultimate decision to be made in early 2002 will be strengthened by allowing additional public comment and a review by expert panels from NAS and NDWAC. This review includes a reconsideration of the 3, 5 and 10 μg/L MCLs suggested by the commenters who oppose the extension. The nine-month period provides a unique opportunity for independent, expert panels to review the Agency's actions in the final rule in connection with both the underlying science and the Agency's compliance cost assumptions and methodologies contained in the final January 2001 rule. This review also provides an opportunity to examine information that has only recently become available. In particular, the Agency is aware of many scientific articles that have become available since the original report of the NAS (NRC 1999) committee published in March 1999.

3. Comparison of January 22, 2001, Standard to WHO Recommended Standard

Several commenters expressed concerns that the Agency may, as a result of a nine-month delay of the effective date, revise the January 22, 2001, standard to a less stringent standard that would not comport with the WHO recommended standard of 10 μg/L. In this regard, the Agency noted in the preamble of the January 2001 final rule (66 FR 7025) that the nonenforceable WHO guideline was not set using the same health endpoints, feasibility of implementation, or other risk management factors that are mandated under SDWA. Because the U.S. drinking water standard for arsenic was not developed using the basis employed in setting the WHO guideline, the Agency specifically noted in the 2001 final rule that a possible future change in the WHO value would not necessarily require a revision to EPA's MCL. For the same reasons, the Agency's MCL is not dependent on arsenic standards established by the European Union, or other countries or international organizations. In any case, the Agency has made no commitment to revise the standard to a concentration more or less stringent than the January 22, 2001, level.

4. Adequacy of Comment Period

The Agency believes that the fourteen-day comment period was sufficient to allow public comment on the very narrow issue of whether or not to provide a short delay of the effective date. Because (1) the issue is so narrow and the implications so minor in light of the five-year compliance period and the length of the delay; (2) the rule had just been issued a few months ago after many months of public input; (3) there has been intense public attention already devoted to this rulemaking: and (4) there is an urgency to the upcoming May 22 deadline, the Agency did not feel that it was necessary to have a longer comment period. Indeed, the number of comments received (over 12,000) greatly exceeded the 1,000 or so comments received on the June 2000 rule that proposed a range of new MCLs for arsenic. The Agency helped facilitate this strong and diverse response with prior publicity and a targeted mailing. Prior to publication of the April 23, 2001, proposal, EPA widely publicized the proposed rule indicating EPA's intention to seek a delay, and performed a direct mailing to approximately 1,000 individuals and organizations who had expressed interest in the arsenic rulemaking.

5. Procedural Concerns

One commenter suggested that the Agency is obliged to provide an opportunity for a public hearing(s) on the proposed regulation to delay the effective date, in accordance with section 1412(d) of SDWA before taking final action on the proposal. Section 1412(d) states that EPA must provide opportunity for public hearing prior to promulgation of regulations under section 1412 of SDWA and consult with NDWAC. Today's action is merely a short delay of the effective date of a recently published national primary drinking water regulation (NPDWR). As such, it is, in essence, a continuation of the rulemaking process to revise the arsenic rule first commenced several years ago. The whole purpose of this delay is to allow for additional public input and NDWAC consultation. The Agency does not believe that it is necessary or appropriate to provide for extensive public comment hearings and consultations on the issue of whether to have further public debate and consultation. Indeed, EPA provided several opportunities for public involvement, including hearings and consulted with NDWAC prior to issuance of the January 22, 2001, NPDWR and will provide an opportunity for a public hearing in developing a final decision of whether and how to revise the January rule, based upon the findings of expert review panels. As discussed earlier, EPA's review includes working with NDWAC on some of the most controversial aspects of the January rule. As a result, while EPA does not believe that it makes sense to hold a public hearing for today's action, the Agency has fully complied with this provision throughout this extended rulemaking on arsenic and will continue to provide public hearing opportunities and hold NDWAC consultations before taking any action to withdraw, modify or supercede the January 2001 rule.

Another procedural question raised by some commenters was whether or not the Agency had met its obligations pursuant to SDWA and Public Law 106–377 (fiscal year 2001 appropriations act for EPA), requiring the Agency to promulgate a final rule by June 22, 2001. These commenters contended that a delay of the effective date would result in the Agency missing that deadline and urged the Agency to allow the rule to go into effect on May 22, 2001. The Agency believes that, independent of the statutory deadline for promulgation, EPA has the authority to establish appropriate effective dates.

6. Review of Underlying Costs and Health Effects Associated With the Rule

Several commenters expressed support for delaying the effective date in order to undertake the necessary scientific and technical reviews. The Agency agrees with the sentiment that additional time for technical reviews of elements of the rule is warranted. The Agency also believes that it is also

important to recognize that the economic impact of the 80% decrease in the 50 μg/L MCL to 10 μg/L affects about 4,000 PWSs, many of whom serve populations of less than 3,300. Thus, the per capita cost of the final MCL could be significant at some affected PWSs. The independent review proposed by EPA provides more time to develop a mitigation strategy, and the re-opening of the comment period allows the public to participate in this process and suggest other options.

The Administrator announced her intention to review the cost and science underlying the rule on March 20, 2001. The delay of the effective date for parts of the final arsenic rule by nine months will provide the Agency and the public the benefit of the results of reviews by independent expert panels and allow for additional comment by affected individuals and entities. The reviews will be comprehensive and independent, as suggested by commenters. The results will be a significant and important source of information for the Agency to consider as it makes a final decision. There will be no adverse health impacts resulting from this short delay of the effective date within the five-year compliance period. For these reasons, the Agency in today's rule delays the effective date of the January 22, 2001, final rule until February 22, 2002.

B. Comments Not Specific to the Proposal To Further Delay the Effective Date of the Final Rule

Some commenters also commented on issues not specific to the April 2001 proposal to delay the effective date of the final arsenic rule by nine months. Some of these commenters resubmitted or referenced the same or similar comments that had been submitted in response to the June 22, 2000, proposed rule. A summary of these extra comments follows. EPA does not intend to provide a comprehensive response to these comments because they are not germane to the specific rule issued today. However, many of these issues will be discussed in an upcoming proposal as well as in a future notice providing the results of the reviews of the expert panels referred to earlier.

1. Consumer Confidence Reports

Several commenters disagreed with the consumer confidence reporting (CCR) rule requirements in the revised arsenic rule. Because of the high public awareness about arsenic as a potentially toxic contaminant and carcinogen that may occur in drinking water, the commenters are concerned that these new requirements will unnecessarily alarm consumers. The commenters also noted that one of the reporting requirements is set at 10% of the current 50 μg/L MCL. One commenter believes that the 5 μg/L reporting limit is appropriate, because of the consumer right to know about contamination of their drinking water.

Based on the recent interest and awareness of the general public with arsenic in drinking water, the Agency understands that the requirement for a system to provide health information for arsenic contamination well below the current MCL of 50 μg/L that is in effect until January 22, 2006, requires further analysis and discussion. The Agency will study this issue during the nine-month review of final rule and consider public comment that may be received during that review. The Agency plans to make a final decision whether to revise the arsenic CCR requirements as part of its decision making on whether or not to revise the MCL.

2. Adverse Impacts on Small Systems

Several commenters supporting the delay until February 22, 2002, also noted that the 2001 final rule requires treatment changes that are too costly. Commenters were concerned about costs for small systems. Two commenters also noted that timely compliance with the 2006 date was in jeopardy, because systems affected by the 10 μg/L MCL cannot begin treatment or other changes until the Agency takes final action on the results of the review of the final rule.

The Agency appreciates the support for the delay to allow a review of costs and other issues associated with implementation of the 2001 final rule. The Agency will be further considering concerns raised by commenters with respect to the issue of how to address the impact of the nine-month delay on the compliance dates in the final rule. The statute sets out specific requirements for establishing and extending compliance dates and EPA will comply with these provisions in confirming or revising the January 2001 rule.

Many comments on the April 23, 2001, document were limited to a statement that the costs of the January 2001 rule were too high, or could not be borne within the 2006 time frame. A few commenters resubmitted their comments on the June 2000 proposed rule. These comments on the proposed rule were more detailed and cited specific issues, such as point-of-use devices, feasibility of treatment in arid climates, landfill and waste disposal, wastewater treatment burdens on publicly owned treatment works (POTWs), and impacts of chloride and total dissolved solids (TDS).

Although the Agency has not yet decided whether or how to change the provisions of the January 22, 2001, final rule, the issue of the costs of small system treatment technologies is within the purview of the forthcoming NDWAC review of the cost models used in the final rule. Subsequent to additional public comment on this and other issues, and to the NDWAC expert panel review, the Agency will again address the issues of costs to small systems.

3. Selection and Instruction of the Expert Panels

Several commenters provided detailed suggestions about how to select members and charge the expert panels in the review of the arsenic final rule. Commenters requested that the charge to the panel be very broad and include all of the issues described in the preamble of the final rule. The Agency appreciates the suggestions for charging the expert panels, and is providing the public with several ways to participate in the review of the final arsenic rule process. For example, on May 4, 2001 (66 FR 22551), EPA requested nominations of individuals to serve on the cost working group of NDWAC (EPA, 2001c). This document provided an opportunity to advise EPA on the selection of this expert panel. In addition, many of these issues will be discussed in the future proposed rule that will request comment on a range of arsenic MCLs and provide for additional public comment on the range of science and cost issues related to the arsenic rule (66 FR 20582, April 23, 2001). In the April 2001 document, the Agency noted that the results of the independent science and cost reviews will be made public along with further information on the review process. Finally, much of this information will be available on EPA's drinking water webpage at www.epa.gov/safewater/arsenic.html and from the Safe Drinking Water Hotline. Similarly, on April 17, 2001, the NAS provided notice about its charge to the new arsenic committee on its web site and solicited comment on the provisionally named members of the committee.

The Agency believes there is still a strong basis to specify an arsenic MCL significantly less than the current 50 μg/L standard. Although the Agency will ask for a review of the 3–20 μg/L range proposed in the June 22, 2000, proposed rule, the public may provide evidence to support a higher drinking water arsenic standard.

4. Use of a Sublinear Dose Response Relationship

Some commenters resubmitted their comment on the June 2000 proposal that the dose-response relationship for arsenic health effects should use a sublinear model rather than the model used by EPA to specify the final MCL and MCLG. These commenters believed that a sublinear model would lead to derivation of a higher MCL and possibly a non-zero MCLG.

Although the Agency has not yet decided whether or how to change the provisions of the January 22, 2001, final rule, the nonlinear dose relationship mentioned by commenters is within the purview of the forthcoming NAS review of the science supporting the final rule. Subsequent to this expert panel review, and to public comment on this and other issues, the Agency will determine whether to adopt a nonlinear dose relationship to calculate an MCLG and MCL for arsenic.

IV. Administrative Requirements

A. Executive Order 12866 Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735 (October 4, 1993)), the 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:

(1) 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;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) 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 this rule is not a ''significant regulatory action,'' and, as such, has not been submitted to OMB for review under the Executive Order.

B. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

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 final rule is not subject to Executive Order 13045 because it is not economically significant and the Agency does not have reason to believe that the environmental health risks or safety risks addressed by this action present a disproportionate risk to children. Nonetheless, EPA evaluated the environmental health and safety effects of arsenic in drinking water on children as part of the January 2001 rule and its proposal.

C. Unfunded Mandates Reform Act (UMRA) of 1995

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 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, Tribal, and local 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 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.

Today's rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, or tribal governments or the private sector. This is because the rule imposes no enforceable duty on any State, local or tribal governments or the private sector. Thus today's rule is not subject to the requirements of section 202 and 205 of the UMRA. For the same reason, EPA also has determined that this action contains no regulatory requirements that might significantly or uniquely affect small governments. This action does not impose any requirement on anyone. Thus, there are no costs associated with this action. Therefore, today's rule is not subject to the requirements of section 203 of UMRA.

D. Paperwork Reduction Act (PRA)

This action does not impose any new information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* This action does not impose any requirements on anyone and does not voluntarily request information. The Office of Management and Budget (OMB) has previously approved the information collection requirements contained in the January 22, 2001, regulations, 40 CFR parts 9, 141 and 142 under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* and has assigned OMB control number 2040–0231.

E. Regulatory Flexibility Act (RFA), as Aamended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 et seq.

The RFA generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking 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.

The RFA provides default definitions for each type of small entity. It also authorizes an agency to use alternative definitions for each category of small entity, ''which are appropriate to the activities of the agency'' after proposing the alternative definition(s) in the **Federal Register** and taking comment. 5 U.S.C. 601(3)–(5). In addition to the above, to establish an alternative small business definition, agencies must consult with the Small Business Administration's Chief of Counsel for Advocacy.

For the purposes of assessing the impacts of today's rule on all three categories of small entities, EPA considered small entities to be systems serving 10,000 or fewer customers. In accordance with the RFA requirements, EPA proposed using this alternative definition for all three categories of small entities in the **Federal Register** (63 FR 7605, February 13, 1998), requested public comment and consulted with SBA regarding the alternative definition as it relates to small businesses. In the preamble to the final Consumer Confidence Reports (CCR) regulation (63 FR 4511, August 19, 1998), EPA stated its intent to establish this alternative definition for regulatory flexibility assessments under the RFA for all drinking water regulations and has thus used it in this proposed rulemaking.

After considering the economic impacts of today's final rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. This action does not impose any requirements on anyone, including small entities, it merely extends the effective date of the January 2001 rule.

F. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 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.

This final rulemaking does not impose any new technical standards. EPA's analysis of the NTTAA's application to the arsenic rulemaking is described in the June 22, 2000, proposal at 65 FR 38971–38972 and the January 22, 2001, final rule at 66 FR 7051.

G. Executive Order 13132, Federalism

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 final 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. This rule does not establish or change any requirements. Thus, Executive Order 13132 does not apply to this rule.

H. Executive Order 13175 (Consultation and Coordination With Indian Tribal Governments)

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.''

This final rule does not have tribal implications. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. As a result of administrative review of the final regulation published on January 22, 2001, the Environmental Protection Agency (EPA) is delaying the effective date for the drinking water regulation for arsenic. The purpose is to reassess the scientific and cost issues and seek further public input, as well as to fully review the support available for small systems. This delay does not impose any burden on tribes or tribal governments. Thus, Executive Order 13175 does not apply to this rule.

I. Executive Order 12898: Environmental Justice

Executive Order 12898 establishes a Federal policy for incorporating environmental justice into Federal agencies' missions by directing agencies to identify and address disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority and low-income populations. Today's action does not establish or change any requirements and therefore does not have any environmental justice implications.

J. Congressional Review Act

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

K. Administrative Procedure Act (APA)

Section 553(d) of the Administrative Procedure Act, 5 U.S.C. 553(d), generally requires that a substantive rule not become effective prior to 30 days after publication. However, that section allows rules to be effective immediately if the rule relieves a restriction or for other good cause found by the Agency and published with the rule. Today's effective date delay is immediately effective. EPA believes that this action is justified because there is no need to delay the effective date of a rule that merely delays an effective date. This rule has little, if any, substantive impact. Thus, EPA believes that this action is consistent with Section 553 of the APA.

V. References

NRC. 1999. Arsenic in Drinking Water. Washington, DC. National Academy Press.

U.S. EPA. 2000. National Primary Drinking Water Regulations; Arsenic and Clarifications to Compliance and New Source Contaminants Monitoring; Proposed Rule. **Federal Register**. Vol. 65, No. 121, p. 38888. June 22, 2000.

U.S. EPA. 2001a. National Primary Drinking Water Regulations; Arsenic and Clarifications to Compliance and New Source Contaminants Monitoring; Final Rule. **Federal Register**. Vol. 66, No. 14, p. 6976. January 22, 2001.

U.S. EPA. 2001b. National Primary Drinking Water Regulations; Arsenic and Clarifications to Compliance and New Source Contaminants Monitoring; Final Rule; Delay of effective Date. **Federal Register**. Vol. 66, No. 57, p. 16134. March 23, 2001.

U.S. EPA. 2001c. National Primary Drinking Water Regulations; Arsenic and Clarifications to Compliance and New Source Contaminants Monitoring; Notice of Proposed Rulemaking. **Federal Register**. Vol. 66, No. 78, p. 20580. April 23, 2001.

WH. 2001. Memorandum for the Heads and Acting Heads of Executive Departments and Agencies. **Federal Register**. Vo. 66, No. 16, p. 7702. January 24, 2001.

List of Subjects in 40 CFR Part 141

Environmental protection, Chemicals, Indian lands, Intergovernmental relations, Radiation protection, Reporting and recordkeeping requirements, Water supply.

Dated: May 17, 2001.

Christine Todd Whitman,

Administrator.

For the reasons stated in the preamble, the Environmental Protection Agency takes the following actions:

PARTS 9, 141, AND 142—[DELAY OF EFFECTIVE DATE]

1. To delay the effective date of the amendments to 40 CFR parts 9, 141, and 142 published January 22, 2001 (66 FR 6976), and delayed on March 23, 2001 (66 FR 16134), from May 22, 2001, to February 22, 2002, except for the amendments to §§ 141.23(c)(9), 141.23(i)(1) and (i)(2), 141.24(f)(15), (f)(22), (h)(11) and (h)(20), and 142.16(e), (j), and (k), which are effective January 22, 2004.

PART 141—NATIONAL PRIMARY DRINKING WATER REGULATIONS

2. To amend 40 CFR part 141 as follows:

A. The authority citation for part 141 continues to read as follows:

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

Subpart A—[Amended]

B. Paragraph (j) of 40 CFR 141.6, as added at 66 FR 7061, January 22, 2001, and amended at 66 FR 16134, March 23, 2001, is further amended by revising the last sentence to read follows:

§ 141.6 Effective dates.

* * * * *

(j) * * * However, the consumer confidence rule reporting requirements relating to arsenic listed in § 141.154(b) and (f) are effective for the purpose of compliance on February 22, 2002.

* * * * *

[FR Doc. 01–12878 Filed 5–21–01; 8:45 am]

BILLING CODE 6560–50–P

Federal Register

Tuesday,
May 22, 2001

Part V

The President

Proclamation 7441—World Trade Week, 2001

Executive Order 13211—Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

Executive Order 13212—Actions To Expedite Energy-Related Projects

Federal Register
Vol. 66, No. 99
Tuesday, May 22, 2001

Presidential Documents

Title 3—

The President

Proclamation 7441 of May 18, 2001

World Trade Week, 2001

By the President of the United States of America

A Proclamation

Trade has an extraordinary impact on our Nation's economic strength and can be a powerful force for good in the world. This year's World Trade Week, observed in communities across the country, will showcase the value of trade to all our citizens.

Exports have accounted for almost one-quarter of the United States economic growth during the past decade. We continue to be the world's largest exporter of goods and services. From life-saving medical devices to information technology that allows people to be more productive, American ingenuity is bringing some of the best and most competitive and innovative products to the world marketplace.

Across America, our exports support 12 million jobs that pay wages higher than the national average, and high-tech jobs supported by exports pay even more. It is no coincidence that the longest period of sustained economic growth in U.S. history has followed efforts to liberalize trade, such as the North American Free Trade Agreement and the Uruguay Round Agreement that established the World Trade Organization. Trade also leads to more competitive businesses, more choices of goods for consumers, and lower prices.

Along with economic progress, open trade also helps build democracies and spreads freedom as it reinforces the spirit of liberty by spurring economic and legal reforms. When we promote open trade, we promote both economic and political freedom. Societies that open to commerce will one day open to liberty.

World Trade Week celebrates trade as an economic and social engine for progress with a special focus on the services sector—the largest sector in the private economy, providing more than 85 million jobs. These service sector jobs involve a wide range of industries, including banking and insurance, travel, entertainment, telecommunications, energy, and environ mental services. We are proud that the United States is the world's top producer and exporter of services, exporting some $300 billion worth a year.

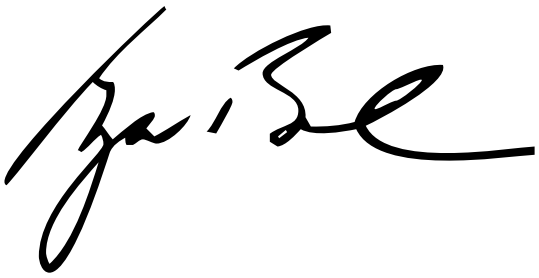
In addition to the significance of exporting services, export of goods continues to be vitally important to our economic performance. More than 20 percent of our domestic goods are exported, and for durable goods the figure jumps to 36 percent. These exports support millions of high-quality U.S. jobs and play a key role in U.S. economic growth. However, our ability to sustain or expand this growth will require tapping the trade potential of the emerging economies in Asia and Latin America, as well as bolstering our trade agreements with developed economies such as Japan and the European Union. Strengthening our trade agreements with these countries, not only opens their economies to U.S. goods and services, but also leads to higher rates of foreign investment. This investment creates growth, jobs, and the means to buy the products we export from the United States.

The United States will work for open trade at every opportunity. The executive and legislative branches need to work together to provide the means

to cooperate on trade objectives. The renewal of U.S. trade promotion authority will bolster a partnership between the executive and legislative branches and will enhance the ability of the United States to negotiate new trade agreements. We will work for more open trade globally through talks in the WTO. We will work to create a free trade zone in the Western Hemisphere by 2005. Our commitment to open trade will be coupled with a commitment to protect our environment and improve labor standards.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim May 20 through May 26, 2001, as World Trade Week. I encourage Americans to observe this week with events, trade shows, and educational programs that celebrate the benefits of trade to our economy.

IN WITNESS WHEREOF, I have hereunto set my hand this eighteenth day of May, in the year of our Lord two thousand one, and of the Independence of the United States of America the two hundred and twenty-fifth.



[FR Doc. 01–13115
Filed 05–21–01; 10:19 am]
Billing code 3195–01–P

Presidential Documents

Executive Order 13211 of May 18, 2001

Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to appropriately weigh and consider the effects of the Federal Government's regulations on the supply, distribution, and use of energy, it is hereby ordered as follows:

Section 1. *Policy.* The Federal Government can significantly affect the supply, distribution, and use of energy. Yet there is often too little information regarding the effects that governmental regulatory action can have on energy. In order to provide more useful energy-related information and hence improve the quality of agency decisionmaking, I am requiring that agencies shall prepare a Statement of Energy Effects when undertaking certain agency actions. As described more fully below, such Statements of Energy Effects shall describe the effects of certain regulatory actions on energy supply, distribution, or use.

Sec. 2. *Preparation of a Statement of Energy Effects.* (a) To the extent permitted by law, agencies shall prepare and submit a Statement of Energy Effects to the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget, for those matters identified as significant energy actions.

(b) A Statement of Energy Effects shall consist of a detailed statement by the agency responsible for the significant energy action relating to:

(i) any adverse effects on energy supply, distribution, or use (including a shortfall in supply, price increases, and increased use of foreign supplies) should the proposal be implemented, and

(ii) reasonable alternatives to the action with adverse energy effects and the expected effects of such alternatives on energy supply, distribution, and use.

(c) The Administrator of the Office of Information and Regulatory Affairs shall provide guidance to the agencies on the implementation of this order and shall consult with other agencies as appropriate in the implementation of this order.

Sec. 3. *Submission and Publication of Statements.* (a) Agencies shall submit their Statements of Energy Effects to the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget, whenever they present the related submission under Executive Order 12866 of September 30, 1993, or any successor order.

(b) Agencies shall publish their Statements of Energy Effects, or a summary thereof, in each related Notice of Proposed Rulemaking and in any resulting Final Rule.

Sec. 4. *Definitions.* For purposes of this order:

(a) ''Regulation'' and ''rule'' have the same meaning as they do in Executive Order 12866 or any successor order.

(b) ''Significant energy action'' means any action by an agency (normally published in the **Federal Register**) that promulgates or is expected to lead to the promulgation of a final rule or regulation, including notices of inquiry, advance notices of proposed rulemaking, and notices of proposed rulemaking:

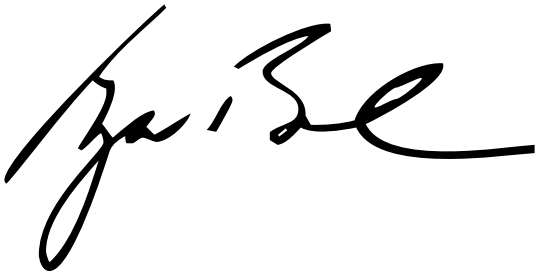
(1)(i) that is a significant regulatory action under Executive Order 12866 or any successor order, and

(ii) is likely to have a significant adverse effect on the supply, distribution, or use of energy; or

(2) that is designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action.

(c) ''Agency'' means any authority of the United States that is an ''agency'' under 44 U.S.C. 3502(1), other than those considered to be independent regulatory agencies, as defined in 44 U.S.C. 3502(5).

Sec. 5. *Judicial Review.* Nothing in this order shall affect any otherwise available judicial review of agency action. This order is intended only to improve the internal management of the Federal Government and does not create any right or benefit, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.



THE WHITE HOUSE,
May 18, 2001.

[FR Doc. 01–13116
Filed 5–21–01; 10:19 am]
Billing code 3195–01–P

Presidential Documents

Executive Order 13212 of May 18, 2001

Actions To Expedite Energy-Related Projects

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to take additional steps to expedite the increased supply and availability of energy to our Nation, it is hereby ordered as follows:

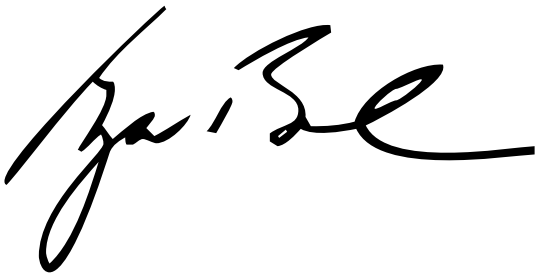
Section 1. *Policy.* The increased production and transmission of energy in a safe and environmentally sound manner is essential to the well-being of the American people. In general, it is the policy of this Administration that executive departments and agencies (agencies) shall take appropriate actions, to the extent consistent with applicable law, to expedite projects that will increase the production, transmission, or conservation of energy.

Sec. 2. *Actions to Expedite Energy-Related Projects.* For energy-related projects, agencies shall expedite their review of permits or take other actions as necessary to accelerate the completion of such projects, while maintaining safety, public health, and environmental protections. The agencies shall take such actions to the extent permitted by law and regulation, and where appropriate.

Sec. 3. *Interagency Task Force.* There is established an interagency task force (Task Force) to monitor and assist the agencies in their efforts to expedite their review of permits or similar actions, as necessary, to accelerate the completion of energy-related projects, increase energy production and conservation, and improve transmission of energy. The Task Force also shall monitor and assist agencies in setting up appropriate mechanisms to coordinate Federal, State, tribal, and local permitting in geographic areas where increased permitting activity is expected. The Task Force shall be composed of representatives from the Departments of State, the Treasury, Defense, Agriculture, Housing and Urban Development, Justice, Commerce, Transportation, the Interior, Labor, Education, Health and Human Services, Energy, Veterans Affairs, the Environmental Protection Agency, Central Intelligence Agency, General Services Administration, Office of Management and Budget, Council of Economic Advisers, Domestic Policy Council, National Economic Council, and such other representatives as may be determined by the Chairman of the Council on Environmental Quality. The Task Force shall be chaired by the Chairman of the Council on Environmental Quality and housed at the Department of Energy for administrative purposes.

Sec. 4. *Judicial Review.* Nothing in this order shall affect any otherwise available judicial review of agency action. This order is intended only to improve the internal management of the Federal Government and does not create any right or benefit, substantive or procedural, enforceable at law

or equity by a party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.



THE WHITE HOUSE,
May 18, 2001.

[FR Doc. 01–13117
Filed 5–21–01; 10:19 am]
Billing code 3195–01–P

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- Disclosure requirements; delivery by electronic communication; comments due by 6-1-01; published 3-30-01

Electronic fund transfers (Regulation E):
- Disclosure requirements; delivery by electronic communication; comments due by 6-1-01; published 4-4-01

Equal credit opportunity (Regulation B):
- Disclosure requirements; delivery by electronic communication; comments due by 6-1-01; published 4-4-01

Truth in lending (Regulation Z):
- Disclosure requirements; delivery by electronic communication; comments due by 6-1-01; published 3-30-01

Truth in savings (Regulation DD):
- Disclosure requirements; delivery by electronic communication; comments due by 6-1-01; published 4-4-01

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  - White sturgeon; Kootenai River population; comments due by 5-29-01; published 4-26-01

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- Airbus; comments due by 5-29-01; published 4-26-01
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LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with ''P L U S'' (Public Laws Update Service) on 202–523–6641. This list is also available online at http://www.nara.gov/fedreg.

The text of laws is not published in the **Federal Register** but may be ordered in ''slip law'' (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at http://www.access.gpo.gov/nara/index.html. Some laws may not yet be available.

H.R. 256/P.L. 107–8

To extend for 11 additional months the period for which chapter 12 of title 11 of the United States Code is reenacted. (May 11, 2001; 115 Stat. 10)

Last List April 13, 2001

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