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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 29

[Docket No. TB–00–04]

RIN 0581–AB86

Tobacco Fees and Charges for Permissive Inspection and Certification; Fee Revisions

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This rule revises the fee structure and increases fees for domestic permissive inspection and grading of tobacco. Under the Tobacco Inspection Act, fees collected must cover, as nearly as practicable, the Department's costs for performing the inspection service, including administrative and supervisory costs. The fee for permissive inspection of tobacco at receiving points will be based upon poundage and will be set at the same rate as for mandatory inspection at auction, which is $.01 per pound. The fee for permissive inspection at redrying plants will continue to be on an hourly basis and will be increased by about 46 percent. These revisions do not affect the fee for the mandatory inspection of tobacco sold at designated auction markets or permissive export certification.

DATES: Effective May 24, 2001; comments received by June 22, 2001 will be considered prior to issuance of a final rule.

ADDRESSES: Send comments to John P. Duncan III, Deputy Administrator, Tobacco Programs, Agricultural Marketing Service (AMS), U.S. Department of Agriculture (USDA), Room 502 Annex Building, P.O. Box 96456, Washington, DC 20090–6456; or Fax: (202) 205–0235. Comments will be made available for public inspection at this location during regular business hours.

FOR FURTHER INFORMATION CONTACT: John P. Duncan III, Deputy Administrator, Tobacco Programs, AMS, USDA, Stop 0280, Room 502 Annex Building, P.O. Box 96456, Washington, D.C. 20090–6456; telephone: (202) 205–0567, Fax: (202) 205–0235.

SUPPLEMENTARY INFORMATION: Permissive inspections, as authorized under the Tobacco Inspection Act (7 U.S.C. 511–511q), are made available to interested parties on a fee basis sufficient to cover the costs incurred by the Department for the inspection and certification, and other services, including administrative and supervisory costs. This rule revises the fee structure and increase fees for domestic permissive inspection and grading of tobacco.

The AMS conducts reviews of the financial status of this program to determine whether a fee is sufficient. As a result of this review, it has been determined that, at the current fees, insufficient revenue is generated to meet the costs of the program and to maintain an adequate reserve fund. The current hourly fee schedule for domestic permissive inspection has been in effect since October 1, 1991, as published in the **Federal Register** (56 FR 41921) on August 26, 1991. The major factors causing the need for additional funds are increases in Government salaries and benefits, travel allowances, and overall administrative costs since 1991. The crop-year 2000 revenues for permissive inspection and certification services at redrying plants were $213,000 and obligations were $300,000. Without a fee increase, crop-year 2001 and crop-year 2002 revenues for permissive inspection and certification services at redrying plants are projected at about $213,000 per year and obligations are projected at about $300,000 per year, and with a fee increase, crop-year 2001 and crop-year 2002 revenues are projected at $312,000 and obligations are projected at $300,000. This interim final rule will increase the hourly rates charged to users of domestic permissive inspection and certification services performed at redrying plants by about 46 percent. The AMS estimates that the increase in the hourly rate will yield about an additional $100,000 during crop-year 2001 and maintain an adequate reserve.

This rule also revises the fee structure for permissive inspection and certification at receiving points from an hourly basis to a poundage basis at the same rate as for mandatory inspection at auction. A poundage-basis structure is more appropriate for the permissive inspection of tobacco at receiving points. Although it is anticipated that 60–75 percent of the 2001 tobacco crop will be sold by direct contract, and that some of this will be permissively inspected at receiving points, it would be difficult to predict the number of pounds for which permissive inspection will be requested and the resulting revenues. However, based upon the experience of the AMS with mandatory inspection at auction, a fee of $.01 per pound is estimated to cover costs of $841,115 and an adequate reserve (assuming 120 million pounds of contract tobacco will be inspected in crop-year 2001 with revenue of $1,200,000). The costs to entities would be proportional to their use of the service so that costs are shared equitably by all interested parties.

In the past, virtually all quota tobacco was marketed through the auction system under the mandatory inspection program. Mandatory inspection, as required under the Act, takes precedence over other services and fees are assessed based on the pounds graded. AMS has maintained a core grading staff for mandatory inspection and utilized personnel from this staff to provide permissive grading. Other than recertification services performed at redrying plants, only a small amount of tobacco was inspected under the permissive grading program. Consequently, overhead costs and a reserve fund for permissive inspection were covered by the mandatory inspection fees.

However, tobacco marketing practices are changing. During the 2000 marketing year, tobacco companies implemented programs with producers to procure tobacco through direct contracting. Permissive grading services were requested for tobacco beginning in 2000. Tobacco companies also have indicated they will request increased permissive grading services for tobacco purchased directly from producers through contractual sales during the 2001 marketing year. It is anticipated that 60–

75 percent of the 2001 tobacco crop will be sold by contractual sales. With the projected increase in permissive grading requests from contractual tobacco sales, it is necessary for the permissive grading program to be self-supporting. The procedures for grading tobacco and the associated costs are virtually the same at both auction markets and receiving points. The National Advisory Committee for Tobacco Inspection Services, which is mandated by the Omnibus Budget Reconciliation Act of 1981, met on March 6, 2001, and unanimously recommended that the fee structure and rates for permissive inspection at receiving points be the same as for mandatory inspection at auction. Accordingly, the fee structure for permissive inspection at receiving points will be based on poundage and will be set at the same level as for mandatory inspection, which is $.01 per pound.

It is also necessary to increase the hourly rates for permissive inspection and to specify that the hourly rates are for permissive inspection at redrying plants. In the past, virtually all permissive inspection was provided at redrying plants for grower cooperatives. These grading services involve confirming the grade previously assigned to tobacco sold on the auction markets to maintain blend consistency for the grower cooperatives. Accordingly, the hourly fee structure will be retained. However, as necessary, the hourly rate will be increased to recover costs. The base hourly rate of $32.40 is raised to $47.40, the overtime rate of $38.70 is raised to $53.70, and Sunday and holiday rate of $48.45 is raised to $64.45. These fees would cover expenses and maintain a reserve that would meet any reasonable contingency. The Department is required by law to fix and collect fees and charges to cover the Department s cost in operating the permissive tobacco inspection program.

Finally, although the provisions are seldom used, the same changes in hourly rates are made for the inspection and certification of nonquota tobacco produced and marketed in a quota area, because this is a similar kind of permissive inspection.

Further, it is hereby found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect and that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because: (1) The tobacco marketing season will begin in June and this action is needed, as soon as possible, so as to treat all types of tobacco on an equal basis, (2) the National Advisory Committee for Tobacco Inspection Services unanimously recommended that the fee structure and rates for permissive inspection at receiving points be the same as for mandatory inspection at auction, and (3) this interim final rule provides a 30-day comment period, which is considered appropriate in this action, and all comments timely received will be considered prior to the finalization of this rule.

Executive Order 12866

This rule has been determined to be not significant for purposes of Executive Order 12866, and therefore, has not been reviewed by the Office of Management and Budget.

Regulatory Flexibility Act

Pursuant to the requirements set forth in the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), full consideration has been given to the potential economic impact upon small business. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts of less than $500,000 and small agricultural service firms are defined as those whose annual receipts are less than $5,000,000. There are about 300 tobacco warehouses and about 90,000 producers and almost all warehouses and producers may be classified as small entities. The AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

This rule revises the fee structure and increases fees for domestic permissive grading of tobacco. Under the Tobacco Inspection Act of 1935, as amended (7 U.S.C. 511–511q), fees collected must cover, as nearly as practicable, the Department s cost for performing the inspection service, including administrative and supervisory costs. These revisions do not affect the fee for the mandatory inspection of tobacco sold at designated auction markets or permissive export certification.

The AMS conducts reviews of the financial status of this program to determine whether the fee is sufficient. As a result of this review, it has been determined that, at the current fees, insufficient revenue is generated to meet the costs of the program and to maintain an adequate reserve fund. The major factors causing the need for additional funds are increases in Government salaries and benefits, travel allowances, and overall administrative costs since 1991. The crop-year 2000 revenues for permissive inspection and certification services at redrying plants were $213,000 and obligations were $300,000. Without a fee increase, crop-year 2001 and crop-year 2002 revenues for permissive inspection and certification services at redrying plants are projected at about $213,000 per year and obligations are projected at about $300,000 per year, and with a fee increase, crop-year 2001 and crop-year 2002 revenues are projected at $312,000 and obligations are projected at $300,000. This interim final rule will increase the hourly rates charged to users of domestic permissive inspection and certification services performed at redrying plants by about 46 percent. The AMS estimates that the increase in the hourly rate will yield about an additional $100,000 during crop-year 2001 and maintain an adequate reserve.

This rule also revises the fee structure for permissive inspection and certification at receiving points from an hourly basis to a poundage basis at the same rate as for mandatory inspection at auction. The procedures for grading tobacco and associated costs are virtually the same at both auction markets and receiving points. The National Advisory Committee for Tobacco Inspection Services, which is mandated by the Omnibus Reconciliation Act of 1981, met on March 6, 2001, and unanimously recommended that the fee structure and rates for permissive inspection at receiving points be the same as for mandatory inspection at auction.

Although it is anticipated that 60–75 percent of the 2001 tobacco crop will be sold by direct contract, and that some of this will be permissively inspected at receiving points, it would be difficult to predict the number of pounds for which permissive inspection will be requested and the resulting revenues. However, based upon the experience of the AMS with mandatory inspection at auction, a fee of $.01 per pound is estimated to cover the costs of $841,115 and an adequate reserve (assuming 120 million pounds of contract tobacco will be inspected in crop-year 2001 with the revenue of $1,200,000). The costs to entities would be proportional to their use of the service so that costs are shared equitably by all interested parties.

Finally, although the provisions are seldom used, the same changes in hourly rates are made for the inspection and certification of nonquota tobacco produced and marketed in a quota area, because this is a similar kind of permissive inspection.

These fees represent the minimum level needed to cover costs for the 2001

crop-year. In the future, AMS will continue to review the program to ensure that fees are adequate. Accordingly, we believe that the impact of this rule would not be significant on the users of the inspection and certification services.

Civil Justice Reform

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

Lists of Subjects in 7 CFR Part 29

Administrative practice and procedure, Advisory committees, Government publications, Imports, Pesticides and pests, Reporting and recordkeeping requirements, Tobacco.

For the reasons set forth in the preamble, 7 CFR part 29 is amended as follows:

PART 29—TOBACCO INSPECTION

Subpart B—Regulations

1. The authority citation for Part 29, subpart B continues to read as follows:

Authority: 7 U.S.C. 511m and 511r.

2. In § 29.123, paragraph (b) is revised to read as follows:

§ 29.123 Fees and charges.

* * * * *

(b) *Domestic permissive inspection and certification.* (1) Fees and charges for inspection at redrying plants shall comprise the cost of salaries, travel, per diem, and related expenses to cover the cost of performing the service. Fees shall be for the actual time required to render the service calculated to the nearest 30-minute period. The hourly rate shall be $47.40 per hour. The overtime rate for service performed outside the inspector's regularly scheduled tour of duty shall be $53.70 per hour. The rate of $64.45 per hour shall be charged for work performed on Sundays and holidays. These same fees shall be applicable for hogshead, bale, cases or sample inspections. (2) Fees and charges for inspection of tobacco performed at receiving points is $.01 per pound.

Subpart F—Policy Statement and Regulations Governing the Identification and Certification of Nonquota Tobacco Produced and Marketed in a Quota Area

3. The authority citation for subpart F continues to read as follows:

Authority: Pub. L. 97–98. 95 Stat. 1266, as amended (7 U.S.C. 1314f).

§ 29.9251 Fees and charges.

4. In § 29.9251 the words ''$32.40'', ''$38.70'' and ''$48.45'' are removed and the words ''$47.40'' ''$53.70'' and ''$64.45'' are added in their place, respectively.

Dated: May 17, 2001.

Kenneth C. Clayton,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 01–12935 Filed 5–22–01; 8:45 am]

BILLING CODE 3410–02–P

FARM CREDIT ADMINISTRATION

12 CFR Part 650

RIN 3052–AB56

Federal Agricultural Mortgage Corporation; Risk-Based Capital Requirements; Effective Date

AGENCY: Farm Credit Administration.

ACTION: Notice of effective date.

SUMMARY: The Farm Credit Administration (FCA) published a final rule under part 650 on April 12, 2001 (66 FR 19048). In this final rule, we amended our regulations, through the Office of Secondary Market Oversight (OSMO), by establishing risk-based capital regulations for the Federal Agricultural Mortgage Corporation (Farmer Mac). The final rule in part 650 sets forth the risk-based capital regulations for Farmer Mac, including definitions, methods, parameters and guidelines for developing and implementing the risk-based capital stress test; specifies capital calculation, reporting, and compliance requirements; and delineates our monitoring, examination, supervisory, and enforcement activities with respect to Farmer Mac's compliance with the rule's risk-based capital requirements; and prescribes certain requirements for business and capital planning. In accordance with 12 U.S.C. 2252, the effective date of the final rule is 30 days from the date of publication in the **Federal Register** during which either or both Houses of Congress are in session. Based on the records of the sessions of Congress, the effective date of the regulations is May 23, 2001.

EFFECTIVE DATE: The regulation amending 12 CFR part 650 published on April 12, 2001 (66 FR 19048) is effective May 23, 2001.

FOR FURTHER INFORMATION CONTACT:

Carl A. Clinefelter, Director, Office of Secondary Market Oversight, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4280, TDD (703) 883–4444, or

Dennis K. Carpenter, Senior Policy Analyst, Office of Policy and Analysis, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4498, TDD (703) 883–4444, or

Joy Strickland, Senior Counsel, Office of General Counsel, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4020, TDD (703) 883–4444.

(12 U.S.C. 2252(a)(9) and (10))

Dated: May 18, 2001.

Kelly Mikel Williams,

Secretary, Farm Credit Administration Board.

[FR Doc. 01–13071 Filed 5–22–01; 8:45 am]

BILLING CODE 6705–01–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–CE–08–AD; Amendment 39–12235; AD 2001–10–09]

RIN 2120–AA64

Airworthiness Directives; Honeywell KC 225 Automatic FlightControl Systems

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to certain Honeywell KC 225 automatic flight control systems (AFCS) that are installed on airplanes. This AD requires you to inspect the KC 225 AFCS to determine the computer modifications (Mods) that are incorporated, deactivate any units with only Mods 1 and/or 2 incorporated, and fabricate and install an appropriate placard if the unit is deactivated/inoperative. The AD would provide, as an alternative method of compliance, the option of installing a unit that incorporated MOD 3 or higher. This AD is the result of several reports that the AFCS is disconnecting without warning

in a gross mistrim configuration. The actions specified by this AD are intended to prevent an undesirable autotrim command that the autopilot cannot detect in the required time. The airplane could then deviate from the selected altitude or the autopilot could disconnect without warning, which could result in heavy loads at the control column. Such loads in the pitch axis could result in loss of control of the airplane.

DATES: This AD becomes effective on June 15, 2001.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the regulation as of June 15, 2001.

The Federal Aviation Administration (FAA) must receive any comments on this rule by August 10, 2001.

ADDRESSES: Send three copies of your comments to FAA,Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2001–CE–08–AD, 901 Locust, Room 506, Kansas City, Missouri 64106.

You may get the service information referenced in this AD from Honeywell, Product Support, One Technology Center, 23500 W. 105th Street, Olathe, Kansas 66061; telephone: (913) 712–2613; facsimile: (913) 712–1306. You may look at this information at FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2001–CE–08–AD, 901 Locust, Room 506, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Clyde Erwin, AerospaceEngineer, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Wichita, Kansas 67209; telephone: (316) 946–4149; facsimile: (329) 946–4407.

SUPPLEMENTARY INFORMATION:

Discussion

What events have caused this AD? The FAA has received reports that the Honeywell KC 225 automatic flight control system (AFCS) is disconnecting without warning during flight in a gross mistrim configuration. The suspect AFCS's incorporate computer modifications (Mods) 1 and/or 2.

Honeywell then conducted a factory test, where it was noted that the pitch trim ran when a malfunction of the trim sense 1 monitor timer happened with out-of-tolerance components in the trim sense 2 monitor timer. The autopilot then disconnected without warning because of other monitors in the autopilot.

What are the consequences if the condition is not corrected? This condition, if not corrected, could result in an undesirable autotrim command that the autopilot cannot detect in the required time. The airplane could then deviate from the selected altitude or the autopilot could disconnect without warning, which could result in heavy loads at the control column. Such loads in the pitch axis could result in loss of control of the airplane.

*Is there service information that applies to this subject?*Honeywell has issued Installation Bulletin No. 472 Alert, Revision 1, dated January 2001. This installation bulletin includes procedures for:

—Inspecting to determine the currently incorporated computer Mods, which are indicated on the unit's serial number tag;
—Returning the unit to Honeywell for modification; or
—Contacting Honeywell for a warranty replacement unit.

The FAA's Determination and an Explanation of the Provisions of this AD

What has FAA decided? The FAA has reviewed all available information, including the service information referenced above, and determined that:

—The unsafe condition referenced in this document exists or could develop on airplanes equipped with a certain Honeywell KC 225 AFCS configuration;
—Any airplane with one of these AFCS units should have the actions specified in the above service bulletin incorporated; and
—The FAA should take AD action to correct this unsafe condition.

What does this AD require? This AD requires you to accomplish the actions previously specified in Honeywell Installation Bulletin No. 472 Alert, Revision 1, dated January 2001.

Will I have the opportunity to comment prior to the issuance of the rule? Because the unsafe condition described in this document could result in potential loss of control of the airplane, FAA finds that notice and opportunity for public prior comment are impracticable. Therefore, good cause exists for making this amendment effective in less than 30 days.

Comments Invited

How do I comment on this AD? Although this action is in the form of a final rule and was not preceded by notice and opportunity for public comment, we invite your comments on the rule. You may send whatever written data, views, or arguments you choose. You need to include the rule's docket number and send three copies of your comments to the address specified under the caption **ADDRESSES.** We will consider all comments received by the closing date specified above. We may change this rule in light of comments received. Factual information that supports your ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether we need to take additional rulemaking action.

Are there any specific portions of the AD I should pay attention to? The FAA specifically invites comments on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. You may read all comments we receive before and after the closing date of the rule in the Rules Docket. We will file a report in the Rules Docket that summarizes each FAA contact with the public that concerns the substantive parts of this AD.

We are reviewing the writing style we currently use in regulatory documents, in response to the Presidential memorandum of June 1, 1998. That memorandum requires federal agencies to communicate more clearly with the public. We are interested in your comments on whether the style of this document is clear, and any other suggestions you might have to improve the clarity of FAA communications that affect you. You can get more information about the Presidential memorandum and the plain language initiative at http://www.plainlanguage.gov.

How can I be sure FAA receives my comment? If you want us to acknowledge the receipt of your comments, you must include a self-addressed, stamped postcard. On the postcard, write ''Comments to Docket No. 2001–CE–08–AD.'' We will date stamp and mail the postcard back to you.

Regulatory Impact

Does this AD impact various entities? These regulations will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, FAA has determined that this final rule does not have federalism implications under Executive Order 13132.

Does this AD involve a significant rule or regulatory action? The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe

condition in aircraft, and is not a significant regulatory action under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket (otherwise, an evaluation is not required). A copy of it, if filed, may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. FAA amends § 39.13 by adding a new airworthiness directive (AD) to read as follows:

2001–10–09 Honeywell: Amendment 39–12235; Docket No. 2001–CE–08–AD.

(a) *What airplanes are affected by this AD?* This AD affects the following Honeywell automatic flight control systems (AFCS) that are installed in, but not limited to, the airplanes listed below:

(1) Affected KC 225 AFCS:

Unit	Part No.	Applicable to Serial No.
KC–225	065–00183–0101 065–00183–0201 065–00183–0301 065–00183–0401 065–00183–0501 065–00183–0601 065–00183–2501 065–00183–2601 065–00183–2701 065–00183–2801 065–00183–2901 065–00183–3001	All units

(2) List of airplanes where the affected AFCS could be installed. This is not a comprehensive list and airplanes not on this list that have an affected AFCS installed through field approval or other methods are still affected by this AD:

Manufacturer	Airplane models
Aerostar Aircraft Corporation	PA–60–700P.
The Cessna Aircraft Company	208 and 208B.
Commander Aircraft Corporation	114B and 114TC.
Mooney Aircraft Corporation	M20M and M20R.
The New Piper Aircraft, Inc.	PA–34–220T and PA–46–350P.
Raytheon Aircraft Company (Beech)	58, 95–55, 95–C55, A36, B36TC, D55, and E55.
SOCATA—Groupe Aerospatiale	TB20 and TB21.

(b) *Who must comply with this AD?* Anyone who wishes to operate any airplane that incorporates one of the affectedHoneywell automatic flight control systems must comply with this AD.

(c) *What problem does this AD address?* The actions specified by this AD are intended to prevent an undesirable autotrim command that the autopilot cannot detect in the required time. The airplane could then deviate from the selected altitude or the autopilot could disconnect without warning, which could result in heavy loads at the control column. Such loads in the pitch axis could result in loss of control of the airplane.

(d) *What must I do to address this problem?* To address this problem, you must do the following actions, unless already done:

Action	Compliance time	Procedures
(1) Inspect the KC 225 automatic flight control system (AFCS) (Part Number 065–00183–0101, –0201, –0301, –0401, –0501, –0601, –2501, –2601, –2701, –2801, –2901, or –3001) to determine the currently installed computer modifications (Mods). These modifications are indicated on the AFCS serial number tag.	Within the next 10 hours time-in-service (TIS) after June 15, 2001 (the effective date of this AD).	Do this following the Honeywell Installation Bulletin No. 472 Alert, Revision 1, dated January 2001.
(2) If only Mods 1 and/or 2 are incorporated, accomplish the following:	Prior to further flight after the inspection required by paragraph (d)(1) of this AD.	Accomplish the deactivation in accordance with Honeywell Installation Bulletin No. 472 Alert, Revision 1, dated January 2001. The owner/operator holding at least a private pilot certificate as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7) may accomplish the placard requirements of paragraph (d)(2)(ii) of this AD. Make an entry into the aircraft records showing compliance with this portion of the AD in accordance with section 43.9 of the Federal Aviation Regulations (14 CFR 43.9).
(i) Deactivate the KC 225 AFCS by pulling and banding the autopilot circuit breaker(s) to prevent operation of the KC 225 AFCS in flight; and.		

Action	Compliance time	Procedures
(ii) Fabricate a placard that indicates the KC 225 AFCS is inoperative, and install this placard on the instrument panel within the pilot's clear view. The placard should use letters of at least 0.10-inch in height and contain the following words: ''KC 225 AFCS INOPERATIVE.''.		
(3) As an alternative method of compliance to paragraphs (d)(2)(i) and (d)(2)(ii) of this AD for the KC 225 AFCS with only Mods 1 and/or 2 installed, accomplish either of the following to return the KC 225 AFCS to operation.	At any time as terminatinig action for all other requirements of this AD.	Do this following the Honeywell Installation Bulletin No. 472 Alert, Revision 1, dated January 2001.
(i) Return the AFCS to the Honeywell Service Center for modification to install Mod 1, 2, and 3 (or higher) levels and then incorporate thisAFCS on the airplane; or.		
(ii) Contact Honeywell Product Support for a warranty replacement KC 225 AFCS that contains Mod 1, 2, and 3 (or higher) levels and then incorporate this AFCS on the airplane.		
(4) If no Mods are installed or at least Mods 1, 2, and 3 are installed, ensure that the aircraft records identify Mod status. No further action is required by this AD.	Prior to further flight after the inspection required by paragraph (d)(1) of this AD.	Do this following the Honeywell Installation Bulletin No. 472 Alert, Revision 1, dated January 2001.

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

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

(2) The Manager, Wichita Aircraft Certification Office approves your alternative. Send your request through an FAAPrincipal Maintenance Inspector, who may add comments and then send it to the Manager, Wichita ACO.

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

(f) *Where can I get information about any already-approved alternative methods of compliance?* Contact Clyde Erwin, Aerospace Engineer, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Wichita, Kansas 67209; telephone: (316) 946–4149; facsimile: (329)946–4407.

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

(h) *Are any service bulletins incorporated into this AD by reference?* Actions required by this AD must be done in accordance with Honeywell Installation Bulletin No. 472 Alert, Revision 1, dated January 2001. The Director of the Federal Register approved this incorporation by reference under 5 U.S.C. 552(a) and 1 CFR part 51. You can get copies from Honeywell, Business & General Aviation, One Technology Center, 23500 W. 105th Street, Olathe, Kansas 66061. You can look at copies at FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(i) *When does this amendment become effective?* This amendment becomes effective on June 15, 2001.

Issued in Kansas City, Missouri, on May 14, 2001.

Melvin D. Taylor,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–12634 Filed 5–22–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NE–58–AD; Amendment 39–12238; AD 2001–10–12]

RIN 2120–AA64

Airworthiness Directives; GE Aircraft Engines CJ610 Series Turbojet and CF700 Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD) that is applicable to GE Aircraft Engines (GEAE) CJ610 series turbojet and CF700 series turbofan engines that currently requires removal of certain unapproved parts before further flight. This amendment requires removal of additional unapproved parts. This amendment is prompted by the discovery by the FAA of additional unapproved parts not listed in the original AD that have been introduced into the field and might be installed on the affected engines. The actions specified in this AD are intended to prevent the use of unapproved parts which could lead to an uncontained

engine failure and damage to the airplane.

DATES: Effective June 7, 2001.

Comments for inclusion in the Rules Docket must be received on or before July 23, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 99–NE–58–AD, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may also be sent via the Internet using the following address: ''9-ane-adcomment@faa.gov''. Comments sent via the Internet must contain the docket number in the subject line.

FOR FURTHER INFORMATION CONTACT: Kevin Donovan, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (781) 238–7743, fax (238) 238–7199.

SUPPLEMENTARY INFORMATION: On January 5, 2000, the FAA issued AD 2000–01–09, Amendment 39–11506 (65 FR 1771) to require removal of certain unapproved parts before further flight. That amendment was prompted by findings that life-limited parts, with inaccurate records, have been introduced into the field and might be installed on the affected engines. That condition, if not corrected, could lead to an uncontained engine failure and damage to the airplane.

Since the issuance of that AD, the FAA discovered a compressor rotor during an audit with suspected military markings. The manufacturer confirmed that the marking was an electro-etched Low Cycle Fatigue Cycles (LCFC) marking used strictly on military parts. The original AD, AD 2000–01–09, did not identify this particular compressor rotor or the three additional rotors containing unapproved parts discovered at other locations during subsequent audits.

FAA's Determination of an Unsafe Condition and Proposed Actions

Since an unsafe condition has been identified that is likely to exist or develop on other GE Aircraft Engines (GEAE) CJ610 series turbojet and CF700 series turbofan engines of the same type design, this AD supersedes AD 2000–01–09 to require removal before further flight of the additional unapproved parts not listed in the original AD that have been introduced into the field and might be installed on the affected engines.

Immediate Adoption of This AD

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

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 99–NE–58–AD.'' The postcard will be date stamped and returned to the commenter.

Regulatory Impact

This final rule does not have federalism implications, as defined in Executive Order 13132, because it 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. Accordingly, the FAA has not consulted with state authorities prior to publication of this final rule.

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Amendment 39–11506 (65 FR 1771, January 12, 2000), and by adding a new airworthiness directive (AD), Amendment 39–12238, to read as follows:

2001–10–12 GE Aircraft Engines (GEAE) Amendment 39–12238. Docket 99–NE–58–AD. Supersedes AD 2000–01–09, Amendment 39–11506.

Applicability

This airworthiness directive (AD) is applicable to GEAE CJ610 series turbojet and CF700 series turbofan engines, with parts listed by part number (P/N) and serial number (SN) in Tables I and II, installed. These engines are installed on, but not limited to, the Dassault-Aviation Fan Jet Falcon 20 series, Sabreliner NA265 series, Learjet 20 series, Israel Aircraft Industries Westwind series, Hansa Jet, Aero Commander, and Jet Commander.

Note 1: This AD applies to each engine identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For engines 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 (c) 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

Compliance with this AD is required as indicated, unless already done.

To prevent the use of unapproved parts, which could lead to an uncontained engine failure and damage to the airplane, accomplish the following:

Replacement of Unapproved Parts

(a) Before further flight, remove any part listed by P/N and SN in Tables I and II of this AD, and replace it with a serviceable part:

TABLE I.—UNAPPROVED PARTS LISTED IN AD 2000–01–09

Part number	Part name	Serial number
3007T98G01	Shaft, compressor drive	HPCTQA11693
3007T98G01	Shaft, compressor drive	HPCTQA11929
3007T98G01	Shaft, compressor drive	HPCTQA1929
3007T98G01	Shaft, compressor drive	HPGTQA9947
3007T98G01	Shaft, compressor drive	TQA14300
37D401014P101	Torque ring, turbine	GGM681
37D401014P101	Torque ring, turbine	GGMCBK1977
37D401014P101	Torque ring, turbine	GGMWZA1230
37D401014P101	Torque ring, turbine	GGMWZA2322
37D401014P101	Torque ring, turbine	GGMWZA4665
37D401014P101	Torque ring, turbine	PMB08403P
37D401014P102	Torque ring, turbine	PMB19204
37D401302P101	Spacer, stage 2	GATI2099WYR
37D401302P101	Spacer, stage 2	GATWZA09656
37D401302P101	Spacer, stage 2	GATWZA10002
37D401302P101	Spacer, stage 2	GATWZA10148
37D401302P101	Spacer, stage 2	GATWZA5419
37D401303P102	Spacer, stage 3	GATCBK02192
37D401303P102	Spacer, stage 3	GATWZA12030
37D401303P102	Spacer, stage 3	GGMWZA1022
37D401303P104	Spacer, stage 3	GATWYR5364
37D401304P104	Spacer, stage 4	GATANWA2378
37D401305P103	Spacer, stage 5	GATANW9528
37D401305P103	Spacer, stage 5	GATANWA7441
37D401305P103	Spacer, stage 5	GATANWA8542
37D401305P103	Spacer, stage 5	GGMANW3172
37D401306P103	Spacer, stage 6	GATANW6380
37D401306P103	Spacer, stage 6	GGMANW2331
37D401306P105	Spacer, stage 6	GATCDY71386
37D401306P105	Spacer, stage 6	GATO7040CDY
37D401307P103	Spacer, stage 7	GAT59653
37D401307P103	Spacer, stage 7	GATANW7170
37D401307P103	Spacer, stage 7	GATANWA7134
37D401307P103	Spacer, stage 7	GGMANW3104
37D401312P101	Disc, stage 2	GATI0156WZA
37D401312P101	Disc, stage 2	GATO8253WZA
37D401312P101	Disc, stage 2	GATWZA3983
37D401312P101	Disc, stage 2	GATWZA6604
37D401312P101	Disc, stage 2	GGMCBK620
37D401312P101	Disc, stage 2	GGMLBA4491
37D401313P101	Disc, stage 3	GATI3249WYI
37D401313P101	Disc, stage 3	GATO7644WZA
37D401313P101	Disc, stage 3	GATWZA6522
37D401313P101	Disc, stage 3	GATWZA6723
37D401313P101	Disc, stage 3	GGMLBA2102
37D401314P102	Disc, stage 4	GAT05572WZA
37D401314P102	Disc, stage 4	GATO4383WZA
37D401314P102	Disc, stage 4	GGMWZA6818
37D401315P101	Disc, stage 5	GAT12406WZA
37D401315P101	Disc, stage 5	GATWZA4753
37D401315P101	Disc, stage 5	GATWZA7093
37D401316P101	Disc, stage 6	GAT10162WZA
37D401316P101	Disc, stage 6	GATWZA4435
37D401316P101	Disc, stage 6	GATWZA7208
37D401316P101	Disc, stage 6	GGMWZA3376
37D401317P101	Disc, stage 7	GAT10013WZA
37D401317P101	Disc, stage 7	GAT13322WZA
37D401317P101	Disc, stage 7	GATI5009WYR
37D401709P101	Disc, stage 8	GATO3900WZA
37D401709P101	Disc, stage 8	GATO5381WZA
37D401709P101	Disc, stage 8	GGMWZA6906
37D401709P101	Disc, stage 8	GGMWZA6942
37E501428P102	Disc and shaft, stage 1	GATI2001WZA

TABLE I.—UNAPPROVED PARTS LISTED IN AD 2000–01–09—Continued

Part number	Part name	Serial number
37E501428P102	Disc and shaft, stage 1	GATWZA8639
37E501428P106	Disc and shaft, stage 1	GATO8474WZA
37E501428P106	Disc and shaft, stage 1	GGMWZA3231
4010T01P01	Seal labyrinth, stage 8	JADCSF334P59
4010T01P01	Seal labyrinth, stage 8	JADCSF5222
4010T01P01	Seal labyrinth, stage 8	JADCSF5444P21
4010T01P01	Seal labyrinth, stage 8	JADMCI3214
4036T24P01	Turbine wheel, stage 2	GATWYR14035
4036T24P01	Turbine wheel, stage 2	GATWYR14655
5013T79P01	Disc, stage 5	GATI1679WZA
5013T82P01	Disc, stage 7	GATI7662WYR
5013T88P01	Spacer, stage 4	GAT69935
5013T88P01	Spacer, stage 4	GATCDY66715
5013T89P01	Spacer, stage 5	GAT60180CDY
5013T89P01	Spacer, stage 5	GAT60180CDY
5013T90P01	Spacer, stage 7	GAT81678CDY
5013T90P01	Spacer, stage 7	GATCDY82036
5018T16P01	Disc, stage 4	GAT12222WYR
6028T44P01	Turbine wheel, stage 1	GAT11900
6028T44P01	Turbine wheel, stage 1	GAT13094
6028T44P01	Turbine wheel, stage 1	GAT14749
6028T44P01	Turbine wheel, stage 1	GAT15160
6028T44P01	Turbine wheel, stage 1	GAT15396WYR
6028T44P01	Turbine wheel, stage 1	GAT15703
6028T44P01	Turbine wheel, stage 1	GAT15821
6028T44P01	Turbine wheel, stage 1	GAT15899
6028T44P01	Turbine wheel, stage 1	GAT59743
6028T44P01	Turbine wheel, stage 1	GAT60190
6028T44P01	Turbine wheel, stage 1	GAT60197
6028T44P01	Turbine wheel, stage 1	GAT60483
6028T44P01	Turbine wheel, stage 1	GAT7321
6028T44P01	Turbine wheel, stage 1	GATA8475
6028T44P01	Turbine wheel, stage 1	GATA8492
6028T44P01	Turbine wheel, stage 1	GATAJ204
6028T44P01	Turbine wheel, stage 1	GATB6925
6028T44P01	Turbine wheel, stage 1	GATBE998
6028T44P01	Turbine wheel, stage 1	GATE2150
6028T44P01	Turbine wheel, stage 1	GATE2259
6028T44P01	Turbine wheel, stage 1	GATE2291
6028T44P01	Turbine wheel, stage 1	GATE2336
6028T44P01	Turbine wheel, stage 1	GATF4496
6028T44P01	Turbine wheel, stage 1	GATF4507
6028T44P01	Turbine wheel, stage 1	GATFE953
6028T44P01	Turbine wheel, stage 1	GATG6470
6028T44P01	Turbine wheel, stage 1	GATV6541
6028T44P01	Turbine wheel, stage 1	GATV6588
6028T44P01	Turbine wheel, stage 1	GATW1573
634E583P04	Turbine wheel, stage 1	GATWZA4994
634E583P5	Turbine wheel, stage 1	GAT10650
634E583P5	Turbine wheel, stage 1	GAT13048
646C596P2	Turbine wheel, stage 2	GATCBK01912
646C596P2	Turbine wheel, stage 2	GATWYR12725
646C596P2*	Turbine wheel, stage 2	GATWZA9723
646C594P2*	Turbine wheel, stage 2	GATWZA9723
646C594P1*	Turbine wheel, stage 2	GATWZA9723
841B690P7	Assy, Turbine wheel, stage 1	GAT9383WZA
841B690P7	Assy, Turbine wheel, stage 1	GATMKF07225
841B690P7	Assy, Turbine wheel, stage 1	GATWYR12358
841B690P7	Assy, Turbine wheel, stage 1	GATWYR13457
841B690P7	Assy, Turbine wheel, stage 1	GATWYR13677
841B690P7	Assy, Turbine wheel, stage 1	GATWZA8110
841B690P7	Assy, Turbine wheel, stage 1	GATWZA8263
841B690P7	Assy, Turbine wheel, stage 1	GATWZA9182
841B690P7	Assy, Turbine wheel, stage 1	OJL0145
841B690P7	Assy, Turbine wheel, stage 1	WDBMKF07219

*The FAA has determined that up to three Stage 2 Turbine wheels, SN GATWZA9723, may have been distributed with three different P/N's. Therefore, while only P/N 646C596P1 is an approved P/N for the CJ610 and CF700 model engine, all three part numbers are listed.

TABLE II.—ADDITIONAL UNAPPROVED PARTS DISCOVERED SINCE PUBLICATION OF AD 2000–01–09

Part Number	Part name	Serial Number
37E501428P102	1st Stg Disc/Shaft/Spacer	GAT14210WYR
37E501428P106	Disc & Shaft Stg 1 Comp	GAT115140WZA
37D401312P101	Disc Stg 2 Comp	GAT2107WYR
37D401312P101	Disc Stg 2 Comp	GAT07432WZA
37D401313P101	Disc Stg 3 Comp	GAT2432WYR
37D401313P101	Disc Stg 3 Comp	GAT10717WZA
5018T16P01	Disc Stg 4 Comp	GAT10058WYR
5018T16P01	Disc Stg 4 Comp	GAT05724WZA
37D401315P101	Disc Stg 5 Comp	GAT16068WYR
37D401316P101	Disc Stg 6 Comp	GAT15035WYR
37D401317P101	Disc Stg 7 Comp	GAT6493WYR
5013T82P01	Disc Stg 7 Comp	GAT15819WYR
37D401709P101	Disc Stg 8 Comp	GAT08842WYR
5013T83P01	Disc Stg 8 Comp	GAT07464WYR
4010T010P02	Seal Rot Stg 8 Comp	JADMSA09181
4010T010P01	Seal Rot Stg 8 Comp	APVM0F00180
4010T01P01	Seal Rot Stg 8 Comp	APVM0F00192
5004T73P02	Shaft Rear Comp	HPCTQA12100
3007T98G01	Shaft Rear Comp	HPCTQ1474
37D401303P102	Spacer Stg 3 Comp	GGMWZA1112
5013T88P01	Spacer Stg 4 Comp	GAT1A402
37D401302P101	Spacer Stg 2 Comp	GATWRY12483
37D401302P103	Spacer Stg 2 Comp	GATE0A00429
37D401303P102	Spacer Stg 3 Comp	GATWZA5858
37D401304P103	Spacer Stg 4 Comp	GATANW10309
37D401304P103	Spacer Stg 4 Comp	GATANWA5510
5013T88P01	Spacer Stg 4 Comp	GATCDY61557
37D401305P103	Spacer Stg 5 Comp	GATANW11066
37D401306P103	Spacer Stg 6 Comp	GATANW09191
37D401306P105	Spacer Stg 6 Comp	GAT8654CDY
37D401307P103	Spacer Stg 7 Comp	GATANW9286
37D401307P103	Spacer Stg 7 Comp	GATANWA6612

Alternate Methods of Compliance

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

Note 2: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the ECO.

Effective Date of This AD

(c) This amendment becomes effective on June 7, 2001.

Issued in Burlington, Massachusetts, on May 16, 2001.

Diane S. Romanosky,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 01–12942 Filed 5–22–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 00–ANM–24]

Revision of Class E Airspace, Jackson Hole, WY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action revises the Jackson Hole, WY, Class E airspace to accommodate airspace required for new Standard Instrument Approach Procedure (SIAP) and Departure Procedures (DP) to the Jackson Hole Airport, Jackson Hole, WY. Newly developed approach and departure procedures at the Jackson Hole Airport has made this action necessary. Additional Class E 700-feet, and 1,200 feet controlled airspace, above the surface of the earth is required to contain aircraft executing the Instrument Landing System (ILS) Runway (RWY) 18 Standard Instrument Approach Procedure (SIAP) and the Geyser One and Jacho One Departure Procedures (DP) at Jackson Hole Airport. The intended effect of this proposal is to provide adequate controlled airspace for Instrument Flight Rules (IFR) operations at Jackson Hole Airport, Jackson Hole, WY.

EFFECTIVE DATE: 0901 UTC, June 18, 2001.

FOR FURTHER INFORMATION CONTACT: Brian Durham, ANM–520.7, Federal Aviation Administration, Docket No. 00–ANM–24, 1601 Lind Avenue SW, Renton, Washington 98055–4056: telephone number: (425) 227–2527.

SUPPLEMENTARY INFORMATION:

History

On February 13, 2001, the FAA proposed to amend Title 14 Code of Federal Regulations, part 71 (14 CFR part 71) by revising Class E airspace at Jackson Hole, WY, in order to accommodate a new SIAP and DPs at Jackson Hole Airport, Jackson Hole, WY (66 FR 30). This amendment provides Class E5 airspace at Jackson Hole, WY, to meet current criteria standards associated with the SIAP and DPs. Interested parties were invited to participate in the rulemaking proceeding by submitting written comments on the proposal. No comments were received.

The Rule

This amendment to Title 14 Code of Federal Regulations, part 71 (14 CFR part 71) revises Class E airspace at Jackson Hole, WY, in order to accommodate newly developed SIAP and DPs to the Jackson Hole Airport, Jackson Hole, WY. This amendment revises Class E5 airspace at Jackson Hole, WY, to meet current criteria standards associated with the SIAP and DPs. The FAA establishes Class E airspace where necessary to contain aircraft transitioning between the terminal and en route environments. This rule is designed to provide for the safe and efficient use of the navigable airspace and to promote safe flight operations under Instrument Flight Rules (IFR) at the Jackson Hole Airport and between the terminal and en route transition stages.

The area will be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. Class E airspace areas extending upward from 700 feet or more above the surface of the earth, are published in Paragraph 6005, of FAA Order 7400.9H dated September 1, 2000, and effective September 16, 2000, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9H, Airspace Designations and Reporting Points, dated September 1, 2000, and effective September 16, 2000, is amended as follows:

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

* * * * *

ANM WY E5—Jackson Hole, WY [Revised]

Jackson Hole Airport, WY
(lat. 43°36′23″N., long. 110°44′17″W.)
Jackson VOR/DME
(lat. 43°36′30″N., long. 110°44′05″W.)

That airspace extending upward from 700 feet above the surface within the 4.3-mile radius of the Jackson Hole Airport, and within 4.4 miles west and 8.3 miles east of the Jackson VOR/DME 200° radial extending from the VOR/DME to 21.4 miles south of the VOR/DME, and within 4.4 miles each side of the 020° radial from the Jackson VOR/DME extending to 17.8 miles; and that airspace extending upward from 1,200 feet above the surface within 15.2 miles west and 18.7 miles east of the Jackson VOR/DME 020° radial extending from the VOR/DME to 44.6 miles north of the VOR/DME, and that airspace west of the Jackson VOR/DME bounded on the northwest by the southeast edge of V–520 extending to 15.2 miles in an arc counterclockwise to the northwest edge of V–465, and that airspace to the south of the Jackson VOR/DME bounded on the northwest by the southeast edge of V–465, on the east by the southwest edge of V–328, on the south by the north edge of V–4 and on the west by long. 112°00′00″W and that airspace east of the Jackson VOR/DME between the 052° radial and 156° radial extending to 33.1 miles; and excluding that airspace within Federal airways; the Big Piney; WY, the Rock Springs, WY; the Driggs, ID, Class E airspace areas.

* * * * *

Issued in Seattle, Washington, May 15, 2001.

Dan A. Boyle,

Assistant Manager, Air Traffic Division, Northwest Mountain Region.

[FR Doc. 01–13049 Filed 5–22–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 121

Flight Crewmember Flight Time Limitations and Rest Requirements; Correction

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of enforcement policy; correction.

SUMMARY: On May 17, 2001, at 66 FR 27548, the Federal Aviation Adminstration (FAA) announced to the public the Federal Aviation Administration's (FAA's) intent to rigorously enforce its existing regulations governing flight crewmember rest requirements that are presently codified at 14 CFR 121.471. This document corrects the title of the person who signed the document and inserts the date for the comprehensive review of certificate holders' flight scheduling practices.

EFFECTIVE DATE: This correction is effective on May 17, 2001.

FOR FURTHER INFORMATION CONTACT: Alberta Brown, telephone (202) 267–8166.

Correction

In the **Federal Register** of May 17, 2001, at 66 FR 27548, in FR Doc. 01–12419, make the following corrections:

1. On page 27549, in column 2, in paragraph 3, under ''Compliance and Enforcement Plan,'' in lines 9 and 10, correct [insert date (6 months from publication date)]'', to read ''November 1, 2001''.

2. On page 27549, in column 3, in the signature block, correct the title of the person who signed the document to read ''Acting Associate Administrator for Regulation and Certification.''

Issued in Washington, DC on May 17, 2001.

Donald P. Byrne,

Assistant Chief Counsel, Regulations Division.

[FR Doc. 01–12932 Filed 5–22–01; 8:45 am]

BILLING CODE 4913–13–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 31

[TD 8946]

RIN 1545–AY47

Federal Employment Tax Deposits—De Minimis Rule

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations and removal of temporary regulations.

SUMMARY: This document contains final regulations relating to the deposit of Federal employment taxes. The final regulations adopt the rules of the temporary regulations that change the de minimis deposit rule for quarterly and annual periods from $1,000 to $2,500. The regulations affect taxpayers required to make deposits of Federal employment taxes.

DATES: *Effective Date:* These regulations are effective May 23, 2001.

Applicability Date: For dates of applicability, see § 31.6302–1(f)(4).

FOR FURTHER INFORMATION CONTACT: Brinton T. Warren, (202) 622–4940 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document contains amendments to 26 CFR part 31, Employment Taxes and Collection of Income Tax at the Source. On December 6, 2000, temporary and final regulations (TD 8909) relating to the deposit of Federal employment taxes under section 6302 of the Internal Revenue Code were published in the **Federal Register** (65 FR 76152). A notice of proposed rulemaking (REG–114423–00) cross-referencing the temporary regulations was published in the **Federal Register** for the same day (65 FR 76194). No comments were received from the public in response to the notice of proposed rulemaking.

Explanation of Provisions

These final regulations adopt the rules of the temporary regulations. Under these rules, a taxpayer does not have to make deposits of Federal employment taxes for a quarterly or annual return period if the tax for the period is less than $2,500 and the taxpayer remits its full liability with a timely filed return for the period. The regulations are applicable with respect to quarterly and annual periods beginning on or after January 1, 2001.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and, because these regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Internal Revenue Code, the notice of proposed rulemaking preceding these regulations was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Drafting Information

The principal author of the regulations is Brinton T. Warren of the Office of Associate Chief Counsel, Procedure and Administration (Administrative Provisions and Judicial Practice Division). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 31

Employment taxes, Income taxes, Penalties, Pensions, Railroad retirement, Reporting and recordkeeping requirements, Social security, Unemployment compensation.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 31 is amended as follows:

PART 31—EMPLOYMENT TAXES AND COLLECTION OF INCOME TAX AT SOURCE

Paragraph 1. The authority citation for part 31 is amended by removing the entry for Section 31.6302–1T to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Par. 2. In § 31.6302–1, paragraph (f)(4) is revised to read as follows:

§ 31.6302–1 Federal tax deposit rules for withheld income taxes and taxes under the Federal Insurance Contributions Act (FICA) attributable to payments made after December 31, 1992.

* * * * *

(f) * * *

(4) *De Minimis rule.* For quarterly and annual return periods beginning on or after January 1, 2001, if the total amount of accumulated employment taxes for the return period is less than $2,500 and the amount is fully deposited or remitted with a timely filed return for the return period, the amount deposited or remitted will be deemed to have been timely deposited.

* * * * *

§ 31.6302–1T [Removed]

Par. 3. Section 31.6302–1T is removed.

Robert E. Wenzel,

Deputy Commissioner of Internal Revenue.

Approved: May 10, 2001.

Mark A. Weinberger,

Assistant Secretary for Tax Policy.

[FR Doc. 01–12864 Filed 5–22–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Parts 100 and 165

[USCG–2001–9668]

Safety Zones, Security Zones, and Special Local Regulations

AGENCY: Coast Guard, DOT.

ACTION: Notice of temporary rules issued.

SUMMARY: This document provides required notice of substantive rules adopted by the Coast Guard and temporarily effective between January 1, 2001 and March 31, 2001 which were not published in the **Federal Register.** This quarterly notice lists temporary local regulations, security zones, and safety zones of limited duration and for which timely publication in the **Federal Register** was not possible.

DATES: This notice lists temporary Coast Guard regulations that became effective and were terminated between January 1, 2001 and March 31, 2001. This notice also lists three regulations that were effective and terminated between September and December, 2000.

ADDRESSES: The Docket Management Facility maintains the public docket for this notice. Documents indicated in this notice will be available for inspection or copying at the Docket Management Facility, U.S. Department of Transportation, Room PL–401, 400 Seventh Street SW., Washington, DC 20593–0001 between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays. You may electronically access the public docket for this notice on the Internet at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: For questions on this notice, contact Christena Green, Office of Regulations

and Administrative Law, telephone (202) 267–0133. For questions on viewing, or on submitting material to the docket, contact Dorothy Beard, Chief, Dockets, Department of Transportation (202) 366–5149.

SUPPLEMENTARY INFORMATION: District Commanders and Captains of the Port (COTP) must be immediately responsive to the safety needs of the waters within their jurisdiction; therefore, District Commanders and COTPs have been delegated the authority to issue certain local regulations. Safety zones may be established for safety or environmental purposes. A safety zone may be stationary and described by fixed limits or it may be described as a zone around a vessel in motion. Security zones limit access to vessels, ports, or waterfront facilities to prevent injury or damage. Special local regulations are issued to enhance the safety or participants and spectators at regattas and other marine events. Timely publication of these regulations in the **Federal Register** is often precluded when a regulation responds to an emergency, or when an event occurs without sufficient advance notice. However, the affected public is informed of these regulations through Local Notices to Mariners, press releases, and other means. Moreover, actual notification is provided by Coast Guard patrol vessels enforcing the restrictions imposed by the regulation. Because mariners are notified by Coast Guard officials on-scene prior to enforcement action, **Federal Register** notice is not required to place the special local regulation, security zone, or safety zone in effect. However, the Coast Guard, by law, must publish in the **Federal Register** notice of substantive rules adopted. To meet this obligation without imposing undue expense on the public, the Coast Guard periodically publishes a list of these temporary special local regulations, security zones, and safety zones. Permanent regulations are not included in this list because they are published in their entirety in the **Federal Register.** Temporary regulations may also be published in their entirety if sufficient time is available to do so before they are placed in effect or terminated. The safety zones, special local regulations and security zones listed in this notice have been exempted from review under Executive Order 12866 because of their emergency nature, or limited scope and temporary effectiveness.

The following regulations were placed in effect temporarily during the period January 1, 2001 and March 31, 2001, unless otherwise indicated. This notice also includes 3 regulations that were not received in time to be included on the quarterly notices for the third and fourth quarters of 2000.

Dated: May 17, 2001.

S.G. Venckus,

Chief, Office of Regulations and Administrative Law.

DISTRICT QUARTERLY REPORT

District Docket	Location	Type	Effective date
01–00–003	Boston, MA	Safety Zone	01/05/2001
01–01–005	Boston, MA	Safety Zone	01/13/2001
01–01–006	Newport, RI	Safety Zone	03/03/2001
01–01–007	Boston, MA	Safety Zone	01/18/2001
01–01–012	Bath Iron Works, Bath, ME	Safety Zone	02/11/2001
01–01–027	USS Boone Port Visit, Newport, RI	Security Zone	02/23/2001
01–01–029	Narragansett Bay, Newport, RI	Safety Zone	03/29/2001
01–01–035	Boston, MA	Safety Zone	03/16/2001
01–01–039	USS De Wert Port Visit, Newport, RI	Safety Zone	03/19/2001
01–01–042	Portland, ME	Security Zone	03/23/2001
01–01–044	Port of NY/NY	Safety Zone	03/24/2001
05–01–002	Washington, DC	Safety Zone	01/18/2001
09–01–007	Hennepin Bridge, Hennepin, IL	Safety Zone	03/22/2001
09–01–016	Manitowoc, WI	Safety Zone	03/17/2001
13–01–001	Quillayute River, WA	Safety Zone	02/02/2001

COTP QUARTERLY REPORT

COTP Docket	Location	Type	Effective Date
Charleston 01–010	Charleston, SC	Safety Zone	02/08/2001
Guam 01–001	Outer APRA Harbor, Guam	Safety Zone	01/24/2001
Guam 01–002	North of Glass Breakwater, Guam	Safety Zone	01/25/2001
Honolulu 01–002	Hawaii, Kaiwi Channel, Pacific Ocean	Safety Zone	02/24/2001
Honolulu 01–003	Kaiwi, Hawaii	Security Zone	03/20/2001
Honolulu 01–004	Kawaii, Kaiwi Channel, Pacific Ocean	Safety Zone	02/09/2001
Houston-Galveston 01–002	Houston, TX	Safety Zone	01/08/2001
Houston-Galveston 01–001	Houston, TX	Safety Zone	01/05/2001
Jacksonville 01–016	Indian River, Cocoa, FL	Safety Zone	02/24/2001
Jacksonville 01–018	St. Johns River, Palatka, FL	Safety Zone	03/03/2001
Jacksonville 01–021	Cocoa Beach, FL	Safety Zone	03/24/2001
LA/LB 01–001	Queens Gate, Long Beach, CA	Safety Zone	02/15/2001
Memphis 01–001	Mississippi River, M. 727 to 729.5	Safety Zone	02/20/2001
Memphis 01–002	Mississippi River, M. 532 to 525	Safety Zone	02/26/2001
Memphis 01–003	Mississippi River, M. 532 to 525	Safety Zone	03/01/2001
Memphis 01–004	Mississippi River, M. 555 to 550	Safety Zone	03/03/2001
Mobile 01–003	Mobile River at Pier 3 AND 4	Security Zone	02/02/2001
Mobile 01–004	Port of Gulfport, MS	Security Zone	02/03/2001
New Orleans 01–002	LWR Mississippi River, M 95 to 98	Safety Zone	02/14/2001
New Orleans 01–004	LWR Mississippi River, M 95.5	Security Zone	02/21/2001

COTP QUARTERLY REPORT—Continued

COTP Docket	Location	Type	Effective Date
New Orleans 01–005	LWR Mississippi River, M 95 to 96	Safety Zone	02/26/2001
New Orleans 01–006	LWR Mississippi River, M 94 to 96	Safety Zone	03/11/2001
New Orleans 01–007	LWR Mississippi River, M 94 to 96	Safety Zone	03/15/2001
San Diego 01–001	Lake Havasu, Colorado River, AZ	Safety Zone	03/03/2001
San Juan 01–006	Guayanilla, Puerto Rico	Safety Zone	02/05/2001
Savannah 01–022	Savannah, GA	Security Zone	03/14/2001
Savannah	Savannah, GA	Security Zone	03/19/2001
Tampa 01–004	Tampa Bay, FL	Safety Zone	01/20/2001
Wilmington 01–001	Wilmington, North Carolina	Safety Zone	03/27/2001

REGULATIONS NOT ON PREVIOUS 3RD AND 4TH QUARTERLY REPORT

District/COTP	Location	Type	Effective Date
Guam 00–31	Kilo Wharf, APRA Harbor Guam	Safety Zone	09/18/00
Guam 00–034	Agat Bay, Guam	Safety Zone	12/12/00
New Orleans 00–039	LWR Mississippi	Safety Zone	11/30/00

[FR Doc. 01–12976 Filed 4–22–01; 8:45 am]

BILLING CODE 4910–15–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD01–01–063]

RIN 2115–AA97

Safety and Security Zones: USS Samuel Eliot Morison Port Visit, Newport, RI

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing temporary safety and security zones off the coast of Newport Naval Station, Newport, Rhode Island, during the port visit of the USS SAMUEL ELIOT MORISON to the Newport Naval Station, Newport, Rhode Island. The safety and security zone are needed to safeguard the public, the area encompassing Coddington Cove and the USS SAMUEL ELIOT MORISON and her crew from sabotage or other subversive acts, accidents, or other causes of a similar nature. Entry into these zones is prohibited unless authorized by the Captain of the Port, Providence, Rhode Island or his authorized patrol representative.

DATES: This rule is effective from 6 a.m., Monday, May 21, 2001, to 12 midnight on Friday, May 25, 2001.

ADDRESSES: Documents as indicated in this preamble are available for inspection and copying at Marine Safety Office Providence, 20 Risho Avenue, East Providence, Rhode Island between the hours of 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: LT Casey L. Chmielewski at Marine Safety Office Providence, (401) 435–2335.

SUPPLEMENTARY INFORMATION:

Regulatory Information

Pursuant to 5 U.S.C. 553, a notice of proposed rulemaking (NPRM) was not published for this regulation. Good cause exists for making it effective less than 30 days after **Federal Register** publication. Good cause exists for not publishing a NPRM for this regulation. Due to the sensitive and unpredictable nature of the USS SAMUEL ELIOT MORISON's schedule, the Coast Guard received insufficient notice to publish proposed rules in advance of the event. Any delay encountered in this regulation's effective date would be contrary to public interest since immediate action is needed to protect the USS SAMUEL ELIOT MORISON, her crew, the public and the area adjoining Coddington Cove.

Background and Purpose

From May 21, 2001, to May 25, 2001, the USS SAMUEL ELIOT MORISON will be berthed at Pier 2 on the Newport Naval Station, Newport, RI. Pier 2 is located within Coddington Cove, along the East Passage of Narragansett Bay. The safety and security zones are needed to protect the USS SAMUEL ELIOT MORISON, her crew and the public from harmful or subversive acts, accidents or other causes of a similar nature in the vicinity of Coddington Cove. The safety and security zones have identical boundaries. All persons, other than those approved by the Captain of the Port or his authorized patrol representative will be prohibited from the zones. The zones encompass the area within a line drawn from the western most edge of the chartered breakwater to the western most edge of Pier 1. The public will be made aware of the safety and security zones through a Broadcast Notice to Mariners made from U.S. Coast Guard Group Woods Hole. U.S. Navy personnel will assist in the enforcement of these zones.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. The Office of Management and Budget has not reviewed it under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The sizes of the zones are the minimum necessary to provide adequate protection for the USS SAMUEL ELIOT MORISON, her crew, adjoining areas, and the public. The entities most likely to be affected are lobstermen engaged in setting and retrieving pots and pleasure craft engaged in recreational activities and sightseeing. These individuals and vessels have ample space outside of the safety and security zones to engage in these activities and therefore they will not be subject to undue hardship. Commercial vessels, excluding lobstermen, do not normally transit the area of the safety and security zones. Any lobstermen who have gear deployed within the safety and security

zones, may request permission from the COTP or his authorized patrol representative to enter the zones to retrieve their gear. Any hardships experienced by persons or vessels are considered minimal compared to the national interest in protecting the USS SAMUEL ELIOT MORISON and the public.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), we considered whether this proposal will have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this final rule will not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit into Coddington Cove from May 21, 2001 to May 25, 2001. The safety and security zones will not have a significant economic impact on a substantial number of small entities for the following reasons. Vessel traffic can pass safely around the area and only a small number of commercial fishing vessels operate in the area. Vessels engaged in recreational activities, sightseeing and commercial fishing have ample space outside of the safety and security zones to engage in these activities. Before the effective period, we will issue maritime advisories widely available to users of the area.

Assistance for Small Entities

Under subsection 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), the Coast Guard wants to assist small entities in understanding this final rule so that they can better evaluate its effects on them and participate in the rulemaking. If your small business or organization would be affected by this final rule and you have questions concerning its provisions or options for compliance, please call LT Casey Chmielewski, telephone (401) 435–2335. Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comments on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

This rule calls for no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

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

Unfunded Mandates

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

Taking Of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments. A rule with tribal implications has a substantial direct effect on one or more Indian tribe, 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.

Environment

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

List of Subjects in 33 CFR Part 165

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

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

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

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

2. Add temporary § 165.T01–063 to read as follows:

§ 165.T01–063 Safety and Security Zones: USS SAMUEL ELIOT MORISON Port Visit; Newport, RI.

(a) Location. The following area has been declared both a safety zone and a security zone: From a point beginning on land at Latitude 41 degrees 32′13″ N, Longitude 071 degrees 18′43″ W; thence westward along the breakwater to a point on the breakwater at Latitude 41 degrees 31′58″ N, Longitude 071 degrees 19′28″ W; thence southeasterly 1100 yards to a point on the end of Pier 1 at Latitude 41 degrees 31′38″ N, Longitude 071 degrees 19′06″ W; thence east to a point on land at Latitude 41 degrees 31′43″ N, Longitude 071 degrees 18′47″ W; thence north along the shoreline to the beginning point.

(b) Effective date. This rule is effective from 6 a.m. on Monday May 21, 2001, until 12 midnight on Friday, May 25, 2001.

(c) Regulations.

(1) In accordance with the general regulations in §§ 165.23 and 165.33 of this part, entry into or movement within these zones is prohibited unless authorized by the COTP Providence or his authorized patrol representative.

(2) No person may swim upon or below the surface of the water within the boundaries of the safety and security zones.

(3) All persons and vessels shall comply with the instructions of the COTP, the designated on-scene U.S. Coast Guard or Navy patrol personnel. U.S. Coast Guard patrol personnel include commissioned, warrant, and petty officers of the U.S. Coast Guard. Navy patrol personnel include commissioned, warrant, and petty officers of the U.S. Navy.

(4) The general regulations covering safety and security zones in §§ 165.23 and 165.33, respectively, of this part apply.

Dated: May 10, 2001.

Mark G. VanHaverbeke,

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

[FR Doc. 01–12977 Filed 5–22–01; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD09–01–026]

RIN 2115–AA97

Safety Zone: Chicago Harbor, Chicago, IL

AGENCY: Coast Guard, DOT.

ACTION: Temporary Final Rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for the WXRT fireworks display taking place in the Chicago Harbor over Memorial Day weekend. The safety zone is necessary for the protection and safety of passengers and vessels during the fireworks display. The safety zone is intended to restrict vessel traffic from an area of the Chicago Harbor and, in particular, the Monroe Street Harbor area. During this event, vessels will be unable to enter or exit the Monroe Street Harbor.

DATES: This temporary final rule is effective from 9 p.m. until 10 p.m. on May 26, 2001 and May 27, 2001.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket CGD09–01–026 and are available for inspection or copying at: U.S. Coast Guard Marine Safety Office Chicago, 215 W. 83rd Street, Suite D, Burr Ridge, Illinois and are available for inspection or copying between 9:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: MST2 Mike Hogan, U.S. Coast Guard Marine Safety Office Chicago, 215 W. 83rd Street, Burr Ridge, Illinois 60521. The telephone number is (630) 986–2175.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM, and under 5 U.S.C. 553(d)(3), good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. The permit application was not received in time to publish an NPRM followed by a final rule before the necessary effective date. Delaying this rule would be contrary to the public interest of ensuring the safety of spectators and vessels during this event and immediate action is necessary to prevent possible loss of life or property. The Coast Guard has not received any complaints or negative comments previously with regard to this event.

Background and Purpose

A temporary safety zone is necessary to ensure the safety of vessels and spectators from the hazards associated with fireworks displays. Based on recent accidents that have occurred in other Captain of the Port zones, and the explosive hazard of fireworks, the Captain of the Port Chicago has determined firework launches in close proximity to watercraft pose significant risks to public safety and property. The likely combination of large numbers of recreational vessels, congested waterways, darkness punctuated by bright flashes of light, alcohol use, and debris falling into the water could easily result in serious injuries or fatalities. Establishing a safety zone to control vessel movement around the location of the launch platforms will help ensure the safety of person and property at these events and help minimize the associated risk.

The safety zone will encompass the waters of the Chicago Harbor bounded by the following positions: starting at 41°52.43 N, 087°36.43 W, thence East to 41°52.43 N, 087°36.16 W, thence South to 41°52.28 N, 087°36.16 W, thence West to 41°52.28 N, 087°36.43 W, thence North back to the first position. This area includes a portion of the Monroe Street Harbor including the Grant Park anchorage areas (33 CFR 110.83), the entrance to the Monroe Street Harbor, as well as a portion outside the breakwall for the Monroe Street Harbor.

All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on scene patrol personnel. Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Chicago or his designated on scene representative. The Captain of the Port or his designated on scene representative may be contacted via VHF Channel 16.

Regulatory Evaluation

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. The Office of Management and Budget has not reviewed this rule under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979). We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary.

This determination is based on the minimal time that vessels will be restricted from the zone, and the zone is in an area where the Coast Guard expects insignificant adverse impact to mariners from the zones' activation.

Small Entities

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

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

This rule would affect the following entities, some of which might be small entities: The owners or operators of commercial vessels intending to transit a portion of an activated safety zone.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: The zone is only in effect for few hours on the day of the event. Vessel traffic can safely pass outside the safety zone during the event. Traffic may be allowed to pass through the safety zone under Coast Guard escort with the permission of the Captain of the Port Chicago. Before the effective period, we will issue maritime advisories widely available to users of

the Port of Chicago by the Ninth Coast Guard District Local Notice to Mariners, Marine information broadcasts, and facsimile broadcasts may also be made. Additionally, the Coast Guard has not received any negative reports from small entities affected during this display in previous years.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we want to assist small entities in understanding this rule so that they can better evaluate its effects and participate in the rulemaking process. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Marine Safety Office Chicago (see **ADDRESSES.**)

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

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

The Coast Guard has analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

Environment

We have considered the environmental impact of this rule and concluded that, under figure 2–1, paragraph 32(g) of Commandant Instruction M16475.1C, this rule is categorically excluded from further environmental documentation. A written categorical exclusion determination is available in the docket for inspection or copying where indicated under **ADDRESSES.**

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it 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.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

2. A new temporary section 165.T09–013 is added to read as follows:

§ 165.T09–013 Safety Zone: Chicago Harbor, Chicago, Illinois.

(a) *Location.* The safety zone will encompass the waters of the Chicago Harbor, including a portion of the Monroe Street Harbor and the entrance to the Monroe Street Harbor, bounded by the following positions: starting at 41°52.43 N, 087°36.43 W, thence East to 41°52.43 N, 087°36.16 W, thence South to 41°52.28 N, 087°36.16 W, thence West to 41°52.28 N, 087°36.43 W, thence North back to the first position.

(b) *Effective time and date.* This section is effective from 9 p.m. (local time) until 10 p.m. (local time) on May 26, 2001. In the event the fireworks display is cancelled due to inclement weather, this section is effective during these same times on May 27, 2001. The Coast Guard Captain of the Port, Chicago, and the designated Patrol Commander have the authority to terminate this event at any time. The designated on scene Patrol Commander may be contacted via VHF Channel 16.

(c) *Regulations.* In accordance with the general regulations in 165.23 of this part, entry into this zone is prohibited unless authorized by the Coast Guard Captain of the Port Chicago, or his designated on scene representative.

Dated: May 11, 2001.

R.E. Seebald,

Captain, U.S. Coast Guard, Captain of the Port Chicago.

[FR Doc. 01–12978 Filed 5–22–01; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[WV–042–6011a ; FRL–6983–6]

Approval and Promulgation of State Plans for Designated Facilities and Pollutants; State of West Virginia; Control of Emissions from Existing Municipal Solid Waste Landfills

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: This action approves the municipal solid waste (MSW) landfill

111(d) plan submitted by the State of West Virginia, Division of Environmental Protection (DEP), for the purpose of controlling landfill gas emissions from existing landfills. Also, this action delegates EPA authority to enforce the Federal landfill 111(d) plan's compliance schedules. The plan was submitted to fulfill requirements of the Clean Air Act (CAA). The West Virginia (WV) plan establishes emission limits for existing MSW landfills, and provides for the implementation and enforcement of those limits. Except as noted, herein, upon the effective date of this rule approving West Virginia's 111(d) plan for landfills, the Federal plan promulgated on November 8, 1999, will no longer apply in West Virginia.

DATES: This final rule is effective July 23, 2001 unless within June 22, 2001 adverse or critical comments are received. If adverse comment is received, EPA 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: Comments may be mailed to David L. Arnold, Chief, Air Quality Planning and Information Services Branch, Mailcode 3AP21, 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 following locations: Air Protection Division, Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania; and the West Virginia Division of Environmental Protection, Office of Air Quality, 7012 MacCorkle Avenue, South East, Charleston, West Virginia 25304–2943.

FOR FURTHER INFORMATION CONTACT: James B. Topsale at (215) 814–2190, or by e-mail at topsale.jim@epa.gov.

SUPPLEMENTARY INFORMATION:

This document is divided into Sections I—V, and answers the questions posed below.

I. General Provisions

What action is EPA approving?
What is a State 111(d) plan?
What pollutant(s) will this action control?
What are the expected environmental and public health benefits from controlling landfill gas (LFG) emissions?

II. Federal Requirements the West Virginia DEP 111(d) Plan Must Meet for Approval

What general EPA requirements must the DEP meet to receive approval of its landfill 111(d) plan?
What does the West Virginia State Plan contain?
Does the West Virginia plan meet all EPA requirements for approval?

III. Requirements for Affected MSW Landfill Owners/Operators Must Meet

How do I determine if my MSW landfill is subject to the WV 111(d) plan?
What general requirements must I meet as an affected landfill owner/operator who is subject to the EPA approved WV plan?
If my landfill is subject to the plan's requirement for installation of a LFG collection and control system, what emissions limits must I meet, and in what time frame?
Are there any operational requirements for my installed LFG collection and control system?
What are the testing, monitoring, recordkeeping, and reporting requirements for my landfill?
Am I required to apply for a Title V permit?
If I modify or expand the capacity of my landfill, what additional requirements must I meet?

IV. Final EPA Action

V. Administrative Requirements

I. General Provisions

Question: What action is EPA approving?

Answer: EPA is approving the State of West Virginia (WV) landfill 111(d) plan, as submitted by the WV Division of Environmental Protection (DEP), Office of Air Quality, on May 29, 1998, and as amended on May 15, 2000, and December 20, 2000. Also, EPA is approving the requested delegation of the November 8, 1999 promulgated Federal landfill 111(d) plan (64 FR 60689) generic compliance schedule, including the requirements for the initial design capacity and non-methane organic compound (NMOC) emissions reports. EPA is publishing this approval action without prior proposal because we view this as a noncontroversial action and anticipate no adverse comments.

Question: What is a State 111(d) plan?

Answer: Section 111(d) of the Clean Air Act (CAA) requires that ''designated'' pollutants, controlled under section 111(b) standards of performance for new stationary sources, must also be controlled at existing sources (i.e., designated facilities) in the same source category. Furthermore, section 111(d) requires EPA to establish procedures for state submittal and EPA approval of state plans that implement state adopted emissions guidelines (EG), promulgated by EPA, for the control of designated pollutants and facilities. State 111(d) plans, approved by EPA, implement and provide for federal enforcement of the EG requirements.

Question: What pollutant(s) will this action control?

Answer: The promulgated March 12, 1996 EPA EG (61 FR 9919) are applicable to existing municipal solid waste (MSW) landfills (i.e., the designated facilities) that emit landfill gas (LFG). LFG consists primarily of carbon dioxide, methane, and nonmethane organic compounds (NMOC). MSW landfills are the largest manmade source of methane emissions in the United States. The designated pollutant, NMOC, is a mixture of more than 100 different compounds, including volatile organic compounds (VOC), and hazardous pollutants (HAP), such as vinyl chloride, toluene, and benzene. A collateral benefit in the control of landfill NMOC is the control of methane.

Question: What are the expected environmental and public health benefits from controlling Landfill Gas emissions?

Answer: Studies indicate that MSW landfill gas (LFG) emissions at certain levels can have adverse effects on both public health and welfare. EPA presented its concerns regarding the health and welfare effects of landfill gases in the preamble to the MSW landfill regulations (61 FR 9905). As noted above, MSW landfills emit NMOC that contains HAP, and VOC, including odorous compounds. Exposure to HAP can lead to cancer, respiratory irritation, and damage to the nervous system. VOC emissions contribute to the formation of ozone which can result in adverse affects on human health and vegetation. Methane contributes to global climate change and can also result in fires or explosions, if the gas accumulates in physical structures on or off the landfill site. The WV 111(d) plan will serve to significantly reduce these potential problems associated with LFG emissions.

II. Federal Requirements the West Virginia DEP's 111(d) Plan Must Meet for Approval

Question: What general EPA requirements must the West Virginia DEP meet to receive approval of the WV 111(d) plan (the ''plan'')?

Answer: EPA promulgated detailed procedures for submitting and approving State plans in 40 CFR part 60, subpart B. Also, EPA promulgated the MSW landfill EG (subpart Cc) and a related NSPS (subpart WWW) on March 12, 1996, and amended them both on June 16, 1998 and February 24, 1999. The West Virginia plan must meet the requirements of (1) 40 CFR part 60, subpart Cc, §§ 60.30c through 60.36c, and the related subpart WWW; and (2) 40 CFR part 60, subpart B, §§ 60.23 through 26. In addition, a State requesting delegation of authority under the Federal 111(d) plan must

demonstrate that it has adequate resources and the legal authority to administer and enforce the program. The DEP has made the required demonstration with respect to the delegated tasks.

States were required to submit their MSW landfill 111(d) plans to EPA on December 12, 1996, pursuant to the provisions of section 111(d) of the CAA and 40 CFR part 60, subpart B, and the promulgated MSW landfill EG. As a result of litigation over the landfill rule, on November 13, 1997, EPA issued a notice of proposed settlement in *National Solid Wastes Management Association* v. *Browner, et al.,* No. 96–1152 (D.C. Cir), in accordance with section 113(g) of the Act. *See* 62 FR 60898. Pursuant to the proposed settlement agreement, EPA published, in the **Federal Register,** a direct final rulemaking on June 16, 1998, in which EPA amended 40 CFR part 60, subparts Cc and WWW, to add clarifying language, to make editorial amendments, and to correct typographical errors. The proposed settlement did not vacate or void the March 12, 1996 MSW landfill EG or NSPS. *See* 63 FR 32743–32753, 32783–32784. In part, these amendments clarified the EG regulatory text with respect to landfill mass and volume applicability and Title V permit requirements. On February 24, 1999 (64 FR 9258), EPA amended the MSW landfill rule to further clarify the regulatory text and correct errors with respect to the due date for the submittal of the initial landfill design capacity and emissions rate reports, and the definition of landfill ''modification''. In summary, these amendments relate to four substantive EG changes: (1) Landfill mass ''and '' volume applicability threshold language, (2) timely Title V permit applications, (3) the definition of landfill ''modification'', and (4) the due date for submittal of initial design capacity and NMOC emissions rate reports. Additional technical corrections to the NSPS were published on April 10, 2000 (65 FR 18906).

Question: What does the West Virginia State Plan contain?

Answer: Consistent with the requirements of subparts B and Cc, as amended, the West Virginia Plan contains the following:

1. A demonstration of the State's legal authority to implement the section 111(d) State Plan;
2. West Virginia Rule 45CSR23, as the enforceable mechanism;
3. A source inventory of known designated facilities, including NMOC emissions rate estimates;
4. Emission collection and control requirements that are no less stringent than those in subpart Cc;
5. A description of the West Virginia process for the review and approval of site-specific gas collection and control design plans
6. A source compliance schedule that requires final compliance no later than that required in EPA's November 8, 1999 Federal 111(d) plan (64 FR 60703);
7. Source testing, monitoring, recordkeeping, and reporting requirements;
8. Records of the public hearings on the State Plan; and
9. Provision for State submittal to EPA of annual reports on progress in plan enforcement.

On May 29, 1998, the DEP submitted the WV 111(d) plan that identifies existing MSW landfills in the State of West Virginia and establishes standards for the control of landfill gas emissions from these facilities. The plan is entitled: ''West Virginia Division of Environmental Protection Office of Air Quality State Plan for Municipal Solid Waste (MSW) Landfills''. The State has adopted 40 CFR part 60, subparts Cc and WWW, as amended, by reference, such that they apply to both new and existing municipal solid waste (MSW) landfills under one regulation. The adoption of this regulation is incorporated into the State of West Virginia ''*Title 45 Legislative Rule Division of Environmental Protection Office of Air Quality*'' in Series 23 to Prevent and Control Emissions from Municipal Solid Waste Landfills.

On May 1, 1998, the DEP MSW landfill regulation 45CSR23 became effective. In response to the amended EG and NSPS requirements, the regulation was amended, and became effective on May 1, 2000. 45CFR23 applies to existing MSW landfills and incorporates by reference (IBR) related and applicable new source performance standards, subpart WWW, requirements. Also the amended plan, submitted to EPA on May 15, 2000, contains a request for delegation of EPA's November 8, 1999 Federal landfill 111(d) plan (i.e., 40 CFR part 60, subpart GGG) compliance schedule requirements. In a December 20, 2000 letter to EPA, the DEP clarified that its delegation request included the Federal plan's initial design capacity and NMOC emission rate reporting requirements.

Question: Does the West Virginia plan meet all EPA requirements for approval?

Answer: Yes. The DEP has submitted a 111(d) plan that conforms to all EPA requirements under 40 CFR part 60, subparts B, Cc, and WWW. Details regarding the approvability of plan elements are included in the technical support document (TSD) associated with this action. A copy of the TSD is available, upon request, from the EPA Regional Office listed in the **ADDRESSES** section of this document.

III. Requirements Affected MSW Landfill Owners/Operators Must Meet

Question: How do I determine if my MSW landfill is subject to the WV 111(d) plan?

Answer: If you commenced construction, reconstruction, or modification of your MSW landfill before May 30, 1991, and have accepted waste at any time since November 8, 1987, or the landfill has additional capacity for future waste deposition, then it is subject to the 111(d) plan requirements.

Question: What general requirements must I meet as an affected landfill owner/operator who is subject to the EPA approved WV plan?

Answer: The plan requires you to submit an initial design capacity report, and possibly a NMOC emissions rate report. If the design capacity of your landfill is equal to or greater than 2.5 million megagrams and 2.5 million cubic meters of MSW, the plan requires you to also submit, concurrently with the design capacity report, an initial NMOC emissions rate report. As required under 40 CFR 62.14355(a) of the Federal landfill 111(d) plan, both the initial capacity and NMOC emissions rate reports were due April 6, 2000. The initial NMOC and any subsequent emissions rate determinations are required to be calculated according to methods specified in the regulation. If your calculated landfill NMOC emissions rate were 50 megagrams/year, or more per year, then you are required to install a MSW landfill gas collection and control system that meets the design and operational requirements specified in 45CSR 23–3 and 3.3, which incorporates by reference all related and applicable NSPS, Subpart WWW, requirements at 40 CFR 60.759 and 753.

Question: If my landfill is subject to the plan's requirement for installation of a LFG collection and control system, what emissions limits must I meet, and in what time frame?

Answer: You must install a landfill gas collection and control system to reduce the collected NMOC emissions by 98 weight-percent, or reduce the emissions from the control device to a concentration of 20 parts per million by volume, or less, for an enclosed combustor. Your final compliance date

and the related increments of progress are dependent upon when your annual emissions rate report initially shows that NMOC emissions are ≥ 50 megagrams per year (Mg/yr). Based on the Federal plan requirements at 40 CFR 62.14356(c), you must meet the following compliance schedule and increments of progress, except as provided in 40 CFR 62.14356(d):

DELEGATED COMPLIANCE SCHEDULE AND INCREMENTS OF PROGRESS

Increment(s)	Compliance date(s)	
	4/6/00 annual report showing NMOC emissions ≥50 Mg/yr	1st subsequent annual report showing NMOC emissions ≥50 Mg/yr.
Submit final control plan	April 6, 2001	1 year after report.
Award Contracts	December 6, 2001	20 months after report.
Begin on-site construction	April 6, 2002	24 months after report.
Complete on-site construction	October 6, 2002	30 months after report.
Final compliance	October 6, 2002	30 months after report.

Question: Are there any operation requirements for my installed LFG collection and control system?

Answer: Yes, there are operational requirements. The operational requirements are summarized below:

1. Operate the collection system wellheads at negative pressure;
2. Operate the interior collection wellheads with a landfill gas temperature less than 550°C and with either a nitrogen level less than 20 percent, or an oxygen level less than 5 percent;
3. Operate the collection system so that the methane gas concentration is less than 500 parts per million by volume above background at the surface of the landfill;
4. Operate the collection system so that the colleted gases are vented to the control system; and
5. Operate the collection and control system at all times.

Details regarding all operational requirements are stipulated in Subpart WWW, 40 CFR 60.753

Question: What are the testing, monitoring, recordkeeping, and reporting requirements for my landfill?

Answer: Your testing, monitoring, recordkeeping, and reporting requirements are summarized below:

Performance testing, to determine compliance with 98 weight-percent efficiency or the 20 ppmv outlet concentration level, must be completed within 180 days after construction completion on the collection and control system. Testing methods must be consistent with EPA source test methods referenced in the DEP landfill regulation.

Monitoring temperature on a continuous basis is required for enclosed combustion control devices, and flares. Measurement of the gas flow rate from the collection system to an enclosed combustion device, or flare, is required at least once every 15 minutes, unless the bypass line valves are secured in a closed position. Monthly monitoring requirements are specified in the regulation for the gas collection system. Gas wellhead monitored parameters include gauge pressure, nitrogen or oxygen concentration, and temperature. Quarterly monitoring is required of NMOC surface concentrations.

Reporting requirements relate to landfill design capacity and NMOC emission rates; submittal of a collection and control system design plan; and system start-up, performance testing, operations, closure notification, and equipment removal.

Records must be keep on-site of maximum design capacity, current amount of solid waste in-place, year-by-year waste acceptance rate; up-to-date readily accessible records for the life of the control equipment of certain data measured during the initial performance test or compliance determination; and control device vendor specifications until removal.

Details regarding testing, monitoring, recordkeeping, and reporting requirements are stipulated in subpart WWW, 40 CFR 60.754, 60.755, 60.756, and 60.757.

Question: Am I required to apply for a Title V permit?

Answer: Yes, if your landfill design capacity is equal to or greater than 2.5 million Mg and 2.5 million cubic meters. As provided under the delegated provisions of the Federal plan, you are required to apply for a Title V permit no later than April 7, 2001.

Question: If I modify or expand the capacity of my landfill, what additional requirements must I meet?

Answer: Any MSW landfill that commences construction, modification, or reconstruction on or after May 30, 1991 is subject to the EPA new source performance standards (NSPS) for landfills, 40 CFR part 60, subpart WWW.

IV. Final EPA Action

Based upon the rationale discussed, herein, and in further detail in the TSD associated with this action, EPA is approving the West Virginia MSW landfill 111(d) plan, including the delegation of the Federal plan's compliance schedule and initial reporting requirements. Except as noted, herein, upon the effective date of this rule approving West Virginia's 111(d) plan for landfills, the Federal plan promulgated on November 8, 1999, will no longer apply in West Virginia. As provided by 40 CFR 60.28(c), any revisions to the WV section 111(d) plan or associated regulations will not be considered part of the applicable plan until submitted by the DEP in accordance with 40 CFR 60.28(a) or (b), as applicable, and until approved by EPA in accordance with 40 CFR part 60, subpart B, requirements.

EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the 111(d) plan should relevant adverse or critical comments be filed. This rule will be effective July 23, 2001 without further notice unless the Agency receives relevant adverse comments by June 22, 2001. If EPA receives such comments, then EPA will publish a document withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on this rule. Only parties interested in commenting on this rule should do so at this time. If no such comments are received, the public is advised that this

rule will be effective on July 23, 2001 and no further action will be taken on the proposed rule.

V. 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 111(d) plan 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 111(d) plan submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a 111(d) plan submission, to use VCS in place of a 111(d) plan 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 West Virginia's 111(d) plan for Municipal Solid Waste landfills 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 62

Environmental protection, Air pollution control, Hydrocarbons, Reporting and recordkeeping requirements.

Dated: May 1, 2000.

William C. Early,

Acting Regional Administrator, Region III.

40 CFR Part 62, Subpart XX, is amended as follows:

PART 62—[AMENDED]

1. The authority citation for Part 62 continues to read as follows:

Authority: 42 U.S.C. 7401–7642.

Subpart XX—West Virginia

2. A new center heading, and §§ 62.12125, 62.12126, and 62.12127 are added to read as follows:

Landfill Gas Emissions From Existing Municipal Solid Waste Landfills (Section 111(d)) Plan)

§ 62.12125 Identification of plan.

West Virginia 111(d) plan for municipal solid waste landfills, including delegation of Federal plan (64 FR 60689) compliance schedule and reporting requirements, as submitted to the Environmental Protection Agency on May 29, 1998, and as amended on May 15, 2000, and December 20, 2000.

§ 62.12126 Identification of sources.

The plan applies to all existing West Virginia municipal solid waste landfills for which construction, reconstruction, or modification was commenced before May 30, 1991 and that accepted waste at any time since November 8, 1987, or that have additional capacity available for future waste deposition, as described in 40 CFR part 60, subpart Cc.

§ 62.12127 Effective date.

The effective date of the plan for municipal solid waste landfills is July 23, 2001.

[FR Doc. 01–12888 Filed 5–22–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 82

[FRL–6982–1]

Protection of Stratospheric Ozone: Notice 15 for Significant New Alternatives Policy Program

AGENCY: Environmental Protection Agency.

ACTION: Notice of acceptability.

SUMMARY: This document expands the list of acceptable substitutes for ozone-depleting substances (ODS) under the

U.S. Environmental Protection Agency's (EPA) Significant New Alternatives Policy (SNAP) program. The substitutes are for use in the refrigeration and air conditioning sector.

EFFECTIVE DATE: May 23, 2001.

ADDRESSES: Information relevant to this document is contained in Air Docket A–91–42, Room M–1500, Waterside Mall, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, telephone: (202) 260–7548. You may inspect the docket between 8 a.m. and 5:30 p.m. weekdays. As provided in 40 CFR part 2, a reasonable fee may be charged for photocopying. Submissions to EPA for the use of the substitutes listed in this document may be found under category VI–D of EPA docket A–91–42. Other materials supporting the decisions herein may be found under category IX–B of EPA docket A–91–42.

FOR FURTHER INFORMATION CONTACT: Dave Godwin by telephone at (202) 564–3517, by fax at (202) 565–2155, by e-mail at Godwin.Dave@epa.gov, or by mail at U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Mail Code 6205J, Washington, DC 20460. Overnight or courier deliveries should be sent to 501 3rd Street, NW., Washington, DC 20001.

Further information can be found by calling the Stratospheric Protection Hotline at (800) 296–1996, Monday through Friday, between the hours of 10 a.m. and 4 p.m. (Eastern Standard Time). For more information on the Agency's process for administering the SNAP program or criteria for evaluation of substitutes, refer to the original SNAP rulemaking published in the **Federal Register** on March 18, 1994 (59 FR 13044). Notices and rulemakings under the SNAP program, as well as other EPA publications on protection of stratospheric ozone, are available from EPA's Ozone Depletion World Wide Web site at http://www.epa.gov/ozone/ including the SNAP portion at http://www.epa.gov/ozone/title6/snap/.

SUPPLEMENTARY INFORMATION:

I. Listing of Acceptable Substitutes
Refrigeration and Air Conditioning
II. Section 612 Program
A. Statutory Requirements
B. Regulatory History
Appendix A—Summary of Acceptable Decisions

I. Listing of Acceptable Substitutes

This section presents EPA's most recent acceptable listing decisions for substitutes in the refrigeration and air conditioning sector. For copies of the full list of SNAP decisions in all industrial sectors, contact the EPA Stratospheric Protection Hotline at (800) 296–1996.

The sections below discuss the substitute listing in detail. Appendix A contains a table summarizing today's listing decisions. The comments contained in the table provide additional information, but are not legally binding under section 612 of the Clean Air Act. In addition, these comments are not a comprehensive list of other legal obligations you may need to meet when using the substitute. Although you are not required to follow recommendations in the comments section of the table to use a substitute, EPA strongly encourages you to apply the comments when using these substitutes. In many instances, the comments simply refer to standard operating practices in existing industry and/or building-code standards. Thus, many of these comments, if adopted, would not require significant changes to existing operating practices.

Refrigeration and Air Conditioning

1. HFC–134a/HBr (92/8)

The chemical blend of 92% by weight HFC–134a (1,1,1,2-tetrafluoroethane) and 8% by weight HBr (hydrogen bromide) is acceptable for use as the primary heat transfer fluid in new secondary-loop equipment for not-in-kind replacements of systems using:

- CFC–12 and R–502 in retail food refrigeration; and
- CFC–12 and R–502 in cold storage warehouses

HFC–134a/HBr (92/8) is also acceptable as a substitute in new equipment for:

- CFC–11, CFC–12, CFC–114, CFC–115, and R–502 in industrial process refrigeration; and
- CFC–12 and R–502 in refrigerated transport

The submitter of this blend claims that the blend is protected under U.S. Patent Number 5,989,448. This submission may be found under EPA Air Docket A–91–42, item VI–D–275.

Environmental information: The ozone depletion potential (ODP) of HBr is estimated to be less than 0.02, while its atmospheric lifetime is estimated at 2 to 7 days (ICF Risk Screen, EPA Air Docket A–91–42, item IX–B–68).

Due to its short atmospheric lifetime, the global warming potential (GWP) of HBr is very low, while the GWP of HFC–134a is 1600 (100-year integrated time horizon referenced to carbon dioxide) [WMO, Scientific Assessment of Ozone Depletion: 1998]. The contribution of this blend to global warming will be minimized in each end-use through the implementation of the venting prohibition under section 608(c)(2) of the Clean Air Act (see 40 CFR part 82, subpart F). This section and EPA's implementing regulations prohibit venting or release of substitutes for class I and class II ozone depleting substances used in refrigeration and air-conditioning and require proper handling and disposal of these substances, such as recycling or recovery.

HFC–134a has been exempted from the list of volatile organic compounds (VOCs) under Clean Air Act regulations (40 CFR 51.000) for purposes of the State implementation plan (SIP) provisions of the Clean Air Act; HBr has not. Emissions of HBr should be controlled in accordance with VOC restrictions in approved SIPs.

Flammability information: Neither component of this blend is flammable.

Toxicity and exposure data: HBr has an OSHA-established eight-hour Permissible Exposure Limit (PEL) of only 3 ppm. The American Council of Governmental Industrial Hygienists (ACGIH) has recommended a Threshold Limit Value (TLV) of 3 ppm as well. EPA has previously listed HFC–134a, with a Workplace Environmental Exposure Level (WEELs) from the American Industrial Hygiene Association (AIHA) of 1000 ppm, as an acceptable substitute in a variety of applications. EPA expects users of this blend to follow all recommendations specified in the Material Safety Data Sheets (MSDSs) for HBr, HFC–134a and the blend. The Agency also expects that users will adhere to any acceptable exposure limits set by any voluntary consensus standards organization, including the TLVs from the ACGIH and WEELs from the AIHA as stated above.

Because of the health risks, EPA has at this time only evaluated this blend in limited applications. Within the retail food refrigeration and cold storage warehouse end uses, EPA is finding the use of HFC–134a/HBr (92/8) acceptable only for secondary-loop systems; accidental releases of the chemical in these applications are expected to generate negligible potential exposure to the public and workers. Within the refrigerated transport end use, direct exposure to high quantities of the refrigerant is not likely because of the small charge size and the typical placement of the unit away from direct human contact. Within the industrial process refrigeration end use, such as at chemical or other industrial plants, proper exposure controls and ventilation are generally available as well as established protocols for handling potentially hazardous materials, and therefore overall occupational risk is mitigated.

Additional precautions could include installation of warning signs, worker education and technician training. Such practices will further reduce the likelihood of exposure, and are therefore recommended for all approved end uses.

2. Through 13. PFC–330ST, PFC–550HC, PFC–660HC, PFC–1100HC, PFC–1100LT, PGC–100, PGC–150, PFC–331ST, PFC–551HC, PFC–661HC, PFC–1101HC and PGC–151

The chemical blends submitted to EPA with the unregistered trade names listed above are acceptable for use in new and retrofit equipment as substitutes for:

• CFC–13, CFC–113, CFC–114 and blends thereof in very low temperature refrigeration.

IGC Polycold Systems Inc., the submitter of the above-listed blends, claims that the compositions of these blends, tailored for use in its equipment, are confidential business information. A redacted version of this submission may be found under EPA Air Docket A–91–42, item VI–D–267.

Environmental information: Each of these blends contain one or more hydrochlorofluorocarbon (HCFC) component(s), and thus the blends do not have a zero ozone depletion potential (ODP).

The global warming potentials (GWPs) of some of the blend components are very high; however, the GWPs of the blends as formulated are less than the GWPs of the refrigerants they are replacing and less than most other alternatives approved for use within the very low temperature refrigeration end use. EPA strongly encourages the continued search for lower-GWP alternatives for use in this end use and prompt identification and repair of any leaks that may occur. The contribution of these blends to global warming will be minimized through the implementation of the venting prohibition under section 608(c)(2) of the Clean Air Act (see 40 CFR part 82, subpart F). This section and EPA's implementing regulations prohibit venting or release of substitutes for class I and class II ozone depleting substances used in refrigeration and air-conditioning and require proper handling and disposal of these substances, such as recycling or recovery.

Some components of these blends have not been exempted from listing as VOCs under Clean Air Act regulations for purposes of the SIP program. Emissions should be controlled in accordance with requirements in approved SIPs.

Flammability information: The submitter states that tests conducted by Hauser Engineering Services determined that all of the blends, except PGC–100, PGC–150 and PGC–151, are flammable in accordance with ASTM E–681–85. However, a flammability analysis and risk assessment provided by the submitter found little to no associated risk, due in part to the small charge size used and the low probability of a leak occurring in the semi-hermetically-sealed equipment. To further reduce flammability risks, EPA recommends that adequate personnel training and room ventilation be provided.

Toxicity and exposure data: All components in these blends have eight-hour time-weighted average occupational exposure limits, such as Threshold Limit Values (TLVs) from the American Council of Governmental Industrial Hygienists (ACGIH) and Workplace Environmental Exposure Levels (WEELs) from the American Industrial Hygiene Association (AIHA), on the order of 1,000 ppm, with one exception. Although one component does have a WEEL significantly less than 1,000 ppm, the EPA risk screen and occupational exposure scenarios indicate that likely exposure to this chemical or any of the other components of these blends will remain below the recommended limits within the proposed end use, including manufacture and disposal scenarios. Further, the company's Material Safety Data Sheets (MSDSs) for all 12 blends recommend an acceptable exposure limit (AEL) of 30 ppm. These exposure limits for the blends are lower than the WEELs for the components; therefore, EPA believes that the company's recommended AELs are protective of human health. EPA expects users to follow all recommendations specified in the MSDSs for the blends and other safety precautions common in the refrigeration and air conditioning industry.

14. SP34E

On December 18, 2000, EPA listed SP34E as acceptable for use as a substitute for CFC–12 for retrofit and new motor vehicle air conditioning (65 FR 78979). Based on a final rule promulgated by EPA on October 16, 1996 (61 FR 54029), all substitutes listed as acceptable for use in motor vehicle air conditioning must be used with unique fittings for service ports and refrigerant containers. In the original SP34E listing, low-side and high-side service port fittings, as well as fittings for large refrigerant containers (>20 pounds) were identified, but fittings for small cans were not. Since then, the following fittings have been developed for small cans, and use of these fittings is required to use SP34E in motor vehicle air conditioning systems:

Fitting type	Diameter (inches)	Thread pitch (threads/inch)	Thread direction
Small cans	0.3125 (5/16)	24	Left.

II. Section 612 Program

A. Statutory Requirements

Section 612 of the Clean Air Act authorizes EPA to develop a program for evaluating alternatives to ozone-depleting substances. EPA refers to this program as the Significant New Alternatives Policy (SNAP) program. The major provisions of section 612 are:

• *Rulemaking*—Section 612(c) requires EPA to promulgate rules making it unlawful to replace any class I (chlorofluorocarbon, halon, carbon tetrachloride, methyl chloroform, methyl bromide, and hydrobromofluorocarbon) or class II (hydrochlorofluorocarbon) substance with any substitute that the Administrator determines may present adverse effects to human health or the environment where the Administrator has identified an alternative that (1) reduces the overall risk to human health and the environment, and (2) is currently or potentially available.

• *Listing of Unacceptable/Acceptable Substitutes*—Section 612(c) also requires EPA to publish a list of the substitutes unacceptable for specific uses. EPA must publish a corresponding list of acceptable alternatives for specific uses.

• *Petition Process*—Section 612(d) grants the right to any person to petition EPA to add a substance to or delete a substance from the lists published in accordance with section 612(c). The Agency has 90 days to grant or deny a petition. Where the Agency grants the petition, it must publish the revised lists within an additional six months.

• *90-day Notification*—Section 612(e) directs EPA to require any person who produces a chemical substitute for a class I substance to notify the Agency not less than 90 days before new or *existing* chemicals are introduced into interstate commerce for significant new uses as substitutes for a class I substance. The producer must also provide the Agency with the producer's unpublished health and safety studies on such substitutes.

• *Outreach*—Section 612(b)(1) states that the Administrator shall seek to maximize the use of federal research facilities and resources to assist users of class I and II substances in identifying and developing alternatives to the use of such substances in key commercial applications.

• *Clearinghouse*—Section 612(b)(4) requires the Agency to set up a public clearinghouse of alternative chemicals, product substitutes, and alternative manufacturing processes that are available for products and manufacturing processes which use class I and II substances.

B. Regulatory History

On March 18, 1994, EPA published the final rulemaking (59 FR 13044) which described the process for administering the SNAP program. In the same document, EPA issued its first acceptability lists for substitutes in the major industrial use sectors. These sectors include:

- Refrigeration and air conditioning;
- Foam blowing;
- Solvents cleaning;
- Fire suppression and explosion protection;
- Sterilants;
- Aerosols;
- Adhesives, coatings and inks; and
- Tobacco expansion.

These sectors compose the principal industrial sectors that historically consumed the largest volumes of ozone-depleting compounds.

As described in this original rule for the SNAP program, EPA does not believe that rulemaking procedures are required to list alternatives as acceptable with no limitations. Such listings do not impose any sanction, nor do they remove any prior license to use a substance. Therefore, by this action EPA is adding substances to the list of acceptable alternatives without first requesting comment on new listings.

EPA does, however, believe that notice-and-comment rulemaking is required to place any substance on the list of prohibited substitutes, to list a substance as acceptable only under certain conditions, to list substances as acceptable only for certain uses, or to remove a substance from the lists of prohibited or acceptable substitutes. Updates to these lists are published as separate notices of rulemaking in the **Federal Register**.

The Agency defines a ''substitute'' as any chemical, product substitute, or alternative manufacturing process, whether existing or new, intended for use as a replacement for a class I or class II substance. Anyone who produces a substitute must provide the Agency with health and safety studies on the substitute at least 90 days before introducing it into interstate commerce for significant new use as an alternative. This requirement applies to substitute manufacturers, but may include importers, formulators, or end-users, when they are responsible for introducing a substitute into commerce.

You can find a complete chronology of SNAP decisions and the appropriate **Federal Register** citations from the SNAP section of EPA's Ozone Depletion World Wide Web site at www.epa.gov/ozone/title6/snap/chron.html. This information is also available from the Air Docket (see **ADDRESSES** section above for contact information).

List of Subjects in 40 CFR Part 82

Environmental protection, Administrative practice and procedure, Air pollution control, Reporting and recordkeeping requirements.

Dated: May 7, 2001.

Avis C. Robinson,

Acting Director, Office of Atmospheric Programs, Office of Air and Radiation.

Appendix A.—Summary of Acceptable Decisions

REFRIGERATION AND AIR CONDITIONING

End-Use	Substitute	Recommendation	Comments
Retail food refrigeration, for use as the primary heat transfer fluid in new secondary-loop equipment for not-in-kind replacements of systems.	HFC–134a/HBr (92/8) as a substitute for CFC–12 and R–502.	Acceptable	Users are expected to adhere to the 3 ppm Permissible Exposure Limit and Threshold Limit Value set by OSHA and ACGIH, respectively. Users are expected to follow all recommendations specified in Material Safety Data Sheets for HBr, HFC–134a and the blend. Additional warning signs, worker education and technician training is recommended to minimize exposures.
Cold storage warehouses, for use as the primary heat transfer fluid in new secondary-loop equipment for not-in-kind replacements of systems.	HFC–134a/HBr (92/8) as a substitute for CFC–12 and R–502.	Acceptable	Users are expected to adhere to the 3 ppm Permissible Exposure Limit and Threshold Limit Value set by OSHA and ACGIH, respectively. Users are expected to follow all recommendations specified in Material Safety Data Sheets for HBr, HFC–134a and the blend. Additional warning signs, worker education and technician training is recommended to minimize exposures.

REFRIGERATION AND AIR CONDITIONING—Continued

End-Use	Substitute	Recommendation	Comments
Industrial process refrigeration (new).	HFC–134a/HBr (92/8) as a substitute for CFC–11, CFC–12, CFC–114, CFC–115 and R–502.	Acceptable	Users are expected to adhere to the 3 ppm Permissible Exposure Limit and Threshold Limit Value set by OSHA and ACGIH, respectively. Users are expected to follow all recommendations specified in Material Safety Data Sheets for HBr, HFC–134a and the blend. Additional warning signs, worker education and technician training is recommended to minimize exposures.
Refrigerated transport (new)	HFC–134a/HBr (92/8) as a substitute for CFC–12 and R–502.	Acceptable	Users are expected to adhere to the 3 ppm Permissible Exposure Limit and Threshold Limit Value set by OSHA and ACGIH, respectively. Users are expected to follow all recommendations specified in Material Safety Data Sheets for HBr, HFC–134a and the blend. Additional warning signs, worker education and technician training is recommended to minimize exposures.
Very low temperature refrigeration (retrofit and new).	PFC–330ST, PFC–550HC, PFC–660HC, PFC–1100HC, PFC–1100LT, PGC–100, PGC–150, PFC–331ST, PFC–551HC, PFC–661HC, PFC–1101HC and PGC–151 assubstitutes for CFC–13, CFC–113, CFC–114 and blends thereof.	Acceptable.	

[FR Doc. 01–12893 Filed 5–22–01; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–301124; FRL–6781–7]

RIN 2070–AB78

Aspergillus flavus AF36; Extension of Temporary Exemption From the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation extends a temporary exemption from the requirement of a tolerance for residues of the biological *Aspergillus flavus* AF36, (*A. flavus*) a non-aflatoxin producing strain of *A. flavus*, on cotton when applied or used as aerial pre-bloom applications to cotton in specified counties of Arizona. The Interregional Research Project Number 4 (IR-4), New Jersey Agricultural Experiment Station, Technology Center of New Jersey, Rutgers University, 681 U.S. Highway #1 South, North Brunswick, NJ 08902–3390, submitted an amended petition to EPA under the Federal Food, Drug, and Cosmetic Act, as amended by the Food Quality Protection Act of 1996 requesting the temporary exemption. This regulation eliminates the need to establish a maximum permissible level for residues of *Aspergillus flavus* AF36. The temporary tolerance exemption will expire on December 30, 2003.

DATES: This regulation is effective May 23, 2001. Objections and requests for hearings, identified by docket control number OPP–301124, must be received by EPA on or before July 23, 2001.

ADDRESSES: Written objections and hearing requests may be submitted by mail, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit III. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, your objections and hearing requests must identify docket control number OPP–301124 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Shanaz Bacchus, c/o Product Manager (PM) 90, Biopesticides and Pollution Prevention Division (7511C), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: 703-308-8097; and e-mail address: bacchus.shanaz@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS	Examples of Potentially Affected Entities
Industry	111	Crop production
	112	Animal production
	311	Food manufacturing
	32532	Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of

entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically*. You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. 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/. A frequently updated electronic version of 40 CFR part 180 is available at http://www.access.gpo.gov/nara/cfr/cfrhtml_180/Title_40/40cfr180_00.html, a beta site currently under development.

2. *In person*. The Agency has established an official record for this action under docket control number OPP–301124. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

II. Background and Statutory Findings

In the **Federal Register** of May 26, 1999 (64 FR 28371) (FRL–6081–2), EPA issued a final rule pursuant to section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, as amended by the Food Quality Protection Act of 1996 (FQPA) (Public Law 104–170) establishing a temporary exemption from the requirement of a tolerance for residues of *A. flavus* AF36 on cotton grown in 5 counties in Arizona (40 CFR 180.1206). This final rule included a summary of the Agency's assessment of the health effects data submitted in support of the extension of the temporary tolerance exemption. The temporary exemption from tolerance was extended until December 2001 (64 FR 35049, June 30, 1999) (FRL–6087–3) to allow for passage of the treated commodities through the channels of trade.

Comments submitted to the Agency regarding the use of this competitive fungal agent were by the cotton growers in the region who were all in favor of the extension of the exemption from the temporary tolerance. Both the toxigenic and atoxigenic strains are naturally occurring in Arizona. The growers were of the opinion that this technology is likely to reduce the high levels of the naturally occurring, toxin-producing strain of *A. flavus* by displacement. No adverse effects were reported in the yearly annual reports of the Experimental Use Permit, and in some instances aflatoxin levels of cotton seed were reduced in treated cotton.

New section 408(c)(2)(A)(i) of the FFDCA allows EPA to establish an exemption from the requirement for a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the exemption is ''safe.'' Section 408(c)(2)(A)(ii) defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue....'' Additionally, section 408(b)(2)(D) requires that the Agency consider ''available information concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. First, EPA determines the toxicity of pesticides. Second, EPA examines exposure to the pesticide through food, drinking water, and through other exposures that occur as a result of pesticide use in residential settings.

The fungal agent is applied prebloom to the soil of treated cotton fields. When conditions are appropriate, the AF 36 spores land on the cotton plant and germinate to displace the naturally occurring toxigenic strain. No adverse effects were reported in the annual reports which the registrant submitted as required in the EUP.

This extension of the exemption from the requirement of a temporary tolerance is associated with an extension of an Experimental Use Permit (EUP, EPA Reg. No. 69224–EUP–1). This extension of the EUP will allow aerial application of *A. flavus* AF36 in the following counties of Arizona: Yuma (3,300 acres), Maricopa (13,150 acres), Mohave (1,700 acres) and Pinal (1,850 acres). This final rule extends the temporary exemption from a tolerance for residues of *Aspergillus flavus* AF36 on cotton until December 30, 2003.

Of the strains of *A. flavus* found naturally in Arizona, this atoxigenic strain comprises about 15% of the natural microbial population in the soil, as opposed to the predominant S or toxigenic S strain.

Summaries of the toxicological profile and other relevant manufacturing and health effects data, to comply with the guideline requirements of the Food Quality Protection Act of 1996, were reported in the **Federal Register** publication of the final rule of May 26, 1999, extending the temporary tolerance exemption. Based on the previously submitted data outlined in the final rule, there is a reasonable certainty that no harm will result from aggregate exposure to the U.S. population, including infants and children, to *A. flavus* AF36 from the limited use pattern of this experimental use permit. This includes all anticipated dietary exposures and all other exposures for which there is reliable information.

The Agency continues to require that the pesticide must not be applied within a boundary of 400 feet of residential areas, schools, daycare and health care facilities and hospitals to minimize exposure to human adults, infants and children.

Data have been submitted to demonstrate that this strain excludes the aflatoxin-producing strain when it is applied prior to flowering. Thus, the proposed use is not likely to result in appreciable increases in the long-term population of *A. flavus* on the crop beyond naturally occurring levels.

Furthermore, there is no expectation of cumulative effects with other pesticides, because this is the only registered experimental microbe in this genus.

As in the earlier EUP, the Agency requires that applicators and other handlers must wear gloves, a dust/mist filtering respirator with NIOSH approval prefix N–95, R–95 or P–95, long sleeved shirt and long pants, and shoes plus socks to mitigate potential worker exposure.

The Food and Drug administration (FDA) regulates the levels of aflatoxin in cotton seed meal and other commodities associated with the production of cotton. Treated cotton and its by products are screened for aflatoxin prior to introduction into the channels of commerce. FDA does not allow cottonseed products containing aflatoxin at 20 parts per billion (ppb) or higher to be used in dairy rations. FDA regulations also do not allow cottonseed products containing aflatoxin above 300 ppb to be used for feeding beef cattle.

C. Codex Maximum Residue Level

An exemption from temporary tolerance for residues of *A. flavus* isolate AF36 on cotton (40 CFR 180.1206) is currently in effect in conjunction with an Experimental Use Permit (61 FR 30235, June 14, 1996, and extended to expire in December 2001) (FRL–5377–6).

III. Objections and Hearing Requests

Under section 408(g) of the FFDCA, as amended by the FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. Although the procedures in those regulations require some modification to reflect the amendments made to the FFDCA by the FQPA of 1996, EPA will continue to use those procedures, with appropriate adjustments, until the necessary modifications can be made. The new section 408(g) provides essentially the same process for persons to ''object'' to a regulation for an exemption from the requirement of a tolerance issued by EPA under new section 408(d), as was provided in the old FFDCA sections 408 and 409. However, the period for filing objections is now 60 days, rather than 30 days.

A. What Do I Need to Do to File an Objection or Request a Hearing?

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket control number OPP–301124 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before july 23, 2001.

1. *Filing the request.* Your objection must specify the specific provisions in the regulation that you object to, and the grounds for the objections (40 CFR 178.25). If a hearing is requested, the objections must include a statement of the factual issues(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

Mail your written request to: Office of the Hearing Clerk (1900), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. You may also deliver your request to the Office of the Hearing Clerk in Rm. C400, Waterside Mall, 401 M St., SW., Washington, DC 20460. The Office of the Hearing Clerk is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Office of the Hearing Clerk is (202) 260–4865.

2. *Tolerance fee payment.* If you file an objection or request a hearing, you must also pay the fee prescribed by 40 CFR 180.33(i) or request a waiver of that fee pursuant to 40 CFR 180.33(m). You must mail the fee to: EPA Headquarters Accounting Operations Branch, Office of Pesticide Programs, P.O. Box 360277M, Pittsburgh, PA 15251. Please identify the fee submission by labeling it ''Tolerance Petition Fees.''

EPA is authorized to waive any fee requirement''when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to the purpose of this subsection.'' For additional information regarding the waiver of these fees, you may contact James Tompkins by phone at (703) 305–5697, by e-mail at tompkins.jim@epa.gov, or by mailing a request for information to Mr. Tompkins at Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

If you would like to request a waiver of the tolerance objection fees, you must mail your request for such a waiver to: James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

3. *Copies for the Docket.* In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit VIII.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.2. Mail your copies, identified by docket control number OPP–301124, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. In person or by courier, bring a copy to the location of the PIRIB described in Unit I.B.2. You may also send an electronic copy of your request via e-mail to: opp-docket@epa.gov. Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

B. When Will the Agency Grant a Request for a Hearing?

A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

IV. Regulatory Assessment Requirements

This final rule extends a temporary exemption from the tolerance requirement under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). This final rule does not contain any

information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to 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). Since tolerances and exemptions that are established on the basis of a FIFRA section 18 petition under FFDCA section 408, such as the [tolerance] in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4).

For these same reasons, the Agency has determined that this rule does not have any ''tribal implications'' as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, 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 rule 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.''

V. 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 this final rule in the **Federal Register**. This final rule is not a''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: May 9, 2001.

Janet L. Anderson,

Director, Biopesticide and Pollution Prevention Division.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346(a) and 371.

2. Section 180.1206 is revised to read as follows:

§ 180.1206 Aspergillus flavus AF36.

Aspergillus flavus AF36 is temporarily exempt from the requirement of a tolerance in or on cotton when used on cotton in Arizona in accordance with the Experimental Use Permit 69224–EUP–1. The temporary exemption from a tolerance will expire on December 30, 2003.

[FR Doc. 01–12900 Filed 5–22–01; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–301132; FRL–6784–7]

RIN 2070–AB78

Thiamethoxam; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for combined residues of thiamethoxam and its metabolite in or on tuberous and corm vegetables crop subgroup, fruiting vegetables crop group, tomato paste, cucurbit vegetables crop group, and pome fruits crop group. Syngenta Crop Protection, Inc. requested these tolerances under the Federal Food, Drug, and Cosmetic Act, as amended by the Food Quality Protection Act of 1996.

DATES: This regulation is effective May 23, 2001. Objections and requests for hearings, identified by docket control number OPP–301132, must be received by EPA on or before July 23, 2001.

ADDRESSES: Written objections and hearing requests may be submitted by mail, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit VI. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, your objections and hearing requests must identify docket control number OPP–301132 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Dani Daniel, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW.,Washington, DC 20460; telephone number: (703) 305–5409; and e-mail address: daniel.dani@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS	Examples of Potentially Affected Entities
Industry	111	Crop production
	112	Animal production
	311	Food manufacturing
	32532	Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically*. You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. 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/. To access the OPPTS Harmonized Guidelines referenced in this document, go directly to the guidelines at http://www.epa.gov/opptsfrs/home/guidelin.htm. A frequently updated electronic version of 40 CFR part 180 is available at http://www.access.gpo.gov/nara/cfr/cfrhtml_180/Title_40/40cfr180_00.html, a beta site currently under development.

2. *In person*. The Agency has established an official record for this action under docket control number OPP–301132. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

II. Background and Statutory Findings

In the **Federal Register** of May 5, 1999 (64 FR 34153) (FRL–6072–7), EPA issued a notice pursuant to section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a as amended by the Food Quality Protection Act of 1996 (FQPA) (Public Law 104–170) announcing the filing of a pesticide petition (9F5051) for tolerances by Syngenta Crop Protection, P.O. Box 18300 Greensboro, NC 27419–8300. This notice included a summary of the petition prepared by Syngenta Crop Protection, the registrant. There were no comments received in response to the notice of filing.

The petition requested that 40 CFR 180.565 be amended by establishing tolerances for combined residues of the insecticide thiamethoxam, 3-[(2-chloro-5-thiazolyl)methyl]tetrahydro-5-methyl-*N*-nitro-4H-1,3,5-oxadiazin-4-imine and its metabolite (*N*-(2-chloro-thiazol-5-ylmethyl)-*N′*-methyl-*N″*-nitro-guanidine) in or on the raw agricultural commodities: tuberous and corm vegetables crop subgroup at 0.02 ppm, cucurbit vegetables crop group at 0.20 ppm, pome fruit crop group at 0.20 ppm, fruiting vegetables crop group at 0.25 ppm and tomato paste at 0.80 ppm.

Section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) defines ''safe'' to mean that'' there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue....''

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. For further discussion of the regulatory requirements of section 408 and a complete description of the risk assessment process, see the final rule on Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997) (FRL–5754–7).

III. Aggregate Risk Assessment and Determination of Safety

Consistent with section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure, consistent with section 408(b)(2), for a tolerance for combined residues of thiamethoxam and its metabolite in or on tuberous and corm vegetables crop subgroup at 0.02 ppm, fruiting vegetables crop group at 0.25 ppm, tomato paste at 0.80 ppm, cucurbit vegetables crop group at 0.20 ppm, and pome fruits crop group at 0.20 ppm. EPA's assessment of exposures and risks associated with establishing these tolerances follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. The nature of the toxic effects caused by thiamethoxam are discussed in the following Table 1 as well as the no observed adverse effect level (NOAEL) and the lowest observed adverse effect level (LOAEL) from the toxicity studies reviewed.

TABLE 1.—SUBCHRONIC, CHRONIC, AND OTHER TOXICITY

Guideline No.	Study Type	Results
870.3100	90–Day oral toxicity - rat	NOAEL = 1.74 (males), 92.5 (females) mg/kg/day LOAEL = 17.64 (males), 182.1 (females) mg/kg/day based on increased incidence of hyaline change of renal tubular epithelium (males), fatty change in adrenal gland of females, liver changes in females, all at the LOAEL.
870.3100	90–Day oral toxicity - mouse	NOAEL = 1.41 (males), 19.2 (females) mg/kg/day LOAEL = 14.3 (males), 231 (females) mg/kg/day based on increased incidence of hepatocellular hypertrophy. At higher dose levels: decrease in bodyweight and bodyweight gain, necrosis of individual hepatocytes, pigmentation of Kupffer cells, and lymphocytic infiltration of the liver in both sexes; slight hematologic effects and decreased absolute and relative kidney weights in males; and ovarian atrophy, decreased ovary and spleen weights and increased liver weights in females.
870.3150	90–Day oral toxicity - dog	NOAEL = 8.23 (males), 9.27 (females) mg/kg/day LOAEL = 32.0 (males), 33.9 (females) mg/kg/day based on slightly prolonged prothrombin times and decreased plasma albumin and A/G ratio (both sexes); decreased calcium levels and ovary weights and delayed maturation in the ovaries (females); decreased cholesterol and phospholipid levels, testis weights, spermatogenesis, and spermatic giant cells in testes (males).
870.3200	28–Day dermal toxicity - rat	NOAEL = 250 (males), 60 (females) mg/kg/day LOAEL = 1000 (males), 250 (females) mg/kg/day based on increased plasma glucose, triglyceride levels, and alkaline phosphatase activity and inflammatory cell infiltration in the liver and necrosis of single hepatocytes in females and hyaline change in renal tubules and a very slight reduction in body weight in males. At higher dose levels in females, chronic tubular lesions in the kidneys and inflammatory cell infiltration in the adrenal cortex were observed.
870.3700a	Prenatal developmental - rat	Maternal NOAEL = 30 mg/kg/day LOAEL = 200 mg/kg/day based on decreased body weight, body weight gain, and food consumption. Developmental NOAEL = 200 mg/kg/day LOAEL = 750 mg/kg/day based on decreased fetal body weight and anincreased incidence of skeletal anomalies.
870.3700b	Prenatal developmental - rabbit	Maternal NOAEL = 50 mg/kg/day LOAEL = 150 mg/kg/day based on maternal deaths, hemorrhagic uterine contents and hemorrhagic discharge, decreased body weight and food intake during the dosing period. Developmental NOAEL = 50 mg/kg/day LOAEL = 150 mg/kg/day based on decreased fetal body weights, increased incidence of post-implantation loss and a slight increase in the incidence of a few skeletal anomalies/variations.
870.3800	Reproduction and fertility effects - rat	Parental/Systemic NOAEL = 1.84 (males), 202.06 (females)mg/kg/day LOAEL = 61.25 (males), not determined (females) mg/kg/day based on increased incidence of hyaline change in renal tubules in F0 and F1 males. Reproductive NOAEL = 0.61 (males), 202.06 (females) mg/kg/day LOAEL = 1.84 (males), not determined (females) mg/kg/day based on increased incidence and severity of tubular atrophy observed in testes of the F1 generation males. Offspring NOAEL = 61.25 (males), 79.20 (females) mg/kg/day LOAEL = 158.32 (males), 202.06 (females) mg/kg/day based on reduced body weight gain during the lactation period in all litters .
870.4100	Chronic toxicity - dog	NOAEL = 4.05 (males), 4.49 (females) mg/kg/day LOAEL = 21.0 (males), 24.6 (females) mg/kg/day based on increase in creatinine in both sexes, transient decrease in food consumption in females, and occasional increase in urea levels, decrease in ALT, and atrophy of seminiferous tubules in males.
870.4200	Carcinogenicity - mouse	NOAEL = 2.63 (males), 3.68 (females) mg/kg/day

TABLE 1.—SUBCHRONIC, CHRONIC, AND OTHER TOXICITY—Continued

Guideline No.	Study Type	Results
		LOAEL = 63.8 (males), 87.6 (females) mg/kg/day based on hepatocyte hypertrophy, single cell necrosis, inflammatory cell infiltration, pigment deposition, foci of cellular alteration, hyperplasia of Kupffer cells and increased mitotic activity; also, an increase in the incidence of hepatocellular adenoma (both sexes). At higher doses, there was an increase in the incidence of hepatocellular adenocarcinoma (both sexes) and the number of animals with multiple tumors. evidence of carcinogenicity
870.4300	Combined chronic carcinogenicity - rat	NOAEL = 21.0 (males), 50.3 (females) mg/kg/day LOAEL = 63.0 (males), 155 (females) mg/kg/day based on increased incidence of lymphocytic infiltration of the renal pelvis and chronic nephropathy in males and decreased body weight gain, slight increase in the severity of hemosiderosis of the spleen, foci of cellular alteration in liver and chronic tubular lesions in kidney in females. no evidence of carcinogenicity
870.5100 and 870.5265	Gene mutation in *S. typhimurium* and *E. coli*	No evidence of gene mutation when tested up to 5,000 µg/plate. There was no evidence of cytotoxicity.
870.5265	Gene mutation in *S. typhimurium*	No evidence of gene mutation when tested up to 5,000 µg/plate.The S9 fraction was from non-induced mouse liver, Aroclor 1254 induced mouseliver, or thiamethoxam induced mouse liver, following dietary administration of thiamethoxam for 14 days at concentrations up to 2,500 ppm.
870.5300	Gene mutation in chinese hamster V79 cells at HGPRT locus	No evidence of gene mutation when tested up to solubility limit.
870.5375	CHO cell cytogenetics	No evidence of chromosomal aberrations when tested up tocytotoxic or solubility limit concentrations.
870.5395	*In vivo* mouse bone marrow micronucleus	Negative when tested up to levels of toxicity in whole animals;however no evidence of target cell cytotoxicity.
870.5550	UDS assay	Negative when tested up to precipitating concentrations
870.6200a	Acute neurotoxicity screening battery - rat	NOAEL = 100 mg/kg/day LOAEL = 500 mg/kg/day based on drooped palpebral closure, decrease in rectal temperature and locomotor activity and increase in forelimb grip strength (males only). At higher dose levels, mortality, abnormal body tone, ptosis, impaired respiration, tremors, longer latency to first step in the open field, crouched-over posture, gait impairment, hypo-arousal, decreased number of rears, uncoordinated landing during the righting reflex test, slight lacrimation (females only) and higher mean average input stimulus value in the auditory startle response test (males only).
870.6200b	Subchronic neurotoxicity screening battery - rat	NOAEL = 95.4 (males), 216.4 (females) mg/kg/day, both highestdose tested. LOAEL = not determined. No treatment-related observations at any dose level. LOAEL was not achieved. May not have been tested at sufficiently high dose levels; however, new study not required because the weight of the evidence from the other toxicity studies indicates no evidence of concern.

TABLE 1.—SUBCHRONIC, CHRONIC, AND OTHER TOXICITY—Continued

Guideline No.	Study Type	Results
870.7485	Metabolism and pharmacokinetics - rat	Absorbed rapidly and extensively, widely distributed, followed byvery rapid elimination, mostly in urine. Highest tissue concentrations in skeletal muscle: 10–15% of administered dose. Half life times from tissues ranged from 2–6 hours. Tissue residues after 7 days extremely low. Approximately 84–95% of administered dose excreted in urine and 2.5–6% excreted in feces within 24 hours. Greater than 0.2% detected in expired air. Most excreted as unchanged parent: 70–80% of dose. The major biotransformation reaction is cleavage of oxadiazine ring to corresponding nitroguanidine compound. Minor pathways: (1) cleavage of nitroguanidine group yielding guanidine derivative, (2) hydrolysis of guanidine group to corresponding urea, (3) demethylation of guanidine group, and (4) substitution of the chlorine of the thiazole ring by glutathione. Cleavage between thiazole- and oxadiazine ring occurs to a small extent. Glutathione derivatives prone to further degradation of the glutathione moiety resulting in various sulfur-containing metabolites (e.g. mercapturates, sulfides, and sulfoxides). Both the thiazole and oxadiazine moiety susceptible to oxidative attack. Small but measurable amounts exhaled, most probably as CO2. Metabolites eliminated very rapidly. Enterohepatic circulation negligible.
870.7485	Metabolism and pharmacokinetics - mouse	Approximately 72% of administered dose excreted in the urine;19% excreted in feces. Small but measurable amount detected in expired air(approximately 0.2% of dose). Predominant metabolites: unchanged parent (33–41% of administered dose; 2 other metabolites: 8–12% and 9–18% of administered dose. These are the same structures that were most commonly observed in rat excreta, however the proportions are quite different in mouse excreta. One additional significant metabolite (mouse R6) was isolated from feces samples. Between 30–60% of the administered dose was excreted as metabolites.
870.7600	Dermal penetration - rat	Estimates of dermal absorption were based on the sum ofradioactivity in skin test site, urine, feces, blood, and carcass. Percentage dermal absorption is 27.0, highest mean dermal absorption value across all groups. This value is considered to represent the potential cumulative dermal absorption of test material that might occur after a 10 hour dermal exposure. As the study design did not permit analysis of the fate of skin bound residues, residues at skin site were included in determination of dermal absorption.
Hepatic cell	proliferation study - mouse	NOAEL = 16 (males), 20 (females) mg/kg/day LOAEL = 72 (males), 87 (females) mg/kg/day based on proliferative activity of hepatocytes. At higher dose levels, increases in absolute and relative liver wts, speckled liver, hepatocellular glycogenesis/fatty change, hepatocellular necrosis, apoptosis and pigmentation were observed.
Replicative DNA synthesis	28–day feeding study - male rat	NOAEL = 711 mg/kg/day (highest dose tested) LOAEL = not established. Immunohistochemical staining of liver sections from control and high-dose animals for proliferating cell nuclear antigen gave no indication for a treatment-related increase in the fraction of DNA synthesizing hepatocytes in S-phase. CGA 293343 did not stimulate hepatocyte cell proliferation in male rats.
Special study to assess liver biochemistry in mouse		NOAEL = 17 (males), 20 (females) mg/kg/day LOAEL = 74 (males), 92 (females) mg/kg/day based on marginal to slight increases in absolute and relative liver weights, a slight increase in the microsomal protein content of the livers, moderate increases in the cytochrome P450 content, slight to moderate increases in the activity of several microsomal enzymes, slight to moderate induction of cytosolic glutathione S-transferase activity. Treatment did not affect peroxisomal fatty acid β-oxidation.

B. Toxicological Endpoints

The dose at which no adverse effects are observed (the NOAEL) from the toxicology study identified as appropriate for use in risk assessment is used to estimate the toxicological level of concern (LOC). However, the lowest dose at which adverse effects of concern are identified (the LOAEL) is sometimes used for risk assessment if no NOAEL was achieved in the toxicology study selected. An uncertainty factor (UF) is applied to reflect uncertainties inherent in the extrapolation from laboratory animal data to humans and in the variations in sensitivity among members of the human population as well as other unknowns. An UF of 100 is routinely used, 10X to account for interspecies differences and 10X for intra species differences.

For dietary risk assessment (other than cancer) the Agency uses the UF to calculate an acute or chronic reference dose (acute RfD or chronic RfD) where the RfD is equal to the NOAEL divided by the appropriate UF (RfD = NOAEL/UF). Where an additional safety factor is retained due to concerns unique to the FQPA, this additional factor is applied to the RfD by dividing the RfD by such additional factor. The acute or chronic Population Adjusted Dose (aPAD or cPAD) is a modification of the RfD to accommodate this type of FQPA Safety Factor.

For non-dietary risk assessments (other than cancer) the UF is used to determine the LOC. For example, when 100 is the appropriate UF (10X to account for interspecies differences and 10X for intraspecies differences) the LOC is 100. To estimate risk, a ratio of the NOAEL to exposures (margin of exposure (MOE) = NOAEL/exposure) is calculated and compared to the LOC.

The linear default risk methodology (Q*) is the primary method currently used by the Agency to quantify carcinogenic risk. The Q* approach assumes that any amount of exposure will lead to some degree of cancer risk. A Q* is calculated and used to estimate risk which represents a probability of occurrence of additional cancer cases (e.g., risk is expressed as 1×10^{-6} or one in a million). Under certain specific circumstances, MOE calculations will be used for the carcinogenic risk assessment. In this non-linear approach, a ''point of departure'' is identified below which carcinogenic effects are not expected. The point of departure is typically a NOAEL based on an endpoint related to cancer effects though it may be a different value derived from the dose response curve. To estimate risk, a ratio of the point of departure to exposure (MOE_{cancer} = point of departure/exposures) is calculated. A summary of the toxicological endpoints for thiamethoxam used for human risk assessment is shown in the following Table 2:

TABLE 2.—SUMMARY OF TOXICOLOGICAL DOSE AND ENDPOINTS FOR THIAMETHOXAM FOR USE IN HUMAN RISK ASSESSMENT

Exposure Scenario	Dose Used in Risk Assessment, UF	FQPA SF* and Level of Concern for Risk Assessment	Study and Toxicological Effects
Acute Dietary general population including infantsand children	NOAEL = 100 mg/kg/day; UF = 100; Acute RfD = 1 mg/kg/day	FQPA SF = 10; aPAD = acute RfD/FQPA SF = 0.1 mg/kg/day	Acute mammalian neurotoxicity study in the rat LOAEL = 500 mg/kg/day based on treatment-related neurobehavioraleffects observed in the FOB and LMA testing (drooped palpebral closure,decreased rectal temperature and locomotor activity, increased forelimbgrip strength)
Chronic Dietary all populations	NOAEL = 0.6 mg/kg/day; UF = 100; Chronic RfD = 0.006 mg/kg/day	FQPA SF = 10; cPAD = chronic RfD/FQPA SF = 0.0006 mg/kg/day	2-Generation reproduction study LOAEL = 1.8 mg/kg/day based on increased incidence and severity oftubular atrophy in testes of F1 generation males.
Oral Nondietary (all durations)	NOAEL = 0.6 mg/kg/day	LOC for MOE = 1,000 (Residential)	2-Generation reproduction study LOAEL = 1.8 mg/kg/day based on increased incidence and severity of tubular atrophy in testes of F1 generation males.
Dermal (all durations) (Residential)	Oral study NOAEL= 0.6 mg/kg/day (dermal absorptionrate = 27%)	LOC for MOE = 1,000 (Residential) LOC for MOE = 100 (Occupational)	2-Generation reproduction study LOAEL = 1.8 mg/kg/day based on increased incidence and severity of tubular atrophy in testes of F1 generation males.
Inhalation (all durations) (Residential)	Oral study NOAEL = 0.6 mg/kg/day (inhalation absorption rate =100%)	LOC for MOE = 1,000 (Residential) LOC for MOE = 100 (Occupational)	2-Generation reproduction study LOAEL = 1.8 mg/kg/day based on increased incidence and severity oftubular atrophy in testes of F1 generation males.

TABLE 2.—SUMMARY OF TOXICOLOGICAL DOSE AND ENDPOINTS FOR THIAMETHOXAM FOR USE IN HUMAN RISK ASSESSMENT—Continued

Exposure Scenario	Dose Used in Risk Assessment, UF	FQPA SF* and Level of Concern for Risk Assessment	Study and Toxicological Effects
Cancer (oral, dermal, inhalation)	Q1* $(mg/kg/day)^{-1}$ is 3.77×10^{-2}	Greater than 1×10^{-6}	Likely carcinogen for humans based on increased incidenceof hepatocellular adenomas and carcinomas in male and female mice.Quantification of risk based on most potent unit risk: male mouse liveradenoma and/or carcinoma combined tumor rate. The upper bound estimateof unit risk, Q1* $(mg/kg/day)^{-1}$ is 3.77×10^{-2} in human equivalents.

* The reference to the FQPA Safety Factor refers to any additional safety factor retained due to concerns unique to the FQPA.

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* Tolerances have been established (40 CFR 180.565) for the combined residues of thiamethoxam and its metabolite, in or on a variety of raw agricultural commodities. The following raw agricultural commodities have established tolerances: barley, canola, cotton, sorghum, wheat, milk, and the meat and meat byproducts of cattle, goats, horses, and sheep. Risk assessments were conducted by EPA to assess dietary exposures from thiamethoxam in food as follows:

i. *Acute exposure.* Acute dietary risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a one day or single exposure. The Dietary Exposure Evaluation Model (DEEM®) analysis evaluated the individual food consumption as reported by respondents in the USDA 1989–1992–nationwide Continuing Surveys of Food Intake by Individuals (CSFII) and accumulated exposure to the chemical for each commodity. The following assumptions were made for the acute exposure assessments: tolerence level residues and 100% crop treated.

ii. *Chronic exposure.*In conducting this chronic dietary risk assessment the DEEM® analysis evaluated the individual food consumption as reported by respondents in the USDA 1989–1992–nationwide CSFII and accumulated exposure to the chemical for each commodity. The following assumptions were made for the chronic exposure assessments: percent crop treated (based on projected market shares) and anticipated residues (Tier 3).

iii. *Cancer.* The dietary exposure for determining cancer risk is based on the chronic exposure explained in the previous paragraph using the same assumptions.

Section 408(b)(2)(E) authorizes EPA to use available data and information on the anticipated residue levels of pesticide residues in food and the actual levels of pesticide chemicals that have been measured in food. If EPA relies on such information, EPA must require that data be provided 5 years after the tolerance is established, modified, or left in effect, demonstrating that the levels in food are not above the levels anticipated. Following the initial data submission, EPA is authorized to require similar data on a time frame it deems appropriate. As required by section 408(b)(2)(E), EPA will issue a data call-in for information relating to anticipated residues to be submitted no later than 5 years from the date of issuance of this tolerance.

Section 408(b)(2)(F) states that the Agency may use data on the actual percent of food treated for assessing chronic dietary risk only if the Agency can make the following findings: Condition 1, that the data used are reliable and provide a valid basis to show what percentage of the food derived from such crop is likely to contain such pesticide residue; Condition 2, that the exposure estimate does not underestimate exposure for any significant subpopulation group; and Condition 3, if data are available on pesticide use and food consumption in a particular area, the exposure estimate does not understate exposure for the population in such area. In addition, the Agency must provide for periodic evaluation of any estimates used. To provide for the periodic evaluation of the estimate of percent crop treated (PCT) as required by section 408(b)(2)(F), EPA may require registrants to submit data on PCT.

The Agency used percent crop treated (PCT information as follows in Table 3:

TABLE 3.—THIAMETHOXAM USES AND ESTIMATES OF PERCENT CROP TREATED

Crop	Percent Crop Treated
Tuberous and Corm Vegetables - Crop Subgroup 1 C	9
Fruiting Vegetables (Except Cucurbits - Crop Group 8	15
Cucumbers	5
Melons	13
Casabas	44
Crenshaws	44
Squash	44
Pumpkin	44
Apples	15–20
Crabapples	53
Pears	9
Quinces	53
Loquats	53

The Agency used information provided by the registrant to determine percent crop treated based on projected percent market share information. The Agency believes that the procedures used were the best available, because thiamethoxam is a new chemical and has never been used. As to Conditions 2 and 3, regional consumption information and consumption information for significant subpopulations is taken into account through EPA's computer-based model for evaluating the exposure of significant subpopulations including several regional groups. Use of this consumption information in EPA's risk assessment process ensures that EPA's exposure estimate does not understate exposure for any significant subpopulation group and regional populations.

2. *Dietary exposure from drinking water*. The Agency lacks sufficient monitoring exposure data to complete a comprehensive dietary exposure analysis and risk assessment for thiamethoxam in drinking water. Because the Agency does not have comprehensive monitoring data, drinking water concentration estimates are made by reliance on simulation or modeling taking into account data on the physical characteristics of thiamethoxam.

The Agency uses the Generic Estimated Environmental Concentration (GENEEC) or the Pesticide Root Zone/ Exposure Analysis Modeling System (PRZM/EXAMS) to estimate pesticide concentrations in surface water and SCI-GROW, which predicts pesticide concentrations in groundwater. In general, EPA will use GENEEC (a tier 1 model) before using PRZM/EXAMS (a tier 2 model) for a screening-level assessment for surface water. The GENEEC model is a subset of the PRZM/ EXAMS model that uses a specific high-end runoff scenario for pesticides. GENEEC incorporates a farm pond scenario, while PRZM/EXAMS incorporate an index reservoir environment in place of the previous pond scenario. The PRZM/EXAMS model includes a percent crop area factor as an adjustment to account for the maximum percent crop coverage within a watershed or drainage basin.

None of these models include consideration of the impact processing (mixing, dilution, or treatment) of raw water for distribution as drinking water would likely have on the removal of pesticides from the source water. The primary use of these models by the Agency at this stage is to provide a coarse screen for sorting out pesticides for which it is highly unlikely that drinking water concentrations would ever exceed human health levels of concern.

Since the models used are considered to be screening tools in the risk assessment process, the Agency does not use estimated environmental concentrations (EECs) from these models to quantify drinking water exposure and risk as a %RfD or %PAD. Instead, drinking water levels of comparison (DWLOCs) are calculated and used as a point of comparison against the model estimates of a pesticide's concentration in water. DWLOCs are theoretical upper limits on a pesticide's concentration in drinking water in light of total aggregate exposure to a pesticide in food, and from residential uses. Since DWLOCs address total aggregate exposure to thiamethoxam they are further discussed in the aggregate risk sections below.

Based on the PRZM/EXAMS and SCI-GROW models the estimated environmental concentrations (EECs) of thiamethoxam for acute exposures are estimated to be 8.0 parts per billion (ppb) for surface water and 1.94 ppb for ground water. The EECs for chronic exposures are estimated to be 0.6 ppb for surface water, and 1.94 ppb for ground water.

3. *From non-dietary exposure*. The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets).

Thiamethoxam is not registered for use on any sites that would result in residential exposure. Although such uses have been requested, they are not being assessed at this time.

4. *Cumulative exposure to substances with a common mechanism of toxicity*. Section 408(b)(2)(D)(v) requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

EPA does not have, at this time, available data to determine whether thiamethoxam has a common mechanism of toxicity with other substances or how to include this pesticide in a cumulative risk assessment. Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, thiamethoxam does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that thiamethoxam has a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see the final rule for Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997).

D. Safety Factor for Infants and Children

1. *Safety factor for infants and children*—i. *In general*. FFDCA section 408 provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database on toxicity and exposure unless EPA determines that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA risk assessments either directly through use of a margin of exposure (MOE) analysis or through using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk to humans.

ii. *Prenatal and postnatal sensitivity*. The developmental toxicity studies indicated no quantitative or qualitative evidence of increased susceptibility of rat or rabbit fetus to *in utero* exposure based on the fact that the developmental NOAELs are either higher than or equal to the maternal NOAELs. However, the reproductive studies indicate effects in male rats in the form of increased incidence and severity of testicular tubular atrophy. These data are considered to be evidence of increased quantitative susceptibility for male pups when compared to the parents.

iii. *Conclusion*. Based on: (a) effects on endocrine organs observed across species; (b) the significant decrease in alanine amino transferase levels in the companion animal studies and in the dog studies; (c) the mode of action of this chemical in insects (interferes with the nicotinic acetyl choline receptors of the insect's nervous system) thus a developmental neurotoxicity study is required; (d) the transient clinical signs of neurotoxicity in several studies across species; and (e) the suggestive evidence of increased quantitative susceptibility in the rat reproduction study, the Agency is retaining the FQPA factor which is l0X.

E. Aggregate Risks and Determination of Safety

To estimate total aggregate exposure to a pesticide from food, drinking water, and residential uses, the Agency

calculates DWLOCs which are used as a point of comparison against the model estimates of a pesticide's concentration in water (EECs). DWLOC values are not regulatory standards for drinking water. DWLOCs are theoretical upper limits on a pesticide's concentration in drinking water in light of total aggregate exposure to a pesticide in food and residential uses. In calculating a DWLOC, the Agency determines how much of the acceptable exposure (i.e., the PAD) is available for exposure through drinking water e.g., allowable chronic water exposure (mg/kg/day) = cPAD - (average food + residential exposure). This allowable exposure through drinking water is used to calculate a DWLOC.

A DWLOC will vary depending on the toxic endpoint, drinking water consumption, and body weights. Default body weights and consumption values as used by the USEPA Office of Water are used to calculate DWLOCs: 2L/70 kg (adult male), 2L/60 kg (adult female), and 1L/10 kg (child). Default body weights and drinking water consumption values vary on an individual basis. This variation will be taken into account in more refined screening-level and quantitative drinking water exposure assessments. Different populations will have different DWLOCs. Generally, a DWLOC is calculated for each type of risk assessment used: acute, short-term, intermediate-term, chronic, and cancer.

When EECs for surface water and groundwater are less than the calculated DWLOCs, the Office of Pesticide Programs (OPP) concludes with reasonable certainty that exposures to the pesticide in drinking water (when considered along with other sources of exposure for which OPP has reliable data) would not result in unacceptable levels of aggregate human health risk at this time. Because OPP considers the aggregate risk resulting from multiple exposure pathways associated with a pesticide's uses, levels of comparison in drinking water may vary as those uses change. If new uses are added in the future, OPP will reassess the potential impacts of residues of the pesticide in drinking water as a part of the aggregate risk assessment process.

1. *Acute risk*. Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food to thiamethoxam will occupy 3% of the aPAD for the U.S. population, 2% of the aPAD for females 13–50 years old, 8% of the aPAD for all infants less than 1 year old and 7% of the aPAD for children 1–6 years old. In addition, there is potential for acute dietary exposure to thiamethoxam in drinking water. The surface water EEC is 8.0 µg/L and the ground water EEC is 1.94 µg/L. Since the surface water value is greater than the ground water value, the surface water value will be used for comparison purposes and will protect for any concerns for ground water concentrations. After calculating DWLOCs and comparing them to the EECs for surface water, EPA does not expect the aggregate exposure to exceed 100% of the aPAD.

TABLE 4.—AGGREGATE RISK ASSESSMENT FOR ACUTE EXPOSURE TO THIAMETHOXAM

Population Subgroup[a]	aPAD(mg/kg)	%aPAD (Food)	Surface Water DWEC (ppb)	Ground Water DWEC(ppb)	Acute DWLOC (ppb)[b]
U.S. General Population	0.1	3	8	1.94	3,400
All infants (< 1 year)	0.1	8	8	1.94	920
Children (1–6 years)	0.1	7	8	1.94	930
Children (7–12 years)	0.1	4	8	1.94	960
Females (13–50 years)	0.1	2	8	1.94	2,900

[a]Population subgroups shown include the U.S. general population and the maximally exposed subpopulation of adults, infants and children, and women of child-bearing age for each exposure scenario.

[b]DWLOC = Maximum Water Exposure (mg/kg/day) — 1,000 µg/mg — body weight (70 kg general population/males 13+, 60 kg females 13+, 10 kg infants and children) ÷ Water Consumption (2 L/day adults, 1 L/day infants and children). Maximum water exposure = aPAD - dietary exposure (mg/kg/day)

2. *Chronic risk*. Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that exposure to thiamethoxam from food will utilize 5% of the cPAD for the U.S. population, 13% of the cPAD for all infants < 1 year old and 13% of the cPAD for children 1–6 years old. Proposed residential uses are not being addressed in this risk assessment. In addition to chronic dietary exposure, there is potential for chronic dietary exposure to thiamethoxam in drinking water. The surface water EEC is 0.6 µg/L and the groundwater EEC is 1.94 µg/L. Since the groundwater value is greater than the surface water value, the groundwater value will be used for comparison purposes and will protect for any concerns for surface water concentrations. After calculating the DWLOCs and comparing them to the EECs for groundwater, EPA does not expect the aggregate exposure to exceed 100% of the cPAD.

TABLE 5.—AGGREGATE RISK ASSESSMENT FOR CHRONIC (NON-CANCER) EXPOSURE TO THIAMETHOXAM

Population Subgroup	cPAD mg/kg/day	cPAD (Food)	Surface Water DWEC (ppb)	Ground Water DWEC (ppb)	DWLOC (ppb)
U.S. Population	0.0006	5	0.6	1.94	20
All infants (< 1 year)	0.0006	13	0.6	1.94	5.2
Children (1–6 years)	0.0006	13	0.6	1.94	5.2
Children (7–12 years)	0.0006	7	0.6	1.94	5.6
Females (13–50 years)	0.0006	3	0.6	1.94	17

3. *Short-term risk*. Short-term aggregate exposure takes into account residential exposure plus chronic exposure to food and water (considered to be a background exposure level). Thiamethoxam is not registered for use on any sites that would result in residential exposure. Therefore, the aggregate risk is the sum of the risk from food and water, which does not exceed the Agency's level of concern.

4. *Intermediate-term risk*. Intermediate-term aggregate exposure takes into account residential exposure plus chronic exposure to food and water (considered to be a background exposure level). Thiamethoxam is not registered for use on any sites that would result in residential exposure. Therefore, the aggregate risk is the sum of the risk from food and water, which does not exceed the Agency's level of concern.

5. *Aggregate cancer risk for U.S. population*. The cancer aggregate dietary risk estimate was calculated in two ways, one using the Agency's 20% estimated market share for apples and the other using a 5% estimated market share for apples (as indicated by the registrant). The dietary (food only) cancer risk is either 1.0×10^{-6} or 0.70×10^{-6} with the 20% or 5% estimated market share for apples, respectively. With the 20% market share, it is not possible to estimate a DWLOC for cancer based on an assumed negligible risk value of 1.0×10^{-6}. Using the latter with 5% market share for apples, the DWLOC is extremely low (0.23 ppb). Therefore, for risk management purposes, an assumed negligible risk value of 3.0×10^{-6} will be used to estimate the DWLOC for cancer. The DWLOC for cancer aggregate risk (no residential uses) is calculated using the following equations:

$DWLOC_{cancer}$(µg/L) = chronic water exposure(mg/kg/day) x (body weight (kg))/ consumption (L) x 10^{-3} mg/µg

chronic water exposure (mg/kg/day)=negligible risk/Q* - chronic food exposure(mg/kg/day)

Assuming a risk value of 3×10^{-6}, (which is generally considered to be within the range of 10^{-6}, the risk value considered to represent a negligible cancer risk), for the 20% market share for apples, the chronic water exposure value is estimated to be:

$3 \times 10^{-6}/3.77 \times 10^{-2}$ - 0.000027 = 0.0000525 mg/kg/day

The $DWLOC_{cancer}$ = 0.0000525 mg/kg/day x 70 kg/2L x 10^{-3} mg/µg = 1.8 µg/L

Using the same equation, for the 5% estimated market share for apples, the $DWLOC_{cancer}$ = 2.1 µg/L.

The surface water EEC is 0.6 µg/L and the ground water EEC is 1.94 µg/L. Since the ground water value is greater than the surface water value it will be used for comparison purposes and will protect for any concerns for surface water concentrations. The estimated chronic ground water value for thiamethoxam (1.94 µg/L) is greater than the $DWLOC_{cancer}$ for the general population using the 20% market share for apples. Using the 5% market share, the $DWLOC_{cancer}$ is less than the Agency's level of concern.

The Agency used a screening level model designed to estimate pesticide concentrations in shallow groundwater. Although the 20% market share for apples results in EECs that are marginally above the $DWLOC_{cancer}$, a number of factors lead EPA to believe that the actual lifetime exposure through drinking water will be less than the $DWLOC_{cancer}$. These reasons are as follows:

i. Thiamethoxam is systemic. EPA's Tier 1 groundwater model assumes that all of the product that is applied to the crop is available for runoff. The registrant has submitted data to show that a percentage (15–25%) of the product is absorbed by the plant, resulting in that much less product available to leach into groundwater. Although the registrant has submitted data on only 2 crops, beans and cucumbers, it is likely that the total amount of thiamethoxam that is available to leach into groundwater is less than the amount EPA uses as an input into its model. Due to a limited data on the amount absorbed, EPA is unable to quantify this.

ii. Although the Agency model is based on aerobic soil half lives, EPA's risk assessment for cancer estimate is for lifetime exposure. Data indicate the anaerobic aquatic half life for thiamethoxam is shorter than the aerobic soil half life and longer than the aerobic aquatic half life. Although EPA is unable to predict with a high degree of certainty about what happens to thiamethoxam over time in groundwater, this does provide some support for an expectation that concentrations in groundwater will decline between annual applications.

iii. Shallow groundwater modeling is not the perfect model for representing all drinking water from ground water sources. It is likely to be an overestimate of most drinking water, which tends to originate from deeper sources. EPA's experience is that the model is reasonably accurate for shallow drinking water, but the Agency believes that it is less accurate for drinking water from deeper sources.

iv. Currently there is no exposure to thiamethoxam through drinking water. The Agency is establishing conditions of registration for the subject uses of this document which will include two prospective ground water studies and a retrospective monitoring study, so that the reasonable certainty of no harm finding will be sustained.

v. The cancer risk from the food uses alone is 1.0×10^{-6}. The dietary risk is based on residue data derived from the average of field trials, which were performed at a higher applied on rate than were accepted by the EPA. It is not unusual in the Agency's experience for field trial data to be an order of magnitude above actual monitoring. Since thiamethoxam is not registered (for uses other than very recently registered seed treatments), actual monitoring data is not available. It is likely that the actual risk contribution from food will be much lower than current data indicate, which would result in a larger $DWLOC_{cancer}$. EPA expects that this refined $DWLOC_{cancer}$ would be larger than the EECs for the proposed uses.

Thus, EPA does not expect that the general population would be exposed to levels exceeding the $DWLOC_{cancer}$ over a lifetime.

6. *Determination of safety*. Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, and to infants and children from aggregate exposure to thiamethoxam residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methodology (HPLC/UV or MS) is available to enforce the tolerance expression. The method may be requested from: Calvin Furlow, PIRIB, IRSD (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Washington, DC 20460; telephone number: (703) 305–5229; e-mail address: furlow.calvin@epa.gov.

B. International Residue Limits

There are no international residue limits for thiamethoxam.

C. Conditions

Registration of the proposed uses will include the requirement for two prospective groundwater studies, as well as monitoring of drinking water in a number of states selected for high cropping density and vulnerable soils.

V. Conclusion

Therefore, the tolerances are established for combined residues of

thiamethoxam, 3-[(2-chloro-5-thiazolyl)methyl]tetrahydro-5-methyl-*N*-nitro-4H-1,3,5-oxadiazin-4-imine) and its metabolite (*N*-(2-chloro-thiazol-5-ylmethyl)-*N′*methyl-*N″*-nitro-guanidine, in or on tuberous and corm vegetables crop subgroup at 0.02 ppm, fruiting vegetables crop group at 0.25 ppm, tomato paste at 0.80 ppm, cucurbit vegetables crop group at 0.20 ppm, and pome fruits crop group at 0.20 ppm.

VI. Objections and Hearing Requests

Under section 408(g) of the FFDCA, as amended by the FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. Although the procedures in those regulations require some modification to reflect the amendments made to the FFDCA by the FQPA of 1996, EPA will continue to use those procedures, with appropriate adjustments, until the necessary modifications can be made. The new section 408(g) provides essentially the same process for persons to ''object'' to a regulation for an exemption from the requirement of a tolerance issued by EPA under new section 408(d), as was provided in the old FFDCA sections 408 and 409. However, the period for filing objections is now 60 days, rather than 30 days.

A. What Do I Need to Do to File an Objection or Request a Hearing?

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket control number OPP–301132 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before July 23, 2001.

1. *Filing the request.* Your objection must specify the specific provisions in the regulation that you object to, and the grounds for the objections (40 CFR 178.25). If a hearing is requested, the objections must include a statement of the factual issues(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

Mail your written request to: Office of the Hearing Clerk (1900), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. You may also deliver your request to the Office of the Hearing Clerk in Rm. C400, Waterside Mall, 401 M St., SW., Washington, DC 20460. The Office of the Hearing Clerk is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Office of the Hearing Clerk is (202) 260–4865.

2. *Tolerance fee payment.* If you file an objection or request a hearing, you must also pay the fee prescribed by 40 CFR 180.33(i) or request a waiver of that fee pursuant to 40 CFR 180.33(m). You must mail the fee to: EPA Headquarters Accounting Operations Branch, Office of Pesticide Programs, P.O. Box 360277M, Pittsburgh, PA 15251. Please identify the fee submission by labeling it ''Tolerance Petition Fees.''

EPA is authorized to waive any fee requirement ''when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to the purpose of this subsection.'' For additional information regarding the waiver of these fees, you may contact James Tompkins by phone at (703) 305–5697, by e-mail at tompkins.jim@epa.gov, or by mailing a request for information to Mr. Tompkins at Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

If you would like to request a waiver of the tolerance objection fees, you must mail your request for such a waiver to: James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

3. *Copies for the Docket.* In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit VI.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.2. Mail your copies, identified by docket control number OPP–301132, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. In person or by courier, bring a copy to the location of the PIRIB described in Unit I.B.2. You may also send an electronic copy of your request via e-mail to: opp-docket@epa.gov. Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

B. When Will the Agency Grant a Request for a Hearing?

A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

VII. Regulatory Assessment Requirements

This final rule establishes a tolerance under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any other Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to 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). Since

tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). For these same reasons, the Agency has determined that this rule does not have any tribal implications as described in Executive Order 13175, entitled Consultation and Coordination with Indian Tribal Governments (65 FR 67249, November 6, 2000). Executive Order 13175, 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 rule 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 13175. Thus, Executive Order 13175 does not apply to this rule.

VIII. 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 this final rule in the **Federal Register**. This final rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated:May 14, 2001.

James Jones,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346(a) and 371.

2. Section 180.565 is amended by alphabetically adding commodities to the table in paragraph (a) to read as follows:

§ 180.565 Thiamethoxam; tolerances for resdues.

(a) *General.* * * *

Commodity	Parts per million
* * * * *	
Cucurbit Vegetables Crop Group	0.2
Fruiting Vegetables Crop Group	0.25
* * * * *	
Pome Fruit Crop Group	0.2
* * * * *	
Tomato Paste	0.80
Tuberous and Corm Vegetables Crop Subgroup	0.02
* * * * *	

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[FR Doc. 01–12899 Filed 5–22–01; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 272

[FRL–6983–2]

Wisconsin: Clarification of Codification of Approved State Hazardous Waste Program for Wisconsin

AGENCY: Environmental Protection Agency (EPA).

ACTION: Clarification.

SUMMARY: Under the Resource Conservation and Recovery Act of 1976, as amended, the Environmental Protection Agency (EPA) may grant Final Authorization to States to operate their hazardous waste management programs in lieu of the Federal program. EPA uses part 272 of title 40 of the Code of Federal Regulations (40 CFR part 272) to codify its authorization of State programs. Through codification the authorized elements of approved State programs are placed in the Code of Federal Regulations (CFR). The codification of State programs is designed to enhance the public's ability to discern the current status of the approved State program and to better alert the public to the specific State regulations that the Federal government can enforce if necessary. The purpose of today's **Federal Register** document is to clarify EPA's codification of Wisconsin's authorized hazardous waste program.

FOR FURTHER INFORMATION CONTACT: Denise Reape, U.S. EPA Region 5, Waste Pesticides and Toxics Division, Program Management Branch (DM–7J), 77 W. Jackson Blvd., Chicago, IL 60604, Phone (312) 353–7925.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does This Action Apply to Me?

This action is directed to the public in general. This document clarifies certain requirements of the authorized RCRA program in the State of Wisconsin and, therefore, may be of particular interest to persons who generate, treat, store, dispose of, or otherwise handle hazardous waste in the State of Wisconsin.

B. How Can I Get Additional Information, Including Copies of This Document and Other Related Documents?

Electronically. You may obtain electronic copies of this document by going to the listings from the EPA Internet Home Page at http://www.epa.gov/. To access this

document, on the Home Page select ''Laws and Regulations'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/. If you have any questions regarding the information in this notice or want copies of any other related documents, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

II. Background

A. What is Authorization?

When a state is authorized to administer the RCRA program, EPA has made a determination that the state's authorized program is equivalent to the federal program. Thereafter the state's authorized laws and regulations apply in the state in lieu of the equivalent federal program regulations. (See RCRA section 3006(b) and (c)). Authorized States are required to maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal hazardous waste program. As the Federal hazardous waste program changes, the States must revise their programs and apply for authorization of the revisions. Revisions to State hazardous waste programs may be necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Authorization revision applications generally consist of a copy of the State regulations, a revised Attorney General's (AG) statement, a revised Program Description, a revised Memorandum of Agreement (MOA), or other documents EPA determines to be necessary (see 40 CFR 271.21(b)(1)). EPA maintains authority to bring enforcement action in authorized States under RCRA sections 3008, 3013, and 7003.

B. Why does EPA Codify Authorized Programs?

EPA codifies authorized State programs through incorporating the authorized state law in the Code of Federal Regulations, to better place regulated entities and members of the public on notice of the requirements pertaining to the generation and management of hazardous waste in a particular State. EPA incorporates by reference only the substantive authorized rules because the federal government uses its own enforcement authorities when bringing actions for alleged violations of the authorized state RCRA program. 40 CFR part 272 has been reserved for codification of approved State RCRA programs.

C. Wisconsin

1. What is the Authorization and Codification History for Wisconsin?

Wisconsin initially received Final Authorization on January 31, 1986 (51 FR 3783, January 30, 1986) to implement its base hazardous waste management program. Wisconsin received authorization for revisions to its program on June 6, 1989 (54 FR 22278, May 23, 1989), January 22, 1990 (54 FR 48243, November 22, 1989), April 24, 1992 (57 FR 15029, April 24, 1992), August 2, 1993 (58 FR 31344, June 2, 1993), October 4, 1994 (59 FR 39971, August 5, 1994) and October 4, 1999 (64 FR 42602, August 5, 1999). EPA uses 40 CFR 272.2501 for codification of decisions to authorize Wisconsin's program and for incorporation by reference of those provisions of its statutes and regulations that EPA will enforce under sections 3008, 3013 and 7003 of RCRA. EPA codified Wisconsin's authorized program on April 24, 1989 (54 FR 7422, February 21, 1989), May 29, 1990 (55 FR 11910, March 30, 1990), and November 22, 1993 (58 FR 49199).

2. Which Notices and Requirements are Being Clarified?

In the following authorization and codification documents, EPA included references to a state variance authority which allows the Wisconsin Department of Natural Resources (WDNR) to issue variances from hazardous waste licensing requirements in cases of ''undue or unreasonable hardship:''

Effective date	FR cite	This document clarifies references to
April 24, 1989	54 FR 7422, February 21, 1989, at 7424	Wis. Stat. 144.64(3) and WAC NR 181.55(10).
May 29, 1990	55 FR 11910, March 30, 1990, at 11911	WAC NR 181.55(10).
August 2, 1993	58 FR 31344, June 2, 1993, at 31344	WAC NR 181.55(10).
November 22, 1993	58 FR 49199, November 22, 1993, at 49200	Wis. Stat. 144.64(3) and WAC NR 680.50.
October 4, 1999	64 FR 42602, August 5, 1999, at 42607	Wis. Stat. 144.64(3) and 291.31.

There is no analogous Federal variance authority. The purpose of this document is to clarify the limited circumstances under which the State may use this authority to vary an authorized RCRA requirement.

The Wisconsin legislature enacted the State hardship variance in 1978 and the WDNR adopted implementing administrative rules in 1981. Both the statutory and administrative provisions have been amended and renumbered over time; however, at all times relevant to this clarification document the hardship variance authority has been codified in State law at section 144.64(3) or section 291.31 of the Wisconsin Statutes and section NR 181.55(10) or section NR 680.50 of the Wisconsin Administrative Code. Consequently, this document clarifies all references to those specific state statutory and regulatory provisions in the authorization and codification of Wisconsin's hazardous waste program.

3. What is the Clarification?

In the **Federal Register** documents listed above, EPA included reference to section 144.64(3) or section 291.31 of the Wisconsin Statutes and section NR 181.55(10) or section NR 680.50 of the Wisconsin Administrative Code without explaining that the use of these authorities to waive authorized RCRA rules is generally limited to granting variances from the surface impoundment double liner requirements of section 3005(j)(2) through (9) and (13) of RCRA [1] or when the State varies authorized State requirements that are more stringent than current Federal requirements imposing instead the same standards as the less stringent Federal requirements. For example, EPA may promulgate less stringent amendments to Federal rules while the States, because of a temporary lag in authorization, remain authorized for the pre-existing more stringent rules.

[1] Unlike the Federal RCRA program, Wisconsin's hazardous waste requirements do not include a specific waiver for the double liner requirements for RCRA regulated surface impoundments. Instead, the Wisconsin Attorney General, in a statement supporting State authorization, referenced the State hardship waiver as State authority to grant such waivers. EPA is unaware of any instance wherein Wisconsin has granted a waiver from the double liner requirements for surface impoundments.

States may use State waiver authorities to relax authorized State rules to the extent those rules are more stringent than analogous Federal rules (See, for example, 63 FR 65874 at 65925 (November 30, 1998)).

In addition, if a State authorized to implement the RCRA program has a permit waiver authority that is analogous to EPA's authority under section 121(e) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) or RCRA section 7003, it may use this authority to waive the requirement to obtain a RCRA permit with respect to on-site response actions. As explained in EPA guidance, the two preconditions to allowing the use of this authority are that: ''(1) The State has the authority under its own statutes or regulations to grant permit waivers; and (2) the State waiver authority is used in no less stringent a manner than allowed under Federal permit waiver authority, for example, section 7003 of RCRA or section 121(e) of CERCLA.'' (See the Memorandum, ''RCRA Permit Requirements for State Superfund Actions'', from J. Winston Porter to Regional Administrators, Region I–X (Nov. 16, 1987) (OSWER Dir. No. 9522.00–2).) Nothing in this clarification document changes or affects this policy in any way.

4. Summary

The references in 40 CFR 272.2501 and appendix A to part 272 to sections 144.64(3) and 291.31 of the Wisconsin Statutes and sections NR 181.55(10) and 680.50 of the Wisconsin Administrative Code provide notice that the State, as part of the authorized program, may use this authority only: (1) to grant variances from the surface impoundment double liner requirements of RCRA in those cases wherein the facility meets all of the requirements of RCRA section 3005(j); (2) to grant variances from more stringent authorized requirements that impose instead the same standards as the less stringent federal requirement; and (3) in the manner consistent with sections 7003 of RCRA or 121(e) of CERCLA, as described in applicable EPA guidance. Use of the State hardship variance authority with respect to any other authorized RCRA requirements is not part of the RCRA approved State program. Of course, States retain authority to waive or vary those State requirements that are broader in scope than, and therefore not part of, the Federal RCRA program. Therefore, with certain limited exceptions discussed herein, a State hardship variance cannot excuse compliance with RCRA program requirements. Persons who fail to comply with RCRA program requirements are subject to Federal enforcement under sections 3008, 3013, and 7003 of RCRA.

Authority: This action is issued under the authority of sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act as amended 42 U.S.C. 6912(a), 6926, 6974(b).

David A. Ullrich,

Acting Regional Administrator, Region 5.

[FR Doc. 01–12894 Filed 5–22–01; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–1221, MM Docket No. 01–45, RM–9997]

Digital Television Broadcast Service; Mountain View, AR

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Arkansas Educational Television Commission, licensee of noncommercial educational station KEMB(TV), substitutes DTV channel *13 for DTV channel *35 at Mountain View, Arkansas. *See* 66 FR 12748, February 28, 2001. DTV channel *13 can be allotted to Mountain View in compliance with the principle community coverage requirements of section 73.625(a) at reference coordinates (35–48–47 N. and 92–17–24 W.) with a power of 20.0, HAAT of 425 meters and with a DTV service population of 337 thousand. With this action, this proceeding is terminated.

DATES: Effective July 2, 2001.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 01–45, adopted May 16, 2001, and released May 18, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW., Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Television, Digital television broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

47 CFR Part 73—[Amended]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.622 [Amended]

2. Section 73.622(b), the Table of Digital Television Allotments under Arkansas, is amended by removing DTV channel *35 and adding DTV channel *13 at Mountain View.

Federal Communications Commission.

Barbara A. Kreisman,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 01–12991 Filed 5–22–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–1222, MM Docket No. 01–29, RM–10044]

Digital Television Broadcast Service; Butte, MT

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Eagle Communications, Inc., licensee of station KTVM(TV), substitutes DTV channel 33 for DTV channel 2 at Butte, Montana. *See* 66 FR 9062, February 6, 2001. DTV channel 33 can be allotted to Butte in compliance with the principle community coverage requirements of section 73.625(a) at reference coordinates (46–00–27 N. and 112–26–30 W.) with a power of 1000, HAAT of 576 meters and with a DTV service population of 122 thousand. Since Butte is located within 400 kilometers of the U.S.-Canadian border, concurrence by the Canadian government has been obtained for this allotment.

With this action, this proceeding is terminated.

DATES: Effective July 2, 2001.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 01–29,

adopted May 16, 2001, and released May 18, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW., Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Television, Digital television broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

47 CFR Part 73—[Amended]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.622 [Amended]

2. Section 73.622(b), the Table of Digital Television Allotments under Montana, is amended by removing DTV channel 2 and adding DTV channel 33 at Butte.

Federal Communications Commission.

Barbara A. Kreisman,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 01–12990 Filed 5–22–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–1220, MM Docket No. 01–41, RM–10058]

Digital Television Broadcast Service; Merced, CA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Sainte 51, L.P., permittee of station KNSO(TV), substitutes DTV channel 5 for DTV channel 38 at Merced, California. *See* 66 FR 10982, February 21, 2001. DTV channel 5 can be allotted to Merced in compliance with the principle community coverage requirements of section 73.625(a) at reference coordinates (37–04–18 N. and 119–25–53 W.) with a power of 12.9, HAAT of 532 meters and with a DTV service population of 1452 thousand. With this action, this proceeding is terminated.

DATES: Effective July 2, 2001.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 01–41, adopted May 16, 2001, and released May 18, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW., Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Television, Digital television broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

47 CFR Part 73—[Amended]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.622 [Amended]

2. Section 73.622(b), the Table of Digital Television Allotments under California, is amended by removing DTV channel 38 and adding DTV channel 5 at Merced.

Federal Communications Commission.

Barbara A. Kreisman,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 01–12992 Filed 5–22–01; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 40

[Docket No. OST–1999–6578]

Procedures for Transportation Workplace Drug and Alcohol Testing Programs; Early Compliance Allowed for Electronic Reporting

AGENCY: Office of the Secretary, DOT.

ACTION: Compliance date on final rule.

SUMMARY: In its final drug and alcohol testing rule published on December 19, 2000, and effective August 1, 2001, the Department authorized laboratories, certified by the Department of Health and Human Services (HHS), to report negative drug testing results to medical review officers (MRO) using only electronic reports and mandated the use of the new Federal Drug Testing Custody and Custody Form (CCF). To provide laboratories lead-time to accomplish the transition to the new CCF, the Department, in coordination with HHS, has determined that earlier compliance with this reporting procedure should be permitted. Additionally, the Department is also permitting early compliance with the reporting of all non-negative results to the MRO using faxed or scanned copies of the laboratory copy of the new CCF.

This document authorizes HHS certified laboratories to initiate electronic reporting as the only reporting necessary for negative results on specimens submitted to laboratories using the new CCF and the reporting of non-negative results using faxed or scanned copies of Copy 1 of the new CCF. Laboratories may continue to use current procedures utilizing mail or courier services.

DATES: This document permits as of May 23, 2001 early compliance with the electronic reporting provisions in the final rule published at 65 FR 79462, and effective August 1, 2001.

FOR FURTHER INFORMATION CONTACT: Don Shatinsky, Drug and Alcohol Policy Advisor, Office of Drug and Alcohol Policy and Compliance, Department of Transportation, 400 7th Street, SW., Room 10403, Washington, DC 20590, at (202) 366–3784 (voice), (202) 366–3897 (fax), or don.shatinsky@ost.dot.gov/.

SUPPLEMENTARY INFORMATION: In the December 19, 2000, **Federal Register** (65 FR 79462), the Department published a comprehensive revision to its drug and alcohol procedures testing regulation (49 CFR Part 40). This complete revision becomes effective August 1, 2001. In this revision, the Department authorizes laboratories to report drug testing results to the MRO electronically and mandates use of the new shorter-version of the Federal Drug Testing Custody and Control Form (CCF).

Currently, the Department and HHS permit laboratories and employers to use the new CCF. The laboratory may transmit all results (negative and non-negative) to the MRO by mail or courier or by either faxing the completed laboratory copy (Copy 1) of the CCF or transmitting a scanned image of the form via computer. On August 1, 2001, for all negative results, laboratories will be permitted to send to MROs an electronically generated laboratory report and will not need to mail, courier, fax or send a scanned copy,

thus initiating substantial savings related to processing paper records.

Additionally, since all laboratories and employers must use the new shorter form as of August 1, 2001, HHS has directed laboratories to treat submission of specimens for drug testing using the older (seven-part) form as a correctable flaw which the laboratory must correct using a memorandum for record from the collection site. Laboratories have indicated to HHS and the Department that without a transition period to change over to the new forms and without gradual phasing in of electronic reporting, they foresee substantial implementation problems. From previous experiences, laboratories have learned that collection sites are reluctant to destroy old forms and continue to use them until they deplete their supply. Without a phase-in period, laboratories are concerned that the continued use of old forms after August 1, will create a substantial paper burden. Also, the new forms were designed specifically to be used with the electronic reporting process. Until this reporting process is in place, there is little motivation to initiate the use of the new forms.

The Department is convinced that authorizing the laboratories and employers to initiate the use of electronic reporting (as provided in the new § 40.97) a few months earlier would have a beneficial impact on the industry. Through this document, the Department consents to laboratories using the procedures provided in the new rule before August 1, 2001. Laboratories are not required to use electronic reporting, however.

Issued this 10th day of May 2001, at Washington, DC.

Kenneth C. Edgell,

Acting Director, Office of Drug and Alcohol, Policy and Compliance.

[FR Doc. 01–12484 Filed 5–22–01; 8:45 am]

BILLING CODE 4910–62–P

Proposed Rules

Federal Register
Vol. 66, No. 100
Wednesday, May 23, 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–NM–397–AD]

RIN 2120–AA64

Airworthiness Directives; Bombardier Model CL–600–2B16 (including CL–601–3A and CL–601–3R) Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Bombardier Model CL–600–2B16 series airplanes. This proposal would require modification of the wiring for the internal fuel/defuel panel. This action is necessary to prevent the loss of engine and fuel indications essential for safe flight and landing. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by June 22, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000-NM–397-AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: 9-anm-nprmcomment@faa.gov. Comments sent via fax or the Internet must contain ''Docket No. 2000–NM–397–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

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

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

SUPPLEMENTARY INFORMATION:

Comments Invited

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

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the proposed AD is being requested.
- Include justification (e.g., reasons or data) for each request.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 2000–NM–397–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–397–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

Transport Canada Civil Aviation (TCCA), which is the airworthiness authority for Canada, notified the FAA that an unsafe condition may exist on certain Bombardier Model CL–600–2B16 series airplanes. TCCA advises of an incident in which the flight crew lost all readouts for the engine and fuel quantity systems in the cockpit of an airplane that had been modified with an internal fuel/defuel panel. The cockpit engine and fuel quantity systems for this configuration are powered from a single source, bypassing the dual power source of the original installation. During the incident, the fuel/defuel panel was left energized following refueling, the circuit breaker for the single power source tripped, and the engine and fuel quantity indications were subsequently lost and could not be recovered. These conditions, if not corrected, could result in the loss of data essential for safe flight and landing.

Explanation of Relevant Service Information

Bombardier has issued Service Bulletin S.B. GEN–28–010, Revision A, dated May 15, 2000, which describes procedures for modifying the wiring for the internal fuel/defuel panel. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition. TCCA classified this service bulletin as mandatory and issued Canadian airworthiness directive CF–2000–24, dated August 15, 2000, to ensure the continued airworthiness of these airplanes in Canada.

FAA's Conclusions

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

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require accomplishment of the actions specified in the service bulletin described previously.

Cost Impact

The FAA estimates that 18 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 60 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. The manufacturer has committed previously to its customers that it will bear the cost of labor and replacement parts. As a result, those costs are not attributable to this proposed AD.

The cost impact discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this proposed AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Bombardier, Inc. (Formerly Canadair): Docket 2000–NM–397–AD.

Applicability: Model CL–600–2B16 (including CL–601–3A and CL–601–3R) series airplanes, certificated in any category, as listed in the following table:

TABLE 1.—APPLICABILITY

Serial Number	Transport Canada Limited Supplemental Type Certificate (STC)	FAA STC
5064	SA90–128	ST00873NY
5075	SA91–22	SA861NE
5080	SA91–42	SA860NE
5092	Q–LSA91–52/D	SA965NE/ST00470NY
5096	Q–LSA91–52/D	SA965NE
5102	Q–LSA92–2/D	ST00364NY
5111	Q–LSA92–1011/D	SA1029NE
5123	Q–LSA93–1002/D	ST00001NY
5125	Q–LSA93–1007/D	No record of FAA STC
5130	Q–LSA93–1023/D	ST00049NY
5139	Q–LSA94–1002/D	ST00086NY
5142	Q–LSA94–1011/D	ST00216NY
5154	Q–LSA94–1023/D	ST00273NY
5156	Q–LSA94–1025/D	ST00423NY
5159	Q–LSA95–1002/D	ST01228NY
5162	Q–LSA95–1003/D	No record of FAA STC
5163	Q–LSA95–1011/D	ST00343NY
5194	Q–LSA96–1006/D	ST00769NY

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

Compliance: Required as indicated, unless accomplished previously.

To prevent loss of engine and fuel indications essential for safe flight and landing, accomplish the following:

Modification

(a) Within 6 months after the effective date of this AD, modify the wiring for the internal fuel/defuel panel, in accordance with Bombardier Service Bulletin S.B. GEN–28–010, Revision A, dated May 15, 2000.

Alternative Methods of Compliance

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

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

Special Flight Permits

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

Note 3: The subject of this AD is addressed in Canadian airworthiness directive CF–2000–24, dated August 15, 2000.

Issued in Renton, Washington, on May 17, 2001.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–12988 Filed 5–22–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

International Trade Administration

DEPARTMENT OF THE INTERIOR

15 CFR Part 303

[Docket No. 991228350–1118–02]

RIN: 0625–AA57

Office of Insular Affairs; Proposed Changes in the Insular Possessions Watch, Watch Movement and Jewelry Program

AGENCIES: Import Administration, International Trade Administration, Department of Commerce; Office of Insular Affairs, Department of the Interior.

ACTION: Notice of proposed rulemaking and request for comments.

SUMMARY: The Departments propose amending their regulations governing watch duty-exemption allocations and the watch and jewelry duty-refund benefits for producers in the United States insular possessions (the U.S. Virgin Islands, Guam, American Samoa and the Commonwealth of the Northern Mariana Islands). The proposed rule would amend ITA regulations by further clarifying the range of documents that may be needed for verification of duty-free shipments of jewelry into the United States and by clarifying which wages qualify as creditable and which do not for purposes of calculating the duty-refund for watches and jewelry. We also propose amending the regulations by making minor editorial changes within the definition of *new firm* for watches. Finally, we propose amending the duty refund process by dividing the amount of the annual duty refund certificate into two installments. These amendments are being proposed to make grammatical changes, clarify a portion of the regulations, update methods of documentation and help producers receive benefits in a more timely fashion.

DATES: Written comments must be received on or before June 22, 2001.

ADDRESSES: Address written comments to Faye Robinson, Acting Director, Statutory Import Programs Staff, Room 4211, U.S. Department of Commerce, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Faye Robinson, (202) 482–3526, same address as above.

SUPPLEMENTARY INFORMATION: The insular possessions watch industry provision in section 110 of Pub. L. No. 97–446 (96 Stat. 2331) (1983), as amended by section 602 of Pub. L. No. 103–465 (108 Stat. 4991) (1994); additional U.S. Note 5 to chapter 91 of the Harmonized Tariff Schedule of the United States (''HTSUS''), as amended by Pub. L. 94–241 (90 Stat. 263) (1976) requires the Secretary of Commerce and the Secretary of the Interior, acting jointly, to establish a limit on the quantity of watches and watch movements which may be entered free of duty during each calendar year. The law also requires the Secretaries to establish the shares of this limited quantity which may be entered from the Virgin Islands, Guam, American Samoa and the Commonwealth of the Northern Mariana Islands (''CNMI''). After the Departments have verified the data submitted on the annual application (Form ITA–334P), the producers' duty-exemption allocations are calculated from the territorial share in accordance with 15 CFR 303.14 and each producer is issued a duty-exemption license. The law further requires the Secretaries to issue duty-refund certificates to each territorial watch and watch movement producer based on the company's duty-free shipments and creditable wages paid during the previous calendar year.

Pub. L. 106–36 (113 Stat. 127) (1999) authorizes the issuance of a duty-refund certificate to each territorial jewelry producer for any article of jewelry provided for in heading 7113 of the HTSUS which is the product of any such territory. The value of the certificate is based on creditable wages paid and duty-free units shipped into the United States during the previous calendar year. Although the law specifically mentions the U.S. Virgin Islands, Guam and American Samoa, the issuance of the duty-refund certificate would also apply to the CNMI due to the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America (Pub. L. 94–241), which states that goods from the CNMI are entitled to the same tariff treatment as imports from Guam. *See also* 19 CFR 7.2(a). The law provides that during the first two years, beginning August 9, 1999, jewelry that is assembled in the territories shall be treated as a product of such territories. Thereafter, in order to be considered a product of such territories, the jewelry must meet the U.S. Customs Service substantial transformation requirements (the jewelry must become a new and different article of commerce as a result of production or manufacture performed in the territory). To receive duty-free treatment, the jewelry must also satisfy the requirements of General Note 3(a)(iv) of the HTSUS and applicable Customs Regulations (19 CFR 7.3).

The law specifies, in addition, that watch producer benefits shall not be diminished as a consequence of extending duty-refund benefits to jewelry manufacturers. In the event that the aggregate amount of the calculated duty refunds for both watches and jewelry exceeds the total amount available under Pub. L. 97–446, as amended by Pub. L. 103–465, the watch producers shall receive their calculated amounts; the jewelry producers would then receive amounts proportionately reduced from the remainder. *See* Pub. L. 106–36.

Proposed Amendments

We propose amending Subpart A § 303.2(a)(5), *see* 65 FR 8049 (Feb. 17, 2000), by making grammatical changes.

We also propose amending Subpart A § 303.2(a)(13) and Subpart B § 303.16(a)(9) to explain further what is meant by special services under the definition of wages excluded from being

creditable towards the duty-refund in response to requests for additional clarification of this language. The new language on wages not creditable towards the duty refund would include wages paid to any outside consultant or those persons not involved in the day to day assembly operations or administrative work directly related to the operation of the company. Examples of wages that would not be creditable toward the duty refund would be wages paid to gardeners, construction workers, electricians, plumbers or outside lawyers and accountants. A producer also wanted to know if two producers worked on the same single piece of jewelry, would each producer's wages for their portion of the work be creditable towards each producer's duty refund. The jewelry producer explained that the casting of precious metal is a highly technical process which is very capital intensive and expensive to set up. The producer explained that it would be very helpful if some companies could subcontract such work to a producer who was willing to make the capital investment. The producer also pointed out that having a local caster available would be an added inducement to other jewelry companies to locate in the insular possessions. We agree that given this unique two-step manufacturing process in the production of jewelry, that this request has merit. Therefore, we propose including specific language to address this situation. The proposed regulatory language would allow two separate jewelry producers to have their portion of the wages credited toward their own duty refund for work on a single piece of jewelry which had entered the U.S. free of duty under the program if the companies demonstrate that they worked on the same piece of jewelry, the jewelry received duty-free treatment into the U.S., the companies maintained production and payroll records for dutiable as well as duty-free jewelry shipments into the U.S. or other destinations so that creditable as well as non-creditable wages may be determined, and the records are sufficient for the Departments' verification of the creditable wages and duty-free units shipped into the United States.

We further propose adding alternative documents which may be needed or used during the verification of the amount of duty-free jewelry which entered the United States under the insular program. New shipping methods and the fact that jewelry, unlike watches, does not require a permit (Form ITA–340P), necessitate new ways to document duty-free entry into the United States. Therefore, we propose amending Subpart B § 303.17(b)(4) to include methods of verification such as requiring the consignee (receiver of goods in the U.S.) to certify that shipments which are otherwise unsupported by Customs entry documents or a certificate of origin did, in fact, receive duty-free treatment. These alternative reporting requirements are necessary in order to provide the Departments' auditors with sufficient documentation to verify duty-free shipments.

Finally, we propose amending Subpart A, § 303.2(b)(1) and § 303.12(a), and Subpart B, § 303.16(b)(1) and § 303.19(a)(1) by providing for the issuance of an interim duty refund certificate which would authorize a producer to receive a portion of the total amount of the annual duty refund certificate. The interim amount would be based on reported duty-free shipments and creditable wages paid during the first six months of the same calendar year in which the wages were paid. The interim duty refund certificate would be issued after the required company data were received and the calculations for each company are completed. We propose requiring the receipt of each producer's data by the end of July if the producer wishes to receive an interim duty refund certificate. The interim duty refund certificate will be issued by the end of August to all producers who have provided the Departments with the data necessary to calculate the duty refund by the end of July. The verification process and the calculation for the annual duty refund certificate will remain the same. However, that portion of the duty refund that has already been issued via the interim duty free certificate to each producer will be deducted from each producer's annual total duty refund amount. This amendment is being proposed to provide duty refund benefits to producers in a more timely fashion.

Administrative Law Requirements

Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, the Chief Counsel for Regulation at the Department of Commerce has certified to the Chief Counsel for Advocacy, Small Business Administration, that the proposed rule, if promulgated as final, will not have a significant economic impact on a substantial number of small entities. This rulemaking would make minor editorial changes and clarify current language regarding creditable wages neither of which will impose any cost or have any other adverse economic effect on the producers. The rulemaking would also divide the total annual amount of the duty refund certificate into two installments, thereby allowing producers to receive benefits in a more timely fashion. Although the total amount of a duty refund certificate will not change, the proposed rule is intended to have a positive effect on the insular economies by helping the producers improve their cash flows. Finally, the proposed rulemaking would include an alternative method of verification of duty-free shipments of jewelry into the United States for those entries that did not receive Customs entry documents or a certificate of origin for each shipment. If producers want credit for these duty-free shipments, once a year the consignee (receiver of the jewelry shipped into the United States) or producer (if the producer knows that the shipment received duty-free entry into the United States) would prepare a written certification for the Departments' auditors that the shipments received duty-free treatment into the United States. Proposing such a certification is expected to have little, if any, economic impact on a company that did not receive Customs entry documentation. We estimate the certification statement, if used, would create a burden of about ten minutes to complete at a cost of approximately $20 annually.

Paperwork Reduction Act

This proposed rulemaking involves new collection-of-information requirements subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995, which have been submitted to OMB for approval. Changing the duty refund certificate from an annual to a biannual basis will require the use of three of the current forms, modified to accommodate the change. The public reporting burden for these collection-of-information requirements includes the time for reviewing instructions, searching existing data bases, gathering and maintaining the data needed, and completing and reviewing the collection of information. The issuance of payments under the duty refund certificate on a biannual basis will require the collection of data through the use of a modified version of the annual application, Form ITA–334P. We estimate this will involve a burden of about one hour per producer. One more certificate of entitlement to a duty refund, Form ITA–360P, would also need to be issued to each producer per

year. This form is completed by the Department of Commerce and imposes no burden hours on the producers. Form ITA–361P, the request for refund of duties, is currently used once or twice a year per producer and takes about 10 minutes to complete. Because of the proposed biannual duty refund, we anticipate that most producers would only complete the form between two to three times a year in order to receive such refunds in a more timely manner. We expect Form ITA–361P will only increase the burden by about 10 minutes per producer. Finally, the proposed rulemaking would include an alternative method of verification of the duty-free shipments of jewelry into the United States for those entries that did not receive Customs entry documents or the country of origin certificates for each shipment. This alternative would be in the form of a written certification by the consignee or, if he or she knows, by the producer, that the shipments received duty-free treatment. Because the jewelry portion of the program is new, it is difficult at this time to determine whether this alternative certification will be needed by the new companies or whether they will be able to produce standard Customs entry documents or certificates of origin. The certification by the consignee or producer would be in the form of an annual statement prepared for the auditor. We estimate that it will take about ten minutes to complete at a cost of approximately $20. Collection activities are currently approved by the Office of Management and Budget under control numbers 0625–0040 and 0625–0134. Public comment is sought regarding: Whether the proposed collection-of-information requirements are necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information, including the use of automated collection techniques or other forms of information technology. Send comments regarding any of these burden estimates or any other aspect of the collection-of-information to U.S. Department of Commerce, ITA Information Officer, Washington, DC 20230 and Office of Information and Regulations Officer, Office of Management and Budget, Washington, DC 20503 (Att: OMB Desk Officer).

Notwithstanding any other provision of the 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 unless it displays a currently valid OMB Control Number.

Plain English

The President has directed Federal agencies to use plain language in their communications with the public, including regulations. To comply with this directive, we seek public comment on any ambiguity or unnecessary complexity arising from the language used in this proposed rule.

Executive Order 12866

It has been determined that the proposed rulemaking is not significant for purposes of Executive Order 12866.

List of Subjects in 15 CFR Part 303

Administrative practice and procedure, American Samoa, Customs duties and inspection, Guam, Imports, Marketing quotas, Northern Mariana Islands, Reporting and recordkeeping requirements, Virgin Islands, Watches and jewelry.

For reasons set forth above, The Departments propose to amend 15 CFR part 303 as follows:

PART 303—WATCHES, WATCH MOVEMENTS AND JEWELRY PROGRAM

1. The authority citation for 15 CFR part 303 continues to read as follows:

Authority: Pub. L. 97–446, 96 Stat. 2331 (19 U.S.C. 1202, note); Pub. L. 103–465, 108 Stat. 4991; Pub. L. 94–241, 90 Stat. 263 (48 U.S.C. 1681, note); Pub. L. 106–36, 113 Stat.127,167.

2. Section 303.2 is amended as follows:

A. The first sentence of § 303.2(a)(5) is amended by removing ''which may not be'' and adding in its place ''not''.

B. The second sentence of § 303.2(a)(13) is revised as set forth below.

C. The last sentence of § 303.2(b)(1) is amended by adding ''and by producers who wish to receive the duty refund in installments on a biannual basis'' at the end of the sentence.

§ 303.2 Definitions and forms.

(a) * * *

(13) * * * Excluded, however, are wages paid to any outside consultants or other professional personnel, such as lawyers and accountants, or to those persons not involved in the day-to-day assembly operations or administrative work directly related to the operations of the company, such as gardeners or construction workers, and for the repair of non-91/5 watches and movements to the extent that such wages exceed the foregoing percentage. * * *

* * * * *

3. Section 303.12(a)(1) is revised to read as follows:

§ 303.12 Issuance and use of production incentive certificates.

(a) *Issuance of certificates.* (1) The total annual amount of the Certificate of Entitlement, Form ITA–360, may be divided and issued on a biannual basis. The first portion of the total annual certificate amount will be based on reported duty-free shipments and creditable wages paid during the first six months of the calendar year, using the formula in § 303.14(c). The Departments require the receipt of the data by July 31 for each producer who wishes to receive an interim duty refund certificate. The interim duty refund certificate will be issued on or before August 31 of the same calendar year in which the wages were earned unless the Departments have unresolved questions. The process of determining the total annual amount of the duty refund will remain the same. The completed annual application (Form ITA–334P) shall be received by the Departments on or before January 31 and the annual verification of data and the calculation of each producer's total annual duty refund, based on the verified data, will continue to take place in February. Once the calculations for each producer's duty refund has been completed, the portion of the duty refund that has already been issued to each producer will be deducted from the total amount of each producer's annual duty refund amount. The duty refund certificate will continue to be issued by March 1 unless the Departments have unresolved questions.

* * * * *

4. Section 303.16 is amended as follows:

A. The second sentence of § 303.16(a)(9) is removed and three sentences are added in its place as set forth below.

B. The last sentence of § 303.16(b)(1) is amended by adding ''and, with special instructions for its completion, by producers who wish to receive the total annual amount of the duty refund in installments on a biannual basis'' at the end of the sentence.

§ 303.16 Definitions and forms.

(a) * * *

(9) * * * Excluded, however, are wages paid for outside consultants or other professional personnel, such as lawyers and accountants, or those persons not involved in the day-to-day assembly operations or the

administrative work directly related to the operations of the company, such as gardeners or construction workers, plus any wages paid for the assembly of dutiable jewelry or for the repair of dutiable jewelry to the extent that such wages exceed the percentage set forth above. No more than two insular producers may have their wages credited for their portion of the wages paid for work on a single piece of jewelry which entered the U.S. free of duty under the program. Wages paid by the two producers will be credited proportionally provided both producers demonstrate to the satisfaction of the Secretaries that they worked on the same piece of jewelry, the jewelry received duty-free treatment into the U.S., and the producers maintained production and payroll records sufficient for the Departments' verification of the creditable wage portion (*see* § 303.17(b)). * * *

* * * * *

§ 303.17 [Amended]

5. Section 303.17(b)(4) is amended by adding '', or the certificate of origin for the shipment, or, if a company did not receive such documents from Customs, a certification from the consignee that the jewelry shipment received duty-free treatment, or a certification from the producer, if the producer can attest that the jewelry shipment received duty-free treatment'' at the end of the paragraph.

6. Section 303.19(a)(1) is revised to read as follows:

§ 303.19 Issuance and use of production incentive certificates.

(a) *Issuance of certificates.* (1) The total annual amount of the Certificate of Entitlement, Form ITA–360, may be divided and issued on a biannual basis. The first portion of the total annual certificate amount will be based on reported duty-free shipments and creditable wages paid during the first six months of the calendar year, using the formula in § 303.20(b). The Departments require the receipt of the data by July 31 for each producer who wishes to receive an interim duty refund certificate. The interim duty refund certificate will be issued on or before August 31 of the same year in which the wages were earned unless the Departments have unresolved questions. The process of determining the total annual amount of the duty refund will remain the same. The completed annual application (Form ITA–334P) shall be received by the Departments on or before January 31 and the annual verification of data and calculation of each producer's total annual duty refund, based on the verified data, will continue to take place in February. Once the calculations for each producer's duty refund has been completed, the portion of the duty refund that has already been issued to each producer will be deducted from the total amount of each producer's annual duty refund amount. The duty refund certificate will continue to be issued by March 1 unless the Departments have unresolved questions.

* * * * *

Faryar Shirzad,

Assistant Secretary for Import Administration, Department of Commerce.

Nikolao Pula,

Acting Director, Office of Insular Affairs, Department of the Interior.

[FR Doc. 01–12861 Filed 5–22–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–125237–00]

RIN 1545–AY60

Debt Instruments With Original Issue Discount; Annuity Contracts; Hearing Cancellation

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Cancellation of notice of public hearing on proposed rulemaking.

SUMMARY: This document cancels the public hearing on proposed regulations relating to the federal income tax treatment of annuity contracts issued by certain insurance companies.

DATES: The public hearing originally scheduled for Wednesday, May 30, 2001, at 10 a.m., is cancelled.

FOR FURTHER INFORMATION CONTACT: LaNita Van Dyke of the Regulations Unit, Office of Special Counsel (Modernization & Strategic Planning), (202) 622–7190 (not a toll-free number).

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking and notice of public hearing that appeared in the **Federal Register** on Friday, January 12, 2001 (66 FR 2852), announced that a public hearing was scheduled for Wednesday, May 30, 2001, at 10 a.m., in room 4718, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC. The subject of the public hearing is proposed regulations under sections 163(e) and 1271 through 1275 of the Internal Revenue Code. The public comment period for these proposed regulations expired on April 12, 2001.

The notice of proposed rulemaking and notice of public hearing, instructed those interested in testifying at the public hearing to submit a request to speak and an outline of the topics to be addressed. As of Wednesday, May 16, 2001, no one has requested to speak. Therefore, the public hearing scheduled for Wednesday, May 30, 2001, is cancelled.

LaNita Van Dyke,

Acting Chief, Regulations Unit, Office of Special Counsel (Modernization & Strategic Planning).

[FR Doc. 01–12736 Filed 5–22–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–106791–00]

RIN 1545–AY55

Liabilities Assumed in Certain Corporate Transactions

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Cancellation of notice of public hearing on proposed rulemaking.

SUMMARY: This document provides notice of cancellation of a public hearing on proposed regulations relating to liabilities assumed in certain corporate transactions.

DATES: The public hearing originally scheduled for Thursday, May 31, 2001, at 10 a.m., is cancelled.

FOR FURTHER INFORMATION CONTACT: Guy R. Traynor of the Regulations Unit, Office of Special Counsel, (202) 622–7180 (not a toll-free number).

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking and notice of public hearing that appeared in the **Federal Register** on January 4, 2001 (66 FR 748), announced that a public hearing was scheduled for May 31, 2001 at 10 a.m., in room 4718, 1111 Constitution Avenue, NW., Washington, DC. The subject of the public hearing is proposed regulations under section 301 of the Internal Revenue Code. The public comment period for these regulations expired on May 10, 2001.

The notice of proposed rulemaking and notice of public hearing, instructed those interested in testifying at the public hearing to submit a request to speak and an outline of the topics to be addressed. As of May 15, 2001, no one

has requested to speak. Therefore, the public hearing scheduled for May 31, 2001, is cancelled.

Cynthia E. Grigsby,

Chief, Regulations Unit, Office of Special Counsel (Modernization & Strategic Planning).

[FR Doc. 01–13064 Filed 5–22–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1, 31, and 301

[REG–107186–00]

RIN 1545–AY50

Electronic Payee Statements; Hearing Cancellation

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Cancellation of notice of public hearing on proposed rulemaking.

SUMMARY: This document provides notice of cancellation of a public hearing on proposed regulations under sections 6041 and 6051 relating to the voluntary electronic furnishing of payee statements on Forms W–2.

DATES: The public hearing originally scheduled for June 4, 2001, at 10:00 a.m., is cancelled.

FOR FURTHER INFORMATION CONTACT: Sonya M. Cruse of the Regulations Unit at (202) 622–7180 (not a toll-free number).

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking and notice or public hearing that appeared in the **Federal Register** on Wednesday, February 14, 2001, (66 FR 10247), announced that a public hearing was scheduled for June 4, 2001 at 10 a.m., in the IRS Auditorium. The subject of the public hearing is proposed regulations under sections 6041 and 6051 of the Internal Revenue Code. The public comment period for these proposed regulations expired on May 14, 2001.

The notice of proposed rulemaking and notice of public hearing, instructed those interested in testifying at the public hearing to submit a request to speak and an outline of the topics to be addressed. As of Tuesday, May 15, 2001, no one has requested to speak. Therefore, the public hearing scheduled for June 4, 2001, is cancelled.

LaNita Van Dyke,

Acting Chief, Regulations Unit, Office of Special Counsel (Modernization & Strategic Planning).

[FR Doc. 01–12737 Filed 5–22–01; 8:45 am]

BILLING CODE 4830–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[WV–042–6011b; FRL–6983–5]

Approval and Promulgation of State Plans for Designated Facilities and Pollutants; State of West Virginia; Control of Emissions From Existing Municipal Solid Waste Landfills

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve the municipal solid waste landfill 111(d) plan submitted by the West Virginia Division of Environmental Protection (DEP), on May 29, 1998, and as amended on May 15, and December 20, 2000, for the purpose of controlling landfill gas emissions from existing municipal solid waste (MSW) landfills. Also, EPA proposes to delegate its authority to the DEP for the enforcement of the Federal landfill 111(d) plan's compliance schedules. In the final rules section of the **Federal Register**, EPA is approving the plan. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this rule, no further activity is contemplated in relation to this rule. If EPA receives relevant 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 on this document. Any parties interested in commenting on this document should do so at this time.

DATES: Comments must be received in writing by June 22, 2001.

ADDRESSES: Comments may be mailed to David L. Arnold, Chief, Air Quality Planning and Information Services Branch, Mailcode 3AP21, Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

FOR FURTHER INFORMATION CONTACT: James B. Topsale at (215) 814–2190, or by e-mail at topsale.jim@epa.gov. While additional information may be obtained via e-mail, comments must be submitted in writing to the address provided above.

SUPPLEMENTARY INFORMATION: See the information provided in the direct final rule of the same title which is located in the rules section of the **Federal Register**.

Authority: 42 U.S.C. 7401–7642.

Dated: May 1, 2001.

William C. Early,

Acting Regional Administrator, Region III.

[FR Doc. 01–12889 Filed 5–22–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 82

[FRL–6981–9]

Protection of Stratospheric Ozone: Notice of Data Availability; New Information Concerning SNAP Program Proposal on HCFC Use in Foams

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of data availability and request for comment.

SUMMARY: The Environmental Protection Agency (EPA) is making available to the public information related to a July 11, 2000, proposal under the Significant New Alternatives Policy (SNAP) Program under section 612 of the Clean Air Act. The SNAP program reviews alternatives to Class I and Class II ozone depleting substances and approves use of alternatives which reduce the overall risk to public health and the environment. The July 11, 2000 proposal concerned use of hydrochlorfluorocarbons (HCFCs) in foam blowing applications. The official comment period for the proposal ended on September 11, 2000. However, EPA received information after September 11, 2000 from outside parties through letters, meetings and the Agency's own efforts to obtain information to address public comments. Today, the Agency is making new information obtained after the close of the comment period available for public review and comment. The information being made available includes: sector description and size, alternatives currently used in each sector and technically viable alternatives. Because we plan to use this information in the future when developing a final rule, EPA wants to provide the public with an opportunity to comment on it.

Readers should note that we will only consider comments about the information referenced in this notice and are not soliciting comments on any other topic. In particular, we are not reopening the comment period for the July 11, 2000, proposed rule through this Notice of Data Availability. Neither are we soliciting comments on the HCFC production phaseout established in EPA's December 10, 1993 rulemaking (58 FR 65018).

DATES: We will accept comments on the data through June 22, 2001.

ADDRESSES: You may submit comments to Docket A–2000–18, U.S. Environmental Protection Agency, Office of Air and Radiation (OAR) Docket and Information Center (6102), 401 M Street, SW., Room M–1500, Washington, DC 20460, phone: (202) 260–7548; fax (202) 260–4400. You may submit comments electronically by sending electronic mail through the Internet to: A-and-R-Docket@epamail.epa.gov. Also identify your comments in electronic format with Docket No. A–2000–18. See the **SUPPLEMENTARY INFORMATION** section of this notice for further information about filing comments. The docket may be inspected between 8 a.m. and 5:30 p.m. on weekdays. As provided in 40 CFR part 2, a reasonable fee may be charged for photocopying. To expedite review, a second copy of the comments should be sent to Ms. Anhar Karimjee at the address listed below under **FOR FURTHER INFORMATION CONTACT**. Information designated as Confidential Business Information (CBI) under 40 CFR part 2, subpart 2, must be marked confidential and sent directly to Ms. Anhar Karimjee. However, the Agency is requesting that all respondents submit a non-confidential version of their comments to the docket as well.

FOR FURTHER INFORMATION CONTACT: Questions concerning today's action should be addressed to Ms. Anhar Karimjee at phone: (202) 564–2683, fax: (202) 565–2095, or e-mail: karimjee.anhar@epa.gov, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Mailcode 6205J, Washington, DC 20004. Overnight or courier deliveries should be sent to the office location at 501 3rd Street, NW., Washington, DC 20001.

SUPPLEMENTARY INFORMATION:

Outline

1. What is today's action?
2. What information is EPA making available for review and comment?
3. Where can I get the information?
4. How is this action related to the July 11, 2000 proposed rule?
5. What is EPA not taking comment on?
6. What supporting documentation do I need to include in my comments?

1. What Is Today's Action?

Today, we are making information available on foam blowing applications that could be potentially affected by a Significant New Alternatives Policy (SNAP) action under section 612 of the Clean Air Act. The proposed action, published in the **Federal Register** on July 11, 2000 (65 FR 42653), addressed use of HCFCs in all foam end-uses. EPA proposed 3 actions: (1) Listing HCFC–141b as unacceptable in all foam end-uses, with existing users grandfathered until 2005; (2) listing HCFC–22 and HCFC–142b as unacceptable in all foam end-uses, with existing users grandfathered until 2005; and (3) listing HCFC–124 as unacceptable in all foam end-uses (65 FR 42653). The Agency allowed 60 days for public comment and received 45 responses to the proposal by the close of the comment period (September 11, 2000). The Agency received comments from chemical manufacturers, appliance manufacturers, spray foam manufacturers, associations, and others. Copies can be obtained through the Air Docket by referencing A–2000–18, IV–D–1 through 45 (see **ADDRESSES** section above for docket contact info).

Since the comment period closed, EPA has acquired additional information pertaining to the availability and technical viability of alternatives and the market size and economic impact of the proposal on various industries. This information was obtained through meetings held at the request of industry representatives, letters sent through congressional representatives, letters sent directly to the Agency, and through EPA's own efforts to obtain additional information in order to fully address comments received during the comment period. The purpose of making data available for comment is to ensure that information provided to the Agency since September 11, 2000 (the end of the comment period) is accurate and complete. The information provided will be used to help respond to comments and finalize the July 11, 2000 proposal.

2. What Information Is EPA Making Available for Review and Comment?

Since the comment period ended on September 11, 2000, EPA received 18 letters in response to the proposal mentioned above. These letters can be obtained through the Air Docket, A–2000–18 reference number IV–D–46 through 64. Many of these letters express concern over economic impacts of the proposal including potential small business impacts. The letters also address technical viability and availability of alternatives. Notes from meetings requested by industry representatives are also available in the Air Docket. In general, the purpose of these meetings was for industry representatives to go over comments already formally submitted to EPA and offer the Agency an opportunity to ask clarifying questions. A summary of these meetings along with any new information provided to the Agency during these meetings is available through the Air Docket, A–2000–18 reference number IV–E–1 through 6. The following items in the docket include technical information such as industry overviews and surveys: Air Docket, A–2000–18 reference number IV–D–55, IV–D–61, IV–D–76, IV–E–4, IV–E–6, 7, 8, 9.

EPA obtained additional information through attending public conferences and literature reviews. Although this information is publicly available, the Agency is including it in this notice because some of the information may be used when the Agency takes final action on the proposal. These documents can be obtained through the Air Docket, A–2000–18 reference number IV–D–65 through 75.

Some comments received on the July 11, 2000 proposal suggested that EPA developed the proposal without sufficient up-to-date information on certain sectors of the foam industry. Comments also indicated that the Agency should have evaluated the viability of alternatives in each foam end-use application and the potential small business impacts of the proposal. In an effort to address these concerns, the Agency hired a consultant to gather additional information on certain sectors and is making this information available to the public for review and comment prior to taking final action on the July 11 proposal. The Agency is seeking comments on the accuracy and thoroughness of the following reports:

—Synopsis of comments received from the extruded polystyrene industry
—Overview of challenges facing the polyurethane spray foam industry and other systems house based applications
  (a) Comments from the polyurethane systems houses (non-spray foam)
  (b) Comments from the polyurethane spray foam systems houses and contractors

EPA has also summarized information available on all foam sectors currently using HCFCs. This information is presented in table format and is

available through Air Docket A–2000–18 reference number IV–D–79. The table consolidates information obtained in response to the proposal along with information collected during the development of the documents outlined above. EPA is soliciting comment on the accuracy of the information presented in the table. In addition to obtaining comments on the accuracy of the information provided, the Agency would like to know if there any other foam applications that use HCFC blowing agents but are not listed in the table.

3. Where Can I Get the Information?

All of the information can be obtained through the Air Docket (see **ADDRESSES** section above for docket contact info). The reports covering the polystyrene, spray, sandwich panels and other foam applications can be obtained through the docket. Reference numbers are as follows:

—Synopsis of comments received from the extruded polystyrene industry: Air Docket A–2000–18 reference number IV–D–77

—Overview of challenges facing the polyurethane spray foam industry and other systems house based applications: Air Docket A–2000–18 reference number IV–D–78

(a) Comments from the polyurethane systems houses (non-spray foam): Air Docket A–2000–18 reference number IV–D–78a

(b) Comments from the polyurethane spray foam systems houses and contractors: Air Docket A–2000–18 reference number IV–D–78b

4. How Is This Action Related to the July 11, 2000 Proposed Rule?

We are soliciting comment to ensure that we use the best information available when making final decisions regarding the July 11, 2000 proposal. Because the information provided in this **Federal Register** document will be used by EPA to addresses comments received on the proposal, the Agency is providing the public with an opportunity to comment on the quality of the available information. This information will be used to ensure that issues relating to the technical viability of alternatives and industry impacts are fully considered by EPA prior to moving forward with a rulemaking in the foams sector.

5. What Is EPA Not Taking Comment On?

EPA is only accepting comments on accuracy and completeness of the information outlined in today's **Federal Register** Notice. EPA is *not* accepting comment on the following:

—HCFC foams proposal published on July 11, 2000 (65 FR 42653)

—HCFC production phaseout established in EPA's December 10, 1993 rulemaking (58 FR 65018)

—Allowance System for Controlling HCFC Production, Import and Export (draft proposal that may be published during comment period on this NODA)

6. What Supporting Documentation Do I Need To Include in My Comments?

Please provide any published studies or raw data supporting your position.

Dated: May 4, 2001.

Paul Stolpman,

Director, Office of Atmospheric Programs, Office of Air and Radiation.

[FR Doc. 01–12896 Filed 5–22–01; 8:45 am]

BILLING CODE 6560–50–U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Ch. I

[FCC 01–132; CC Docket No. 01–92]

Intercarrier Compensation; Reciprocal Compensation

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document seeks comment on the concept of a unified intercarrier compensation regime, including alternative approaches such as ''bill and keep.'' It addresses intercarrier compensation-related problems arising from the introduction of local competition, and of new services and technologies, into telecommunications markets.

DATES: Submit comments on or before August 21, 2001, and submit reply comments on or before October 5, 2001.

ADDRESSES: All filings must be sent to the Commission's Secretary, Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, Room TW–B204, 445 12th Street, SW., Washington, DC 20554. Comments may also be filed using the Commission's Electronic Comment Filing System (ECFS) via the Internet at *http://www.fcc.gov/e-file/ecfs.html.* See ''Comment Filing Procedures,'' below, for more detailed instructions on filing comments and reply comments in this proceeding.

FOR FURTHER INFORMATION CONTACT: Jane Jackson, Chief, Competitive Pricing Division, Common Carrier Bureau, (202) 418–1520.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Notice of Proposed Rulemaking (NPRM)* in CC Docket No. 01–92, FCC 01–132, adopted April 19, 2001, and released April 27, 2001. The full text of the *NPRM* is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. The full text of the *NPRM* may also be purchased from the Commission's copy contractor, International Transcription Services, 1231 20th Street, N.W., Washington, D.C. 20036, telephone (202) 857–3800, facsimile (202) 857–3805. The full text of the *NPRM* may also be downloaded at: *http://www.fcc.gov/Bureaus/Common Carrier/Notices/2001/fcc01132.doc.* Alternative formats (computer diskette, large print, audio cassette, and Braille) are available to persons with disabilities by contacting Martha Contee at (202) 418–0260, TTY (202) 418–2555, or at <mcontee@fcc.gov>.

Synopsis of the Notice of Proposed Rulemaking

The *NPRM* seeks comment on the appropriate goals for a new intercarrier compensation regime, including efficient use of the network, and efficient investment in, and deployment of, network infrastructure (including investment in broadband). The *NPRM* seeks comment on the extent to which any proposed regime achieves technological and competitive neutrality, while minimizing regulatory intervention. It also seeks comment on the feasibility of a new regime, the relative trade-offs, and the importance of having a unified regime altogether.

The *NPRM* seeks comment on certain assumptions about intercarrier compensation. For example, do both parties benefit from a call, despite the current regime's simplifying requirement for originating callers to pay for both origination and termination? What is the extent to which terminating carriers have monopoly power over loop access? How much does that bill and keep avoid regulatory intervention in the allocation of common costs, and empower end users to exercise direct control over their access arrangements?

The *NPRM* seeks comment on the relative efficiencies of bill-and-keep arrangements. It questions the validity of the Commission's previous determination that bill and keep is only efficient when there are no traffic-sensitive costs of termination, and only

permissible when traffic between two networks is relatively balanced while the rates are symmetric. It asks whether bill and keep would preclude efficient forms of price discrimination (*e.g.,* differential rates for network cost recovery). Furthermore, the *NPRM* seeks comment on how to address the treatment of transport costs, including approaches proposed by two Commission staff working papers that are discussed in the *NPRM.* It also seeks comment on the relative sizes of transactions costs (*i.e.,* measuring and billing) for the various alternatives, and the impact of bill-and-keep on the opportunities for regulatory arbitrage that currently exist in, *e.g.,* Internet telephony, termination of ISP-bound traffic, and terminating access charges for interstate voice traffic.

The *NPRM* also seeks comment on the potential disadvantages of a bill-and-keep arrangement, including: (a) Incentives for carriers to locate central offices inefficiently; (b) how to determine the incremental cost of interconnection when networks are less-than-fully provisioned; (c) the potential for unwanted calls to increase; and (d) the potential for ISPs to begin to charge traffic-sensitive rates or higher flat rates to end users.

With regard to specific services, the *NPRM* seeks comment on whether the Commission should adopt bill and keep for ISP-bound traffic. The *NPRM* asks about local exchange carrier (LEC) cost recovery, and any effects on unbundled network element (UNE) pricing, if the Commission should move to a bill-and-keep regime for all ISP-bound traffic.

The *NPRM* also seeks comment on the relative benefits of bill and keep for all traffic subject to section 251(b)(5) of the Communications Act of 1934 (''the Communications Act''), versus the current per-minute reciprocal compensation rates imposed by most states. The *NPRM* specifically addresses issues concerning points of interconnection, three-carrier calls, and the question of whether bill-and-keep rate structures satisfy the requirements of sections 251(b)(5) and 252(d)(2) of the Communications Act.

In addition, the *NPRM* seeks comment on the Commission's legal authority over interconnection between LECs and commercial mobile radio services (CMRS) under section 332 of the Communications Act, and on the adoption of a new LEC-CMRS intercarrier compensation regime. With regard to interstate access charges, the *NPRM* seeks comment on the eventual application of a bill-and-keep regime, and asks whether it is appropriate to phase in a new access charge regime in stages.

Apart from moving to a bill-and-keep regime, the *NPRM* seeks comment on whether the existing calling-party's-network-pays regime could be reformed to address the problems that motivate this rulemaking. As such, it seeks comment on rate level issues (e.g., identifying ''additional costs'' under section 252(d)(2) of the Communications Act, and applying presumptive ILEC cost proxies), rate structure issues, single point of interconnection issues, virtual central office codes, and administrative feasibility.

The *NPRM* also seeks comment on the impacts of moving to a new regime on end user rates, and universal service. Furthermore, it seeks comment on legal issues concerning the authority for a new regime, together with the effect of proposals for a unified regime on the division of jurisdictional responsibility between the Commission and the states.

Finally, the *NPRM* seeks comment on the impact of a new regime on interconnection agreements between international carriers, and on interconnection agreements between Internet backbones. It asks about the potential impact on small entities that may result from the adoption of a new regime. It concludes by seeking comment on any further possible approaches to intercarrier compensation that are not addressed in the *NPRM.*

Regulatory Flexibility Act Final Analysis

As required by the Regulatory Flexibility Act (RFA), the Commission has prepared this present Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities by the policies and rules proposed in this *NPRM.* Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the *NPRM* provided above. The Commission will send a copy of the *NPRM,* including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA). *See* 5 U.S.C. 603(a). In addition, the *NPRM* and IRFA (or summaries thereof) will be published in the **Federal Register**. *See id.*

I. Need for, and Objectives of, the Proposed Rules

The existing intercarrier compensation regime applies different sets of rules to different types of carriers and to different types of traffic. Basically, this patchwork of rules can be broken down into: (1) reciprocal compensation rules, which apply to the exchange of local traffic; and (2) access rules that apply to traffic exchanged between local carriers and long-distance carriers. Both sets of rules are ''calling-party's-network-pays'' (CPNP) arrangements (*i.e.,* they require the calling party's network to pay the called party's network to terminate a call). Both sets of rules are also subject to numerous exceptions, such as the enhanced service provider (ESP) exemption from access charges.

This *NPRM* is motivated by numerous problems that have appeared recently concerning the existing rules governing intercarrier compensation. A primary concern is the opportunity, under the current regime, for profit-seeking behavior to take advantage of cost or revenue disparities that are due solely to regulation. For example, competitive local exchange carriers (CLECs) often target Internet service providers (ISPs) as customers in order to become net-recipients of traffic, and thus profit from reciprocal compensation revenues. Similarly, Internet Protocol (IP) telephony threatens to erode access revenues for LECs because it is exempt from the access charges that traditional long-distance carriers must pay. Another major concern is that local carriers possess monopoly power over terminating access. As a result, CLECs often impose access charges that far exceed the regulated access charges of incumbent LECs. Finally, the current regime can generate inefficient traffic-sensitive end-user rates, and can also create incentives for entities to claim to be networks in order to qualify for interconnection, rather than to simply subscribe as a customer.

II. Legal Basis

The legal basis for any action that may be taken pursuant to the *NPRM* is contained in sections 4, 201–202, 303 and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 154, 201–202, 303 and 403, and sections 1.1, 1.411 and 1.412 of the Commission's rules, 47 CFR 1.1, 1.411 and 1.412.

III. Description and Estimate of the Number of Small Entities to Which Rules Will Apply

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. 5 U.S.C. 603(b)(3). The RFA defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization'' and ''small business concern'' under section 3 of the Small Business Act. 5

U.S.C. 601(3). 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 SBA. 5 U.S.C. 632.

A small organization is generally ''any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.'' 5 U.S.C. 601(4). 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 such jurisdictions 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. Below, we further describe and estimate the number of small entity licensees and regulatees that may be affected by rules adopted pursuant to this *NPRM.*

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 the data that 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.

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. Below, we discuss the total estimated number of telephone companies falling within the two categories, and the number of small businesses in each. We then attempt to further refine those estimates to correspond with the categories of telephone companies that are commonly used under our rules.

We have included small incumbent LECs (small ILECs) in this present RFA analysis. As noted above, 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 ILECs 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 Commission analyses and determinations in other, non-RFA contexts.

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 or small ILECs 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 fewer than 3,497 telephone service firms are small entity telephone service firms or small ILECs that may be affected by the new rules.

Wireline Carriers and Service Providers. The SBA has developed a definition of small entities for telephone communications companies except radiotelephone (*i.e.,* 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 or small ILECs. 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 2,295 or fewer small telephone communications companies other than radiotelephone companies are small entities or small ILECs that may be affected by rules adopted pursuant to this *NPRM.*

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 (*i.e.,* 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 or small ILECs that may be affected by the new rules.

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 (*i.e.,* 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 rules adopted pursuant to this *NPRM.*

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 (*i.e.,* wireless) companies. According to the most recent *Trends in Telephone Service* data, 349 CAP/CLEC 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 or fewer other LECs that may be affected by rules adopted pursuant to this *NPRM.*

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 (*i.e.,* 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 rules adopted pursuant to this *NPRM.*

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 (*i.e.,* 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 rules adopted pursuant to this *NPRM.*

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 (*i.e.,* 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 or fewer small-local-entity resellers that may be affected by rules adopted pursuant to this *NPRM.*

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 that may be affected by rules adopted pursuant to this *NPRM.*

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 (*i.e.,* wireless) companies. This definition provides that a small entity is a radiotelephone company employing no more than 1,500 persons. According to the Bureau of the Census, only 12 radiotelephone firms out of a total of 1,178 such firms that operated during 1992 had 1,000 or more employees. Therefore, even if all 12 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, we do not know the number of cellular licensees, since a cellular licensee may own several licenses. The most reliable source of information regarding the number of cellular service providers nationwide appears to be data the Commission publishes annually in its *Telecommunications Industry Revenue* report, regarding the Telecommunications Relay Service (TRS). The report places cellular licensees and Personal Communications Service (PCS) licensees in one group. According to recent data, 808 carriers reported that they were engaged in the provision of either cellular or PCS 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 cellular service carriers that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are no more than 808 small cellular service carriers.

220 MHz Radio Service-Phase I Licensees. The 220 MHz service has both Phase I and Phase II licenses. Phase I licensing was conducted by lotteries in 1992 and 1993. There are approximately 1,515 such non-nationwide licensees and 4 nationwide licensees currently authorized to operate in the 220 MHz band. The Commission has not developed a definition of small entities specifically applicable to such incumbent 220 MHz Phase I licensees. To estimate the number of such licensees that are small businesses, we apply the definition under the SBA rules applicable to radiotelephone communications companies. This definition provides that a small entity is a radiotelephone company employing no more than 1,500 persons. According to a 1995 estimate by the Bureau of the

Census, only 12 radiotelephone firms out of a total of 1,178 such firms that operated during 1992 had 1,000 or more employees. Therefore, assuming that this general ratio has not changed significantly in recent years in the context of Phase I 220 MHz licensees, we estimate that nearly all such licensees are small businesses under the SBA's definition.

220 MHz Radio Service-Phase II Licensees. The Phase II 220 MHz service is a new service, and is subject to spectrum auctions. In the *220 MHz Third Report and Order,* 62 FR 15978, we adopted criteria for defining small businesses and very small businesses for purposes of determining their eligibility for special provisions such as bidding credits and installment payments. We have defined a small business as an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding $15 million for the preceding three years. Additionally, a very small business is defined as an entity that, together with its affiliates and controlling principals, has average gross revenues that are not more than $3 million for the preceding three years. The SBA has approved these definitions. An auction of Phase II licenses commenced on September 15, 1998, and closed on October 22, 1998. Nine hundred and eight (908) licenses were auctioned in three different-sized geographic areas: 3 nationwide licenses, 30 Regional Economic Area Group (REAG) licenses, and 875 Economic Area (EA) licenses. Of the 908 licenses auctioned, 693 were sold. Companies claiming small business status won: 1 of the Nationwide licenses, 67% of the Regional licenses, 47% of the REAG licenses and 54% of the EA licenses. As of January 22, 1999, the Commission announced that it was prepared to grant 654 of the Phase II licenses won at auction. A second 220 MHz Radio Service auction began on June 8, 1999 and closed on June 30, 1999. This auction offered 225 licenses in 87 EAs and 4 REAGs. (A total of 9 REAG licenses and 216 EA licenses. No nationwide licenses were available in this auction.) Of the 215 EA licenses won, 153 EA licenses (71%) were won by bidders claiming small business status. Of the 7 REAG licenses won, 5 REAG licenses (71%) were won by bidders claiming small business status.

Private and Common Carrier Paging. The Commission has adopted a two-tier definition of small businesses in the context of auctioning licenses in the Common Carrier Paging and exclusive Private Carrier Paging services. A small business will be defined as either: (1) An entity that, together with its affiliates and controlling principals, has average gross revenues for the three preceding years of not more than $3 million; or (2) an entity that, together with affiliates and controlling principals, has average gross revenues for the three preceding calendar years of not more than $15 million. Because the SBA has not yet approved this definition for paging services, we will utilize the SBA's definition applicable to radiotelephone companies, *i.e.,* an entity employing no more than 1,500 persons. At present, there are approximately 24,000 Private Paging licenses and 74,000 Common Carrier Paging licenses. According to recent data, 172 carriers reported that they were engaged in the provision of either paging or ''other mobile'' 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 paging carriers that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are no more than 172 small paging carriers. We estimate that the majority of private and common carrier paging providers would qualify as small entities under the SBA definition.

Mobile Service Carriers. Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to mobile service carriers, such as paging companies. As noted above in the section concerning paging service carriers, the closest applicable definition under the SBA rules is that for radiotelephone (*i.e.,* wireless) companies, and recent data show that 172 carriers reported that they were engaged in the provision of either paging or ''other mobile'' services. Consequently, we estimate that there are no more than 172 small mobile service carriers.

Broadband Personal Communications Service (PCS). The broadband PCS spectrum is divided into six frequency blocks designated A through F, and the Commission has held auctions for each block. The Commission defined ''small entity'' for blocks C and F as an entity that has average gross revenues of less than $40 million in the three previous calendar years. For block F, an additional classification for ''very small business'' was added and is defined as an entity that, together with affiliates, has average gross revenues of not more than $15 million for the preceding three calendar years. These regulations defining ''small entity'' in the context of broadband PCS auctions have been approved by the SBA. No small businesses within the SBA-approved definition bid successfully for licenses in blocks A and B. There were 90 winning bidders that qualified as small entities in the C block auctions. A total of 93 small and very small business bidders won approximately 40% of the 1,479 licenses for blocks D, E and F. On March 23, 1999, the Commission held another auction (Auction No. 22) of C, D, E and F block licenses for PCS spectrum returned to the Commission by previous license holders. In that auction, 48 bidders claiming small business, very small business or entrepreneurial status won 272 of the 341 licenses (80%) offered. Based on this information, we conclude that the number of small broadband PCS licensees includes the 90 winning C block bidders, the 93 qualifying bidders in the D, E and F blocks, and the 48 winning bidders from Auction No. 22, for a total of 231 small-entity PCS providers as defined by the SBA and the Commission's auction rules.

Narrowband PCS. The Commission has auctioned nationwide and regional licenses for narrowband PCS. There are 11 nationwide and 30 regional licensees for narrowband PCS. The Commission does not have sufficient information to determine whether any of these licensees are small businesses within the SBA-approved definition for radiotelephone companies. At present, there have been no auctions held for the major trading area (MTA) and basic trading area (BTA) narrowband PCS licenses. The Commission anticipates a total of 561 MTA licenses and 2,958 BTA licenses will be awarded by auction. Such auctions, however, have not yet been scheduled. Given that nearly all radiotelephone companies have no more than 1,500 employees, and no reliable estimate of the number of prospective MTA and BTA narrowband licensees can be made, we assume, for our purposes here, that all of the licenses will be awarded to small entities, as that term is defined by the SBA.

Rural Radiotelephone Service. The Commission has not adopted a definition of small entity specific to the Rural Radiotelephone Service. A significant subset of the Rural Radiotelephone Service is the Basic Exchange Telephone Radio Systems (BETRS). We will use the SBA's definition applicable to radiotelephone companies, *i.e.,* an entity employing no more than 1,500 persons. There are approximately 1,000 licensees in the Rural Radiotelephone Service, and we estimate that almost all of them qualify

as small entities under the SBA's definition.

Air-Ground Radiotelephone Service. The Commission has not adopted a definition of small entity specific to the Air-Ground Radiotelephone Service. Accordingly, we will use the SBA's definition applicable to radiotelephone companies, *i.e.,* an entity employing no more than 1,500 persons. There are approximately 100 licensees in the Air-Ground Radiotelephone Service, and we estimate that almost all of them qualify as small under the SBA definition.

Specialized Mobile Radio (SMR). The Commission awards bidding credits in auctions for geographic area 800 MHz and 900 MHz SMR licenses to two tiers of firms: (1) ''small entities,'' those with revenues of no more than $15 million in each of the three previous calendar years; and (2) ''very small entities,'' those with revenues of no more than $3 million in each of the three previous calendar years. The regulations defining ''small entity'' and ''very small entity'' in the context of 800 MHz SMR (upper 10 MHz and lower 230 channels) and 900 MHz SMR have been approved by the SBA. The Commission does not know how many firms provide 800 MHz or 900 MHz geographic area SMR service pursuant to extended implementation authorizations, nor how many of these providers have annual revenues of no more than $15 million. One firm has over $15 million in revenues. We assume, for our purposes here, that all of the remaining existing extended implementation authorizations are held by small entities, as that term is defined by the SBA. The Commission has held auctions for geographic area licenses in the 800 MHz (upper 10 MHz) and 900 MHz SMR bands. There were 60 winning bidders that qualified as small and very small entities in the 900 MHz auction. Of the 1,020 licenses won in the 900 MHz auction, 263 licenses were won by bidders qualifying as small and very small entities. In the 800 MHz SMR auction, 38 of the 524 licenses won were won by small and very small entities.

Marine Coast Service. Between December 3, 1998 and December 14, 1998, the Commission held an auction of 42 VHF Public Coast licenses in the 157.1875–157.4500 MHz (ship transmit) and 161.775–162.0125 MHz (coast transmit) bands. For purposes of this auction, and for future public coast auctions, the Commission defines a ''small'' business as an entity that, together with controlling interests and affiliates, has average gross revenues for the preceding three years not to exceed $15 million dollars. A ''very small'' business is one that, together with controlling interests and affiliates, has average gross revenues for the preceding three years not to exceed $3 million dollars. There are approximately 10,672 licensees in the Marine Coast Service, and the Commission estimates that almost all of them qualify as ''small'' businesses under the Commission's definition, which has been approved by the SBA.

Fixed Microwave Services. Microwave services include common carrier, private-operational fixed, and broadcast auxiliary radio services. At present, there are approximately 22,015 common carrier fixed licensees and 61,670 private operational-fixed licensees and broadcast auxiliary radio licensees in the microwave services. The Commission has not yet defined a small business with respect to microwave services. For our purposes here, we will utilize the SBA's definition applicable to radiotelephone companies—*i.e.,* an entity with no more than 1,500 persons. Under this definition, we estimate that all of the Fixed Microwave licensees (excluding broadcast auxiliary licensees) would qualify as small entities.

Local Multipoint Distribution Service. The Commission held two auctions for licenses in the Local Multipoint Distribution Services (LMDS) (Auction No. 17 and Auction No. 23). For both of these auctions, the Commission defined a small business as an entity, together with its affiliates and controlling principals, having average gross revenues for the three preceding years of not more than $40 million. A very small business was defined as an entity, together with affiliates and controlling principals, having average gross revenues for the three preceding years of not more than $15 million. Of the 144 winning bidders in Auction Nos. 17 and 23, 125 bidders (87%) were small or very small businesses.

24 GHz—Incumbent 24 GHz Licensees. The rules that we may later adopt could affect incumbent licensees who were relocated to the 24 GHz band from the 18 GHz band, and applicants who wish to provide services in the 24 GHz band. The Commission has not developed a definition of small entities applicable to licensees in the 24 GHz band. Therefore, the applicable definition of small entity is the definition under the SBA rules for the radiotelephone industry, providing that a small entity is a radiotelephone company employing fewer than 1,500 persons. The 1992 Census of Transportation, Communications and Utilities, conducted by the Bureau of the Census, which is the most recent information available, shows that only 12 radiotelephone firms out of a total of 1,178 such firms that operated during 1992 had 1,000 or more employees. This information notwithstanding, we believe that there are only two licensees in the 24 GHz band that were relocated from the 18 GHz band, Teligent and TRW, Inc. Both Teligent and TRW, Inc. appear to have more than 1,500 employees. Therefore, it appears that no incumbent licensee in the 24 GHz band is a small business entity.

Future 24 GHz Licensees. The rules that we may later adopt could also affect potential new licensees on the 24 GHz band. Pursuant to 47 CFR 24.720(b), the Commission has defined ''small business'' for Blocks C and F broadband PCS licensees as firms that had average gross revenues of less than $40 million in the three previous calendar years. This regulation defining ''small business'' in the context of broadband PCS auctions has been approved by the SBA. With respect to new applicants in the 24 GHz band, we shall use this definition of ''small business'' and apply it to the 24 GHz band under the name ''entrepreneur.'' With regard to ''small business,'' we shall adopt the definition of ''very small business'' used for 39 GHz licenses and PCS C and F block licenses: businesses with average annual gross revenues for the three preceding years not in excess of $15 million. Finally, ''very small business'' in the 24 GHz band shall be defined as an entity with average gross revenues not to exceed $3 million for the preceding three years. The Commission will not know how many licensees will be small or very small businesses until the auction, if required, is held. Even after that, the Commission will not know how many licensees will partition their license areas or disaggregate their spectrum blocks, if partitioning and disaggregation are allowed.

39 GHz. The Commission held an auction (Auction No. 30) for fixed point-to-point microwave licenses in the 38.6 to 40.0 GHz band (39 GHz Band). For this auction, the Commission defined a small business as an entity, together with affiliates and controlling interests, having average gross revenues for the three preceding years of not more than $40 million. A very small business was defined as an entity, together with affiliates and controlling principals, having average gross revenues for the three preceding years of not more than $15 million. The SBA has approved these definitions. Of the 29 winning bidders in Auction No. 30, 18 bidders (62%) were small business participants.

Multipoint Distribution Service (MDS). This service involves a variety of transmitters, which are used to relay

data and programming to the home or office, similar to that provided by cable television systems. In connection with the 1996 MDS auction, the Commission defined small businesses as entities that had annual average gross revenues for the three preceding years not in excess of $40 million. This definition of a small entity in the context of MDS auctions has been approved by the SBA. These stations were licensed prior to implementation of section 309(j) of the Communications Act of 1934, as amended. Licenses for new MDS facilities are now awarded to auction winners in Basic Trading Areas (BTAs) and BTA-like areas. The MDS auctions resulted in 67 successful bidders obtaining licensing opportunities for 493 BTAs. Of the 67 auction winners, 61 meet the definition of a small business.

MDS is also heavily encumbered with licensees of stations authorized prior to the MDS auction. SBA has developed a definition of small entities for pay television services, which includes all such companies generating $11 million or less in annual receipts. This definition includes MDS systems, and thus applies to incumbent MDS licensees and wireless cable operators which may not have participated or been successful in the MDS auction. Information available to us indicates that there are 832 of these licensees and operators that do not generate revenue in excess of $11 million annually. Therefore, for purposes of this analysis, we find there are approximately 892 small MDS providers as defined by the SBA and the Commission's auction rules.

Offshore Radiotelephone Service. This service operates on several UHF TV broadcast channels that are not used for TV broadcasting in the coastal area of the states bordering the Gulf of Mexico. At present, there are approximately 55 licensees in this service. We are unable at this time to estimate the number of licensees that would qualify as small under the SBA's definition for radiotelephone communications.

Wireless Communications Services (WCS). This service can be used for fixed, mobile, radio-location and digital audio broadcasting satellite uses. The Commission defined ''small business'' for the WCS auction as an entity with average gross revenues of $40 million for each of the three preceding years, and a ''very small business'' as an entity with average gross revenues of $15 million for each of the three preceding years. The Commission auctioned geographic area licenses in the WCS service. In the auction, there were seven winning bidders that qualified as very small business entities, and one winning bidder that qualified as a small business entity. We conclude that the number of geographic area WCS licensees affected includes these eight entities.

General Wireless Communication Service (GWCS). This service was created by the Commission on July 31, 1995 by transferring 25 MHz of spectrum in the 4660–4685 MHz band from the federal government to private sector use. The Commission sought and obtained SBA approval of a refined definition of ''small business'' for GWCS in this band. According to this definition, a small business is any entity, together with its affiliates and entities holding controlling interests in the entity, that has average annual gross revenues over the three preceding years that are not more than $40 million. By letter dated March 30, 1999, NTIA reclaimed the spectrum allocated to GWCS and identified alternative spectrum at 4940–4990 MHz. On February 23, 2000, the Commission released its *Notice of Proposed Rulemaking* in WT Docket No. 00–32 proposing to allocate and establish licensing and service rules for the 4.9 GHz band.

IV. Description of Projected Reporting, Recordkeeping and Other Compliance Requirements

There are certain transaction costs for terminating access, including measuring and billing. Under the existing CPNP regime, the terminating LEC bills the originating network, whereas under bill and keep, the terminating LEC may bill its own customers. The *NPRM* seeks comment on the relative transaction costs of each proposal, weighed against the other efficiencies of the various alternatives. Transaction costs can increase under a bill-and-keep arrangement, for example, since each carrier may be responsible for measuring and billing its own customers for all traffic, rather than merely measuring and billing the originating carrier.

Apart from the transaction costs for termination, the *NPRM* more broadly suggests that a new regime could free regulators from allocating transport costs, and from setting the level and structure of termination rates. Where rates had once been set by regulation, individual carriers, including small entities, could inherit this responsibility.

As a result of rules from this proceeding, incumbent LECs and CLECs may be required to discern the amount of traffic carried on their networks that is bound for ISPs. In addition, such incumbent LECs and competitive entrants may be required to produce information regarding the costs of carrying ISP-bound traffic on their networks.

The *NPRM* seeks comment on the extent to which a new regime would comply with reciprocal compensation obligations regarding traffic balances and symmetrical rates. If rules should follow on this issue, they may require carriers to report traffic imbalances, corresponding to rate symmetry. This is especially true in the context of LEC-CMRS interconnection, in which the *NPRM* seeks comment on the feasibility of cost studies that CMRS carriers could use to justify separate treatment.

V. Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.

Although the transaction costs for terminating access can increase under a bill-and-keep arrangement, the impact on small entities would be minimal since measuring and billing is already a fundamental component of their operations. Furthermore, the advantages of a bill-and-keep regime, in providing clearer demarcations of cost between carriers, appear to outweigh the minimal increase in transaction costs that could occur under bill and keep. With regard to the related task of allocating transport costs, the same reasoning applies to small entities in that the clearer demarcations between carriers inherent in bill and keep outweighs the potential burden of setting the level and structure of termination rates. Regardless, many small entities are competitive entrants such as CLECs, which currently enjoy specific exemptions from ILEC rate regulation.

A potential benefit may accrue to small-entity LECs transporting ISP-bound traffic. As discussed above, the Commission may adopt rules that may require incumbent LECs and CLECs to discern the amount of traffic carried on their networks that is bound for ISPs. As

a result of such rules, incumbent LECs and CLECs, including small-entity incumbent LECs and CLECs, will be able to receive compensation for the delivery of ISP-bound traffic that they might not otherwise receive. The *NPRM* separately requests comment on alternative proposals.

The *NPRM* seeks comment on the issue of asymmetrical compensation for unbalanced traffic. Although small entities could experience an increase in reporting and recordkeeping when submitting cost studies to this effect, if adopted, such a requirement would more accurately serve the revenue requirements of small entities in relation to larger competitors.

Finally, the *NPRM* seeks comment on additional impacts on small entities that may result from any new intercarrier compensation regime. When seeking comment on the alternative of contractual arrangements for intercarrier compensation, the *NPRM* asks commenters to address the potential impacts of such a market-based approach on small entities, such as the refusal to carry traffic.

VI. Federal Rules That May Duplicate, Overlap or Conflict With the Proposed Rules

None.

Comment Filing Procedures

Pursuant to sections 1.415, 1.419, and 1.430 of the Commission's rules, 47 CFR 1.415, 1.419, 1.430, interested parties may file comments within 90 days after publication in the **Federal Register**, and reply comments within 135 days after publication in the **Federal Register**. All filings should refer to CC Docket No. 01–92. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. Comments filed through the ECFS can be sent as an electronic file via the Internet to *http://www.fcc.gov/e-file/ecfs.html.* Generally, only one copy of an electronic submission must be filed. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket number, which in this instance is CC Docket No. 01–92. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to <ecfs@fcc.gov>, and should include the following words in the body of the message: ''get form <your e-mail address>.'' A sample form and directions will be sent in reply.

Parties who choose to file by paper must file an original and four copies of each filing. All filings must be sent to the Commission's Secretary, Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, Room TW–B204, 445 12th Street, SW., Washington, DC 20554. Regardless of whether parties choose to file electronically or by paper, parties should also serve: (1) Paul Moon, Common Carrier Bureau, 445 12th Street, SW., Room 3–C423, Washington, DC 20554; (2) Jane Jackson, Common Carrier Bureau, 445 12th Street, SW., Room 5–A225, Washington, DC 20554; and (3) the Commission's copy contractor, International Transcription Service, Inc. (ITS), 445 12th Street, SW., Room CY–B402, Washington, DC 20554, (202) 857–3800, with copies of any documents filed in this proceeding. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center, Room CY–A257, 445 12th Street, SW., Washington, DC 20554.

Parties who choose to file by paper should also submit their comments on diskette. These diskettes should be submitted to Wanda Harris, Common Carrier Bureau, 445 12th Street, SW., Room 5–A452, Washington, DC 20554. Such a submission should be on a 3.5-inch diskette formatted in a Windows-compatible format using Microsoft Word or compatible software. The diskette should be accompanied by a cover letter and should be submitted in ''read only'' mode. The diskette should be clearly labeled with the commenter's name, proceeding (including the docket number—in this case, CC Docket No. 01–92), type of pleading (comment or reply comment), date of submission, and the name of the electronic file on the diskette. The label should also include the following phrase: ''Disk Copy—Not an Original.'' Each diskette should contain only one party's pleadings, preferably in a single electronic file. In addition, commenters must send diskette copies to the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW., Washington, DC 20036.

Comments and reply comments must include a short and concise summary of the substantive arguments raised in the pleading. Comments and reply comments must also comply with section 1.49 and all other applicable sections of the Commission's rules. We also direct all interested parties to include the name of the filing party and the date of the filing on each page of their comments and reply comments. All parties are encouraged to utilize a table of contents, regardless of the length of their submission. We also strongly encourage that parties track the organization set forth in the *NPRM* to facilitate our internal review process.

Pursuant to 47 CFR 1.200(a), which permits the Commission to adopt modified or more stringent *ex parte* procedures in particular proceedings if the public interest so requires, we announce that this proceeding will be governed by ''permit-but-disclose'' *ex parte* procedures that are applicable to non-restricted proceedings under 47 CFR 1.1206. Designating this proceeding as ''permit-but-disclose'' will provide an opportunity for all interested parties to receive notice of the various technical, legal, and policy issues raised in *ex parte* presentations made to the Commission in the course of this proceeding. This will allow interested parties to file responses or rebuttals to proposals made on the record in this proceeding. Accordingly, we find that it is in the public interest to designate this proceeding as ''permit-but-disclose.''

Parties making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must contain a summary of the substance of the presentation and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required. *See* 47 CFR 1.1206(b)(2), as revised. Other rules pertaining to oral and written presentations are set forth in section 1.206(b) as well. Interested parties are to file any written *ex parte* presentations in this proceeding with the Commission Secretary, Magalie Roman Salas, 445 12th Street, SW., TW–B204, Washington, DC 20554, and serve with copies: (1) Paul Moon, Common Carrier Bureau, 445 12th Street, SW., Room 3–C423, Washington, DC 20554; (2) Jane Jackson, Common Carrier Bureau, 445 12th Street, SW., Room 5–A225, Washington, DC 20554; and (3) International Transcription Service, Inc. (ITS), 445 12th Street, SW., Room CY–B402, Washington, DC 20554, (202) 857–3800.

Because many of the matters on which we request comment in this *NPRM* may call on parties to disclose proprietary information such as market research and business or technical plans, we suggest that parties consult 47 CFR 0.459 about the submission of confidential information.

Ordering Clauses

The actions of the Commission herein ARE TAKEN pursuant to sections 4, 201–202, 303 and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 154, 201–202, 303

and 403, and sections 1.1, 1.411 and 1.412 of the Commission's rules, 47 CFR 1.1, 1.411 and 1.412.

The Commission's Consumer Information Bureau, Reference Information Center, Shall Send a copy of this *NPRM,* including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 01–12759 Filed 5–22–01; 8:45 am]

BILLING CODE 6712–01–P

Notices

Federal Register

Vol. 66, No. 100

Wednesday, May 23, 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

Agriculture Marketing Service

[TM–01–02]

Notice of Organic Certification Cost Share Program

AGENCY: Agricultural Marketing Services, USDA.

ACTION: Notice.

SUMMARY: This Notice invites eligible States to submit a Standard Form 424, Application for Federal Assistance, and to enter into a Cooperative Agreement with the Agricultural Marketing Service for the Allocation of Organic Certification Cost-Share Funds. The Agricultural Marketing Service (AMS) has allocated $1.0 million for an organic certification cost-share program in Fiscal Year 2001. Funds will be available under this program to 15 designated States to assist organic crop and livestock producers in transitioning into the new National Organic Program. Eligible States interested in obtaining cost-share funds for their organic producers will have to submit an Application for Federal Assistance, and will have to enter into a cooperative agreement with AMS for the allocation of such funds.

DATES: Completed applications for federal assistance along with signed cooperative agreements must be received by July 9, 2001 in order to participate in the program.

ADDRESSES: Applications for federal assistance and cooperative agreements shall be requested from and submitted to: Bob Pooler, Marketing Specialist, National Organic Program, USDA/AMS/TMP/NOP, PO Box 96456, Room 2510-South, Ag Stop 0268, Washington, DC 20090–6456; Telephone: (202) 690–3655; Fax: (202) 205–7808; e-mail: Bob.Pooler@usda.gov. Additional information may be found through the National Organic Program s homepage at http://www.ams.usda.gov/nop.

FOR FURTHER INFORMATION CONTACT: Bob Pooler, Marketing Specialist, National Organic Program, USDA/AMS/TM/NOP, PO Box 96456, Room 2510–South, Ag Stop 0268, Washington, DC, 20090–6456; Telephone: (202) 690–3655; Fax: (202) 205–7808; e-mail: Bob.Pooler@usda.gov.

SUPPLEMENTARY INFORMATION: The Organic Certification Cost-Share Program is part of the Agricultural Management Assistance Program authorized under the Agricultural Risk Protection Act of 2000 (ARPR), Public Law 106–224, section 524, 114 Stat. 387 (2000), 7 U.S.C. 1524. Under the applicable ARPR provisions, the Department is authorized to provide cost share assistance to producers in not more than 15 states which have a historically low participation rate in the Federal crop insurance program. One of the purposes of the ARPR's cost-share program is to assist producers in transitioning to the new National Organic Program authorized under the Organic Foods Production Act of 1990, 7 U.S.C. 6501–6522.

The Department has determined that the following States are eligible to participate in the program: Connecticut, Delaware, Maine, Maryland, Massachusetts, Nevada, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Utah, Vermont, West Virginia, or Wyoming.

To participate in the program, eligible States must complete a Standard Form 424, Application for Federal Assistance, and enter into a written cooperative agreement with AMS. The program will provide cost-share assistance, through participating States, to organic crop and livestock producers who have been certified by a certifying agent as of December 21, 2000. The Department has determined that payments will be limited to 70 percent of an individual producer's certification costs up to a maximum of $500.00.

Authority: Pub. L. 106–224, section 524, 114 Stat. 387 (2000), 7 U.S.C. 1524.

Dated: May 17, 2001.

Kenneth C. Clayton,

Acting Administrator.

[FR Doc. 01–12937 Filed 5–22–01; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Docket No. TB–01–02]

Flue-Cured Tobacco Advisory Committee; Meeting

In accordance with the Federal Advisory Committee Act (5 U.S.C. App.) announcement is made of the following committee meeting:

Name: Flue-Cured Tobacco Advisory Committee.

Date: June 21, 2001.

Time: 9 a.m.

Place: United States Department of Agriculture, (USDA), Agricultural Marketing Service (AMS), Tobacco Programs, Flue-Cured Tobacco Cooperative Stabilization Corporation Building, Room 223, 1306 Annapolis Drive, Raleigh, North Carolina 27608.

Purpose: To elect officers, establish submarketing areas, recommend opening dates, discuss selling schedules, and other related matters for the 2001 flue-cured tobacco marketing season.

The meeting is open to the public. Persons, other than members, who wish to address the Committee at the meeting should contact John P. Duncan III, Deputy Administrator, Tobacco Programs, AMS, USDA, STOP 0280, 1400 Independence Avenue, SW., Room 502 Cotton Annex Building, Washington, DC 20250–0280, (202) 205–0567, prior to the meeting. Written statements may be submitted to the Committee before, at, or after the meeting. If you need any accommodations to participate in the meeting, please contact the Tobacco Programs at (202) 205–0567 by June 15, 2001, and inform us of your needs.

Dated: May 17, 2001

Kenneth C. Clayton,

Acting Administrator.

[FR Doc. 01–12936 Filed 5–22–01; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Action Affecting Export Privileges; TAL Industries, Inc.; In the Matter of: TAL Industries, Inc., 901 Corporate Center Drive, Suite 207, Monterey Park, CA 91754, Respondent

Order

The Bureau of Export Administration, United States Department of Commerce (hereinafter ''BXA''), having notified TAL Industries, Inc. (hereinafter ''TAL'')

of its intention to initiate an administrative proceeding against it pursuant to section 13(c) of the Export Administration Act of 1979, as amended (50 U.S.C. app. secs. 2401–2420 (1994 & Supp. IV 1998)) (hereinafter the ''Act''),[1] and the Export Administration Regulations (currently codified at 15 CFR parts 730–774 (2000)) (the ''Regulations''),[2] based on allegations that TAL committed 24 violations of the former Regulations, *to wit*, 1 violation of § 787.3(b), 13 violations of § 787.5(a)(1), and 10 violations of § 787.6 of the former Regulations, as follows:

1. 15 CFR 787.3(b): Conspiracy

Beginning in 1992 and continuing into 1995, TAL committed 1 violation of § 787.3 of the former Regulations by conspiring and acting in concert with others to violate the Act and former Regulations. The goal of the conspiracy was to obtain Department of Commerce export licenses authorizing the export of machine tools from the United States to the CATIC Machining Company, Ltd. in Beijing, China for use in the machining of parts and components of civil aircraft that were planned for a joint project with the McDonnell Douglas Corporation (hereinafter the ''Trunkliner program'') and then to divert the machine tools to unauthorized end-users in China, including the Nanchang Aircraft Manufacturing Company. To accomplish the goal of the conspiracy, the conspirators, including TAL, took actions in furtherance of the conspiracy, primarily by making or causing to be made false and misleading representations of material fact, directly and indirectly, to BXA and other U.S. Government agencies. The false and misleading representations included misrepresentations about the end-user and end-use of the machine tools. The conspirators, including TAL, represented that the CATIC Machining Center, Ltd. in Beijing, China would be the end-user of the machine tools and the end-use of the machine tools was for the Trunkliner program. However, the CATIC Machining Company, Ltd. in Beijing, China was not the end-user nor the ultimate consignee of the machine tools, and the machine tools were not for use in the Trunkliner program.

2. 15 CFR 787.5(a)(1): Misrepresentation and Concealment

a. On or about May 26, 1994, TAL committed 10 violations of § 787.5(a)(1) of the former Regulations by making or causing to be made false or misleading representations of material fact to BXA and other U.S. Government agencies in connection with 10 separate export license applications submitted to BXA by Douglas Aircraft (the McDonnell Douglas Corporation) for the export of machine tools to China. For each of these 10 license applications, TAL falsely gave assurances and represented on end-user and ultimate consignee statements, export control documents as defined in § 770.2 of the former Regulations, that the CATIC Machining Company, Ltd. in Beijing, China would be the end-user of the machine tools and the end-use of the machine tools was for machining the parts and components of civil aircraft in the Trunkliner program. However, the CATIC Machining Company, Ltd. in Beijing, China was neither the end-user nor the ultimate consignee, and the machine tools were not for use in the Trunkliner program.

b. On or about June 7, 1994 and on or about June 23, 1994, TAL, through the McDonnell Douglas Corporation, committed two violations of § 787.5(a)(1) of the former Regulations by falsely representing to BXA and other U.S. government agencies that the machine tools were to be exported to the CATIC Machining Company, Ltd. in Beijing, China, they were for use in the Trunkliner program, and the Trunkliner program was being was carried out in accordance with the 1992 contract. However, the CATIC Machining Company, Ltd. in Beijing, China was neither the end-user nor the ultimate consignee, the machine tools were not for use in the Trunkliner program, and the Trunkliner program had been delayed and was not being carried out in accordance with the 1992 contract.

c. On or about June 5, 1995, TAL, through the China National Aero-Technology Import and Export Corporation, committed 1 violation of § 787.5(a)(1) of the former Regulations by submitting a letter to BXA falsely representing that the machine tools that were authorized for export to the CATIC Machining Company, Ltd. in Beijing, China and diverted to the Nanchang Aircraft Manufacturing Company in Nanchang, China in violation of the terms and conditions of the licenses would not be unpacked until authorization was received from the U.S. Department of Commerce. However, the stretch press had been unpacked and placed in a building in Nanchang, China.

3. 15 CFR 787.6: Export, Diversion, Reexport, and Transshipment

Between on or about November 12, 1994 and on or about February 18, 1995, TAL committed 10 violations § 787.6 of the former Regulations by violating or causing the violation of the terms and conditions of 10 separate Department of Commerce export licenses. The 10 export licenses named China National Aero-Technology International Supply Company as the purchaser, China Aviation Supply and Marketing Corporation, North China Branch, as the intermediate consignee, CATIC Machining Company, Ltd. as the ultimate consignee, and the Trunkliner program as the end-use. TAL violated the terms and conditions of each of the 10 export licenses by diverting the machine tools to unauthorized end-users in China, including the Nanchang Aircraft Manufacturing Company.

BXA and TAL having entered into a Settlement Agreement pursuant to § 766.18(a) of the Regulations whereby they agreed to settle this matter in accordance with the terms and conditions set forth therein, and the terms of the Settlement Agreement having been approved by me;

It is therefore ordered:

First, that a civil penalty of $1,320,000 is assessed against TAL, which shall be paid to the U.S. Department of Commerce within thirty days from the date of entry of this Order. Payment shall be made in the manner specified in the attached instructions.

Second, that, pursuant to the Debt Collection Act of 1982, as amended (31 U.S.C. 3701–3720E (1983 and Supp. 2000)), the civil penalty owned under this Order accrues interest as more fully described in the attached Notice, and, if payment is not made by the due date specified herein, TAL will be assessed, in addition to interest, a penalty charge and an administrative charge, as more fully described in the attached Notice.

Third, that for a period of ten years from the date of this Order, TAL Industries, Inc., 901 Corporate Center Drive, Suite 207, Monterey Park California 91754, shall be denied its U.S. export privileges as described herein (hereinafter the ''denial period''). TAL and all of its successors, assigns, officers, representatives, agents, and employees, may not participate, directly

[1] The Act expired on August 20, 1994. Executive Order 12924 (3 CFR, 1994 Comp. 917 (1995)), which had been extended by successive Presidential Notices, the most recent being that of August 3, 2000 (65 FR 48347, August 8, 2000), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701–1706 (1994 & Supp. IV 1998)) until November 13, 2000 when the Act was reauthorized, *See* Pub. L. 106–508, 114 Stat. 2360.

[2] The alleged violations occurred in 1994 and 1995. The Regulations governing those violations are found in the 1994 and 1995 versions of the Code of Federal Regulations (15 CFR parts 768–799 (1994–1995)) (hereinafter the ''former Regulations''). The former Regulations define the violations that BXA alleges occurred. Since that time, the Regulations have been reorganized and restructured; the Regulations establish the procedures that apply to the matters set forth herein.

or indirectly, in any way in any transaction involving any commodity, software, or technology (hereinafter collectively referred to as ''item'') exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, License Exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations.

Fourth, that no person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of TAL or its successors, assigns, officers, representatives, agents, or employees (hereinafter the ''denied person'') any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the denied person or the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the denied person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the denied person of any item subject to the Regulations that has been exported form the United States.

D. Obtain from the denied person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to serve any item subject to the Regulations that has been or will be exported from the United States and that is owned, possessed or controlled by the denied person, or service any item, of whatever origin, that is owned, possessed or controlled by the denied person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

Fifth, that, after notice and opportunity for comment as provided in Section 766.23 of the Regulations, any person, firm, corporation, or business organization related to the denied person by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be made subject to the provisions of this Order.

Sixth, that this Order does not prohibit any export, reexport, or other transaction subject to the Regulations where the only items involved that are subject to the Regulations are the foreign-produced direct product of U.S.-origin technology.

Seventh, that TAL shall produce to the Department of Commerce any documents, in its custody, care or control, that were supplied to the United States in the case of *U.S.* v. *CATIC, et al.,* No. 99–353 (PLF), and TAL hereby certifies that these documents are all the documents that are relevant to the sale, licensing or diversion of the machine tools from the McDonnell Douglas plant in Columbus, Ohio that were allegedly to be used in the Trunkliner program;

Eighth, that for the purposes of authenticating documents and as otherwise agreed to by the parties, TAL shall, at its own expense, made its appropriate employees, representatives, officers or agents available to the Department of Commerce to testify at any administrative proceeding initiated by BXA in connection with the sale, licensing and diversion of the machine tools from the McDonnell Douglas plant in Columbus, Ohio that were allegedly to be used in the Trunkliner program.

Ninth, that the proposed charging letter, the Settlement Agreement, and this Order shall be made available to the public.

This Order, which constitutes the final agency action in these matters, is effective immediately.

Dated: Entered this 11th day of May, 2001.

Dexter M. Price,

Acting Assistant Secretary for Export Enforcement.

[FR Doc. 01–13024 Filed 5–22–01; 8:45 am]

BILLING CODE 3510–DT–M

DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Antidumping and Countervailing Duty Administrative Reviews

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

ACTION: Notice of initiation of antidumping and countervailing duty administrative reviews.

SUMMARY: The Department of Commerce has received requests to conduct administrative reviews of various antidumping and countervailing duty orders and findings with April anniversary dates. In accordance with the Department's regulations, we are initiating those administrative reviews.

EFFECTIVE DATE: May 23, 2001.

FOR FURTHER INFORMATION CONTACT: Holly A. Kuga, Office of AD/CVD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, telephone: (202) 482–4737.

SUPPLEMENTARY INFORMATION:

Background

The Department has received timely requests, in accordance with 19 CFR 351.213(b)(2000), for administrative reviews of various antidumping and countervailing duty orders and findings with April anniversary dates.

Initiation of Reviews

In accordance with section 19 CFR 351.221(c)(1)(i), we are initiating administrative reviews of the following antidumping and countervailing duty orders and findings. We intend to issue the final results of these reviews not later than April 30, 2002.

	Period to be reviewed
Antidumping Duty Proceedings	
Japan: Mechanical Transfer Presses, A–588–810	2/1/00–1/31/01
Hitachi Zosen Fukui Corporation d/b/a/ H & F Corporation*	

	Period to be reviewed
* Inadvertently omitted from initiation notice published on March 22,2001 (66 FR 16037).	
Taiwan: Static Random Access Memory Semiconductors, A–583–827	4/1/00–3/31/01
G-Link Technology Corporation	
Giga Semiconductor, Inc., dba GSI Technology	
Mosel Vitelic, Inc./Mosel Vitelic Corp.	
Winbond Electronics Corporation	
The People's Republic of China: Brake Rotors,** A–570–846	4/1/00–3/31/01
China National Automotive Industry Import & Export Corporation, and manufactured by any company other than Shandong Laizhou CAPCO Industry	
Shandong Laizhou CAPCO Industry, and manufactured by any company other than Shandong Laizhou CAPCO Industry	
Shenyang Honbase Machinery Co., Ltd., and manufactured by any other company other than Shenyang Honbase Machinery Co., Ltd., or Laizhou Luyuan Automobile Fitting Co.	
Laizhou Luyuan Automobile Fitting Co., and manufactured by any company other than Laizhou Luyuan Automobile Fitting Co., or Shenyang Honbase Machinery Co., Ltd.	
China National Machinery and Equipment Import & Export (Xinjiang) Corporation, and manufactured by any company other than Zibo Botai Manufacturing Co., Ltd.	
Qingdao (Gren) Co.	
** If one of the named companies does not qualify for a separate rate, all other exporters of brake rotors from the People's Republic of China who have not qualified for a separate rate are deemed to be covered by this review as part of the single PRC entity of which the named exporters are a part.	
Turkey: Certain Steel Concrete Reinforcing Bars, A–489–807	4/1/00–3/31/01
Ekinciler Holding, A.S./Ekinciler Demir Celik A.S.	
Colakoglu Metalurji A.S./Colakoglu Dis Ticaret	
ICDAS Celik Enerji Tersane ve Ulasim Sanayi, A.S	
Diler Demir Celik Endustrisi ve Ticaret A.S./Yazici Demir Celik Sanayi ve Ticaret A.S./Diler Dis Ticaret A.S.	
Habas Sinai ve Tibbi Gazler Istihsal Endustrisi A.S.	
Countervailing Duty Proceedings	
None.	
Suspension Agreements	
None.	

During any administrative review covering all or part of a period falling between the first and second or third and fourth anniversary of the publication of an antidumping duty order under section 351.211 or a determination under section 351.218(f)(4) to continue an order or suspended investigation (after sunset review), the Secretary, if requested by a domestic interested party within 30 days of the date of publication of the notice of initiation of the review, will determine whether antidumping duties have been absorbed by an exporter or producer subject to the review if the subject merchandise is sold in the United States through an importer that is affiliated with such exporter or producer. The request must include the name(s) of the exporter or producer for which the inquiry is requested.

Interested parties must submit applications for disclosure under administrative protective orders in accordance with 19 CFR 351.305.

These initiations and this notice are in accordance with section 751(a) of the Tariff Act of 1930, as amended (19 USC 1675(a)), and 19 CFR 351.221(c)(1)(i).

Dated: May 17, 2001.

Holly A. Kuga,

Acting Deputy Assistant Secretary, Group II for Import Administration.

[FR Doc. 01–13054 Filed 5–22–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–809]

Circular Welded Non-Alloy Steel Pipe From the Republic of Korea; Amended Final Results of Antidumping Administrative Review

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

ACTION: Notice of amended final results of antidumping duty administrative review of circular welded non-alloy steel pipe from the Republic of Korea.

SUMMARY: On April 11, 2001, the Department published the final results of the administrative review of the antidumping duty order on circular welded non-alloy steel pipe from the Republic of Korea (*see Circular Welded Non-Alloy Steel Pipe from the Republic of Korea; Final Results of Antidumping Administrative Review,* 66 FR 18747 (April 11, 2001) (''*Final Results*'')). On April 16, 2001, the respondents Hyundai Pipe Co., Ltd., Shinho Steel Co., Ltd., and SeAH Steel Corporation submitted allegations of ministerial errors. On April 23, 2001, the domestic interested parties submitted comments. Based on our review of the submissions received from all parties regarding potential ministerial errors, we have made certain corrections to the margin calculation for all three respondents. This correction results in a margin of 2.53 percent for HDP, 0.95 percent for SeAH, and 2.99 percent for Shinho.

EFFECTIVE DATE: May 23, 2001.

FOR FURTHER INFORMATION CONTACT: Greg Campbell or Suresh Maniam, Group 1, Office I, Antidumping/Countervailing Duty Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–2239 or (202) 482–0176, respectively.

SUPPLEMENTARY INFORMATION:

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the ''Act''), are references to

the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (''URAA''). In addition, unless otherwise indicated, all citations to the Department of Commerce's (''Department's'') regulations are to 19 CFR Part 351 (2000).

Background

On April 11, 2001, the Department published the *Final Results.* On April 16, 2001, the respondents Hyundai Pipe Co., Ltd.[1] (''HDP''), Shinho Steel Co., Ltd. (''Shinho''), and SeAH Steel Corporation (''SeAH'') submitted allegations that the *Final Results* contained ministerial errors. On April 23, 2001, the domestic interested parties submitted comments regarding Shinho's and SeAH's allegations. The period of review (''POR'') is November 1, 1998, through October 31, 1999.

The Department has conducted this administrative review in accordance with section 751 of the Act.

Scope of the Review

The merchandise subject to this review is circular welded non-alloy steel pipe and tube, of circular cross-section, not more than 406.4mm (16 inches) in outside diameter, regardless of wall thickness, surface finish (black, galvanized, or painted), or end finish (plain end, beveled end, threaded, or threaded and coupled). These pipes and tubes are generally known as standard pipes and tubes, and are intended for the low-pressure conveyance of water, steam, natural gas, air, and other liquids and gases in plumbing and heating systems, air-conditioning units, automatic sprinkler systems, and other related uses. Standard pipe may also be used for light load-bearing applications, such as for fence tubing, and as structural pipe tubing used for framing and as support members for reconstruction or load-bearing purposes in the construction, shipbuilding, trucking, farm equipment, and other related industries. Unfinished conduit pipe is also included in this order.

All carbon-steel pipes and tubes within the physical description above are included within the scope of this review except line pipe, oil-country tubular goods, boiler tubing, mechanical tubing, pipe and tube hollows for redraws, finished scaffolding, and finished conduit. In accordance with the Department's *Final Negative Determination of Scope Inquiry on Certain Circular Welded Non-Alloy Steel Pipe and Tube from Brazil, the Republic of Korea, Mexico, and Venezuela* (61 11608, March 21, 1996), pipe certified to the API 5L line-pipe specification and pipe certified to both the API 5L line-pipe specifications and the less-stringent ASTM A–53 standard-pipe specifications, which falls within the physical parameters as outlined above, and entered as line pipe of a kind used for oil and gas pipelines is outside of the scope of the antidumping duty order.

Imports of these products are currently classifiable under the following *Harmonized Tariff Schedule of the United States* (HTSUS) subheadings: 7306.30.10.00, 7306.30.50.25, 7306.30.50.32, 7306.30.50.40, 7306.30.50.55, 7306.30.50.85, and 7306.30.50.90. Although the HTSUS subheadings are provided for convenience and customs, the written description of the scope of this proceeding is dispositive.

Analysis of Comments Received

HDP argued that, due to an anomaly in the SAS software used for the margin calculations, certain U.S. sales were matched to home market sales in a less contemporaneous month, despite the existence of more contemporaneous home market sales of similar merchandise. SeAH and Shinho argued that although the Department intended to remove specification as a matching criterion for similar matches only it, in fact, inadvertently removed specification from the calculation program completely—even for purposes of identical matches.

The domestic interested parties made no comments regarding HDP's ministerial error allegation. Regarding SeAH's and Shinho's ministerial error allegation, the domestic interested parties argued that the allegations are not ministerial in nature. Rather, the domestic interested parties content, SeAH and Shinho are merely rearguing a major point from their briefs, namely, that the margin calculation program ought to reflect the matching methodology or prior reviews of this order.

We have addressed these comments regarding ministerial error allegations in detail in the *Memorandum to Susan Kuhback,* ''Ministerial Error Allegations for Final Results of Review'' (May 7, 2001). As explained in that memorandum, we agree with DHP's ministerial error allegation. This error, however, affects the margin program for all three respondents and, therefore, we have corrected the error for HDP, as well as for SeAH and Shinho. Regarding SeAh's and Shinho's ministerial error allegations, we find these alleged errors do not constitute ministerial errors under 19 CFR 351.224(c) and, accordingly, have made no changes to the margins to correct them.

Amended Final Results

Based on our review of comments received regarding ministerial errors, we have made the following change to the *Final Results*: We have corrected the SAS calculation program to allow proper matching of U.S. sales to home market sales.

We determine the following dumping margins exist for the period November 1, 1998, through October 31, 1999:

Manufacturer/Exporter	Margin (percent)
Shinho	2.99
SeAH	0.95
HDP	2.53

We are issuing and publishing this determination and notice in accordance with sections 751(a)(1) and 771(i) of the Act.

Dated: May 11, 2001.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 01–13052 Filed 5–22–01; 8:45 am]

BILLING CODE 3510–DS–M

[1] In a letter dated January 5, 2001, HDP informed the Department that its corporate name would change to Hyundai Steel Company effective February 1, 2001. On February 27, 2001, the Department initiated a changed circumstances review to determine whether entries naming ''Hyundai Hysco'' as manufacturer or exporter should receive the cash deposit rate currently applied to HDP. *Certain Circular Welded Non-Alloy Steel Pipe from the Republic of Korea; Initiation of Changed Circumstances Antidumping Duty Administrative Review,* 66 FR 12460 (February 27, 2001). Pending a final determination in that changed circumstances review, we will continue to refer to the respondent in the instant review as HDP.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–865]

Notice of Postponement of Final Determination of Antidumping Duty Investigation: Certain Hot-Rolled Carbon Steel Products From the People's Republic of China

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

ACTION: Notice of postponement of final determination of antidumping duty investigation.

EFFECTIVE DATE: May 23, 2001.

FOR FURTHER INFORMATION CONTACT: Carrie Blozy or James Doyle, Office IX,

DAS Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW, Washington, DC 20230; telephone (202) 482–0165 and (202) 482–0159, respectively.

The Applicable Statute and Regulations

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 (URAA). In addition, unless otherwise indicated, all citations to Department of Commerce (the Department) regulations refer to the regulations codified at 19 CFR part 351 (2000).

Background

This investigation was initiated on December 4, 2000. *See Notice of Initiation of Antidumping Duty Investigations: Certain Hot-Rolled Carbon Steel Flat Products From Argentina, India, Indonesia, Kazakhstan, the Netherlands, the People's Republic of China, Romania, South Africa, Taiwan, Thailand, and Ukraine,* 65 FR 77568 (December 12, 2000). The period of investigation (POI) is April 1, 2000 through September 30, 2000. On May 3, 2001, the Department published the notice of preliminary determination. *See Notice of Preliminary Determination of Sales at Less Than Fair Value: Certain Hot-Rolled Carbon Steel Flat Products From the People's Republic of China,* 66 FR 22183 (May 3, 2001).

Postponement of Final Determination and Extension of Provisional Measures

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by petitioner. The Department's regulations, at 19 CFR 351.210(e)(2), require that requests by respondents for postponement of a final determination be accompanied by a request for extension of provisional measures from a four-month period to not more than six months.

In a May 7, 2001 request Shanghai Baosteel Group Corporation, Baoshan Iron and Steel Co., Ltd., and Baosteel Group International Trade Corporation (collectively Baosteel Group) requested that the Department postpone its final determination until not later than 135 days after the date of the publication of the preliminary determination in the **Federal Register** and requested an extension of the provisional measures. In accordance with 19 CFR 351.210(b), because (1) our preliminary determination is affirmative, (2) Baosteel Group accounts for a significant proportion of exports of the subject merchandise, and (3) no compelling reasons for denial exist, we are granting Baosteel Group's request and are postponing the final determination until no later than 135 days after the publication of preliminary determination in the **Federal Register**. Suspension of liquidation will be extended accordingly.

This notice is published in accordance with section 735(a)(2) of the Act.

Dated: May 16, 2001.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 01–13053 Filed 5–22–01; 8:45 am]

BILLING CODE 3510–DS–P

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton and Wool Textiles and Textile Products Produced or Manufactured in Colombia

May 18, 2001.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: May 25, 2001.

FOR FURTHER INFORMATION CONTACT: Roy Unger, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.gov. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel website at http://otexa.ita.doc.gov.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limit for Category 443 is being increased for swing, reducing the limit for Category 315 to account for the swing being applied. In addition, the limit for Category 443 is also being increased for carryover.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 65 FR 82328, published on December 28, 2000). Also see 65 FR 66719, published on November 7, 2000.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

May 18, 2001.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on October 27, 2000, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton and wool textile products, produced or manufactured in Colombia and exported during the twelve-month period which began on January 1, 2001 and extends through December 31, 2001.

Effective on May 25, 2001, you are directed to adjust the current limits for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
315	31,097,800 square meters.
443	158,100 numbers.

[1] The limits have not been adjusted to account for any imports exported after December 31, 2000.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 01–13023 Filed 5–22–01; 8:45 am]

BILLING CODE 3510–DR–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textile Products Produced or Manufactured in Oman

May 18, 2001.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: May 25, 2001.

FOR FURTHER INFORMATION CONTACT: Roy Unger, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.ustreas.gov. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel website at http://otexa.ita.doc.gov.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limits for certain categories are being increased for carryover.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 65 FR 82328, published on December 28, 2000). Also see 65 FR 77593, published on December 12, 2000.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

May 18,2001.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on December 5, 2000, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, man-made fiber, silk blend and other vegetable fiber textile products, produced or manufactured in Oman and exported during the twelve-month period beginning on January 1, 2001 and extending through December 31, 2001.

Effective on May 25, 2001, you are directed to increase the current limits for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
334/634	183,370 dozen.
335/635	338,907 dozen.
338/339	703,234 dozen.
340/640	338,907 dozen.
341/641	254,180 dozen.
647/648/847	519,551 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 2000.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson,
Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 01–13021 Filed 5–22–01; 8:45 am]

BILLING CODE 3510–DR–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of an Import Limit for Certain Wool Textile Products Produced or Manufactured in Russia

May 18, 2001.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing a limit.

EFFECTIVE DATE: May 25, 2001.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of this limit, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.gov. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel website at http://otexa.ita.doc.gov.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The Bilateral Textile Agreement, effected by exchange of notes dated August 13, 1996 and September 9, 1996, as amended on February 26, 2001, and April 30, 2001, between the Governments of the United States and the Russian Federation establishes a limit for wool textile products in Category 435 for the periodJanuary 1, 2001 through December 31, 2001.

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to establish the limit for the period January 1, 2001 through December 31, 2001.

This limit may be revised if Russia becomes a member of the World Trade Organization (WTO) and the United States applies the WTO agreement to Russia.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 65 FR 82328, published on December 28, 2000).

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

May 18, 2001.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Pursuant to section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended; and the Bilateral Textile Agreement, effected by exchange of notes dated August 13, 1996 and September 9, 1996, as amended on February 26, 2001, and April 30, 2001, between the Governments of the United States and the Russian Federation, you are directed to prohibit, effective on May 25, 2001, entry into the United States for consumption and withdrawal from warehouse for consumption of wool textile products in Category 435, produced or manufactured in Russia and exported during the period beginning on January 1, 2001 and extending through December 31, 2001, in excess of 55,204 dozen.

The limit set forth above is subject to adjustment pursuant to the current bilateral agreement between the Governments of the United States and the Russian Federation.

Products in the above category exported during 2000 shall be charged to the applicable category limit for that year (see directive dated September 13, 1999) to the extent of any unfilled balance. In the event the limit established for that period has been exhausted by previous entries, such products shall be charged to the limit set forth in this directive.

This limit may be revised if Russia becomes a member of the World Trade Organization (WTO) and the United States applies the WTO agreement to Russia.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception of the rulemaking provisions of 5 U.S.C.553(a)(1).

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 01–13022 Filed 5–22–01; 8:45 am]

BILLING CODE 3510–DR–F

CONSUMER PRODUCT SAFETY COMMISSION

Sunshine Act Meeting

AGENCY: U.S. Consumer Product Safety Commission.

TIME AND DATE: Commission Meeting, Wednesday, May 30, 2001, 10:00 a.m.

LOCATION: Room 420, East West Towers, 4330 East West Highway, Bethesda, Maryland.

STATUS: Open to the Public.

MATTER TO BE CONSIDERED:

BABY BATH SEATS (PETITION HP 00–4): The Commission will consider options regarding Petition HP 00–4, filed by the Consumer Federation of America and nine other organizations, requesting that the Commission ban baby bath seats to address a risk of injury or death by drowning.

For a recorded message containing the latest agenda information, call (301) 504–0709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sadye E. Dunn, Office of the Secretary, 4330 East West Highway, Bethesda, MD 20207 (301) 504–0800.

Dated: May 21, 2001.

Sadye E. Dunn,

Secretary.

[FR Doc. 01–13175 Filed 5–21–01; 2:48 pm]

BILLING CODE 6355–01–M

CONSUMER PRODUCT SAFETY COMMISSION

Sunshine Act Meeting

AGENCY: U.S. Consumer Product Safety Commission.

TIME AND DATE: Commission Meeting, Thursday, May 31, 2001, 10:00 a.m.

LOCATION: Room 420, East West Towers, 4330 East West Highway, Bethesda, Maryland.

STATUS: Open to the Public.

MATTER TO BE CONSIDERED:

MID-YEAR REVIEW: The staff will brief the Commission on issues related to fiscal year 2001 mid-year review.

For a recorded message containing the latest agenda information, call (301) 504–0709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sadye E. Dunn, Office of the Secretary, 4330 East West Highway, Bethesda, MD 20207 (301) 504–0800.

Dated: May 21, 2001.

Sadye E. Dunn,

Secretary.

[FR Doc. 01–13176 Filed 5–21–01; 2:48 pm]

BILLING CODE 6355–01–M

DEPARTMENT OF DEFENSE

Department of the Air Force

HQ USAF Scientific Advisory Board

The Commercial Space Technology, Systems Architecture & Policy Panel andThreat Panel Meeting will meet in Kirtland Air Force Base, New Mexico on May 31–June 1, 2001 from 8 a.m. to 5 p.m.

The purpose of the meeting is to receive briefings and discuss the direction of the study. This meeting will be closed to the public in accordance with Section 552b(c) of Title 5, United States Code, specifically subparagraphs (1) and (4) thereof.

For further information, contact the HQ USAF Scientific Advisory Board Secretariat at (703) 697–8404.

Janet A. Long,

Air Force Federal Register Liaison Officer.

[FR Doc. 01–13006 Filed 5–22–01; 8:45 am]

BILLING CODE 5001–05–P

DEPARTMENT OF DEFENSE

Department of the Air Force

HQ USAF Scientific Advisory Board

The C2 Advisory Group Meeting will meet in Langley Air Force Base, Virginia on May 24–25, 2001 from 8 a.m. to 5 p.m.

The purpose of the meeting is to receive briefings and discuss the direction of the study. This meeting will be closed to the public in accordance with Section 552b(c) of Title 5, United States Code, specifically subparagraphs (1) and (4) thereof.

For further information, contact the HQ USAF Scientific Advisory Board Secretariat at (703) 697–8404.

Janet A. Long,

Air Force Federal Register Liaison Officer.

[FR Doc. 01–13007 Filed 5–22–01; 8:45 am]

BILLING CODE 5001–05–P

DEPARTMENT OF DEFENSE

Department of the Army

Notice of Availability—Draft Environmental Impact Statement (DEIS) for the Northern Training Complex With a Multi-Purpose Digital Training Range and Expanded Maneuver Areas, Drop Zones and Landing Zones at Fort Knox, Kentucky

AGENCY: U.S. Army Armor Center and Fort Knox, Department of the Army, DoD.

ACTION: Notice of Availability.

SUMMARY: In compliance with the National Environmental Policy Act (NEPA), the Army has prepared a Draft Environmental Impact Statement (DEIS) for the construction and operation of a multi-purpose digital training range and a series of maneuver areas, drop zones and landing zones at Fort Knox, Kentucky. The DEIS analyzes the impacts of the proposed facilities. These facilities would provide a multi-functional war-fighting capability to meet the Army's training needs for soldiers in urban and restricted terrain combat scenarios. The DEIS identifies various alternatives and the associated environmental impacts of the proposed alternatives.

DATES: Written comments will be received on or before July 9, 2001 by the U.S. Environmental Protection Agency.

ADDRESSES: Questions about the DEIS, submission of written comments or requests for copies of the DEIS may be made to: Environmental Management Division, Directorate of Base Operations Support, U.S. Army Armor Center, ATTN: ATZK–OSE, Building 1110, Room 216, Ironsides & 6th Avenue, Fort Knox, KY 40121–5000. Submit electronic comments and data by email to: Linda.Pollock@knox.army.mil.

FOR FURTHER INFORMATION CONTACT: Mr. Al Freeland or Mrs. Gail Pollock, Environmental Management Division, Directorate of Base Operations Support, U.S. Army Armor Center, ATTN: ATZK–OSE, Building 1110, Room 216, Ironsides & 6th Avenue, Fort Knox, KY 40121–5000, by calling (502) 624–3629 or by fax at (502) 624–3000.

SUPPLEMENTARY INFORMATION: The proposed project includes upgrading an existing training range to a modern digitized multi-purpose training range; construction of a series of landing zones, drop zones and maneuver areas and a grassed C130 landing strip; upgrade of existing roads; installation of fiber optics and other infrastructure improvements. The facilities would prepare the mounted force warriors for full spectrum combat operations. The proposed facilities would fully support new equipment training such as the M1A2 Main Battle Bank (MBT) Systems Enhancement Package (SEP), the M2A3 Bradley Fighting Vehicles, and the Light Armored Vehicle (LAV III), as well as other enhanced vehicles requiring digital capability. These vehicles are equipped with a dynamic new computer system that uses digital technology to provide soldiers with on the move and instantaneous battlefield communications. The Notice of Intent for the proposed project was published in the **Federal Register** (65 FR 31534, May 18, 2000).

Submit electronic comments and data by sending via electronic mail (email) to Linda.Pollock@knox.army.mil. Submit comments as an ASCII file avoiding the use of special characters and any form of encryption. Fort Knox also accepts data on disks in Microsoft Word 2000 file format or ASCII format.

Individuals who wish to review the DEIS may examine a copy at any of the following locations: Barr Library, 400 Quartermaster Street, Fort Knox, Kentucky 40121–5000 and Ridgeway Memorial Library, 127 North Walnut Street, P.O. Box 146, Shepherdsville, Kentucky 40165.

The DEIS has also been distributed to Federal, state, and local regulatory agencies, known interested organizations, and those individuals who have requested it.

Dated: May 17, 2001.

Raymond J. Fatz,

Deputy Assistant Secretary of the Army (Environment, Safety and Occupational Health), OASA (I&E)

[FR Doc. 01–12981 Filed 5–22–01; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Notice of Availability of the Proposed Army Alternate Procedures Regarding the Protection of Army Historic Properties and Environmental Assessment/Finding of No Significant Impact for the Adoption of the Army Alternate Procedures

AGENCY: Department of the Army, DoD.

ACTION: Notice of availability.

SUMMARY: This announces the availability of the Army Alternate Procedures (AAP) to 36 CFR Part 800: Protection of Army Historic Properties and Environmental Assessment (EA)/ Finding of No Significant Impact (FNSI) for the adoption of the AAP. The Army intends to sign the FONSI unless public comments identify significant impacts or issues that have not been considered. The AAP is an optional procedure that an installation may choose to adopt to satisfy compliance with Section 106 of the National Historic Preservation Act (NHPA) in lieu of the existing regulations set forth in the Advisory Council on Historic Preservation's (Council) regulations at 36 CFR Part 800. The Army and the Council have consulted extensively with State Historic Preservation Officers, Indian tribes and Native Hawaiian organizations, and the National Trust for Historic Preservation throughout the development of the AAP. The EA gives full consideration and adoption of alternate procedures as the proposed action, and two reasonable alternatives to the proposed action.

DATES: Submit comments on or before June 22, 2001.

ADDRESSES: To obtain copies of the proposed AAP, the EA, and FONSI, contact the U.S. Army Environmental Center, ATTN: SFIM–AEC–PA (Joe Ricci), Aberdeen Proving Ground, MD 21010–5401.

FOR FURTHER INFORMATION CONTACT: Mr. Chuck Wright at (703) 693–0675.

SUPPLEMENTARY INFORMATION: The proposed action is the adoption of the proposed AAP for compliance with Section 106 of the NHPA and for comprehensive management and preservation of historic properties on lands owned or controlled by the Department of the Army. The AAP, once adopted, would stand in place of the project-by-project review procedures set forth in 36 CFR Part 800. The AAP's build upon and rely on the internal policy requirement for installations to prepare Integrated Cultural Resource Management Plans in accordance with Army Regulation 200–4, Cultural Resources Management, as implemented by more detailed guidance in Department of the Army Pamphlet 200–4. The AAP's would authorize Army installation commanders to develop Historic Property Components (HPC) to the installation's Integrated Cultural Resources Management Plan (ICRMP). Once certified by the Council, the HPC would serve as the installation's Section 106 compliance agreement for a five (5) year period. The installation's Section 106 compliance responsibilities would be met through implementation of the HPC rather than case-by-case, formalized, external review of individual undertakings as presently required by 36 CFR Part 800. Installations choosing not to develop certified HPC's would continue to review undertakings in accordance with 36 CFR Part 800.

The EA considered, evaluated and assessed alternatives: (a) The No Action Alternative (continued project-by-project review under 36 CFR Part 800); (b) The Programmatic Agreement (PA) Alternative (adoption of an agency policy encouraging the use of PA's under existing regulations to implement the historic preservation portions of an installation's ICRMP); and (c) the proposed action alternative (adoption of the AAP's). Consideration of the alternatives analyzed in the EA leads to the Army's decision to adopt the AAP's. The No Action Alternative would allow a continued ad-hoc approach to compliance with Section 106 and management of historic properties. With the anticipated growth in the Army's historic properties inventory, continued review of undertakings on a case-by-case basis will likely remain inefficient and lead to increased program costs. The PA Alternative better meets the stated purpose and need since it would provide a programmatic basis for Section 106 compliance, relying on an installation's ICRMP. The Army's past experience with PA's, however, is that they have not been effective in resolving adverse effects, and, generally result in reversion to case-by-case, formalized, external review when such effects are identified. The proposed action (i.e., AAP's) more squarely meets the stated purpose and need for action. The AAP's) more squarely meets the stated purpose and need for action. The AAP's build on the present management approach established by Army Regulation 200–4 and leverage the existing Army historic properties management policy, programs and participants. Management in this manner will facilitate overall Army

compliance with Section 106; and, will otherwise provide the agency with the ability to act as a more responsible steward for historic properties entrusted to its care.

Copies of the AAP, EA and FONSI can also be found on the Council's web site at www.achp.gov/army.html.

Dated: May 17, 2001.

Raymond J. Fatz,

Deputy Assistant Secretary of the Army, (Environment, Safety, and Occupational Health) OASA(I&E).

[FR Doc. 01–13008 Filed 5–22–01; 8:45 am]

BILLING CODE 3710–08–M

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 17, 2001.

John Tressler,

Leader, Regulatory Information Management, Office of the Chief Information Officer.

Office of Postsecondary Education

Type of Review: Extension.

Title: Notice Inviting Proposals for participation in the Experimental Sites Initiative.

Frequency: One time.

Affected Public: Individuals or household; Not-for-profit institutions; State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 500.

Burden Hours: 2,500.

Abstract: The Secretary invites proposals to reinvent the administration of Federal student assistance programs through the use of the experimental sites authority (Section 487A(b)) of the Higher Education Act of 1965, as amended. The program is intended to encourage institutions to develop innovative strategies to improve Title IV program administration.

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. 01–12947 Filed 5–22–01; 8:45 am]

BILLING CODE 4000–01–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 17, 2001.

John Tressler,

Leader, Regulatory Information Management, Office of the Chief Information Officer.

Office of Student Financial Assistance Programs

Type of Review: Revision.

Title: Campus-Based Reallocation Form E40–4P.

Frequency: On Occasion.

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: 3,000.

Burden Hours: 500.

Abstract: The Reallocation Form is necessary to determine the funds available and to establish eligibility for the distribution of supplemental Federal Work-Study (FWS) awards.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* or should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW, Room 4050, Regional Office Building 3, Washington, D.C. 20202–4651. Requests may also be electronically mailed to the internet address OCIO_IMG_Issues@ed.gov or faxed to 202–708–9346.

Please specify the complete title of the information collection when making your request. Comments regarding burden and/or the collection activity requirements should be directed to 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. 01–12948 Filed 5–22–01; 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 22, 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 17, 2001.

John Tressler,

Leader, Regulatory Information Management, Office of the Chief Information Officer.

Office of Student Financial Assistance Programs

Type of Review: Revision.

Title: The Joint Application for the Leveraging Educational Assistance Partnership (SLEAP) and Special Leveraging Educational Assistance and Partnership (LEAP) Programs.

Frequency: Annually.

Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 56.

Burden Hours: 112.

Abstract: The LEAP and SLEAP programs use matching Federal and State funds to provide a nationwide system of grants to assist postsecondary educational students with substantial financial need. On this application the states provide information the Department requires to obligate funds and for program management. The signed assurances legally bind the states to administer the programs according to regulatory and statutory requirements. With the clearance of this collection, the Department is seeking to automate the application for web-based applying for both the LEAP Program and the subprogram, SLEAP. There are no significant changes to the current LEAP form data elements. There are, however, some additional items pertaining to the SLEAP Program which combines the application into one form for both programs.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* or should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW, Room 4050, Regional Office Building 3, Washington, D.C. 20202–4651. Requests may also be electronically mailed to the internet address *OCIO_IMG_Issues@ed.gov* or faxed to 202–708–9346.

Please specify the complete title of the information collection when making your request. Comments regarding burden and/or the collection activity requirements should be directed to 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. 01–12949 Filed 5–22–01; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[CFDA No. 84.215X]

Teaching American History Grant Program; Notice Inviting Grant 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 Teaching American History 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: Teaching American History grants will support

programs to raise student achievement by improving teachers' knowledge, understanding, and appreciation of American history. Grant awards will assist local educational agencies (LEAs), in partnership with entities that have extensive content expertise, to develop, document, evaluate, and disseminate innovative, cohesive models of professional development. By helping teachers to develop a deeper understanding and appreciation of American history as a separate subject matter within the core curriculum, these programs will improve instruction and raise student achievement.

Eligible Applicants: Local educational agencies (LEAs), working in partnership with one or more of the following entities:

- Institutions of higher education;
- Non-profit history or humanities organizations; and
- Libraries and museums.

Note: Groups of LEAs interested in submitting a single application must follow the procedures for group applications in 34 CFR 75.127–129 of EDGAR.

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 LEAs that intend to apply for funding under this competition. Therefore, the Secretary strongly encourages each potential applicant to notify the Department with a short e-mail noting the intent to submit an application for funding. The e-mail need not include information regarding the content of the proposed application, only the applicant's intent to submit it. The Secretary requests that this e-mail notification be sent no later than June 22, 2001. The e-mail notification should be sent to Ms. Christine Miller at: TeachingAmericanHistory@ed.gov. Applicants that fail to provide this e-mail notification may still apply for funding.

Deadline for Transmittal of Applications: July 23, 2001.

Deadline for Intergovernmental Review: September 21, 2001.

Estimated Available Funds: $50,000,000.

Estimated Range of Awards: $350,000–$1,000,000 (total funding per grant, for a three-year project period).

Estimated Average Size: $500,000 (total for all three years).

Maximum Award Amount: The total amount of funding that an LEA may receive under this competition is $1,000,000.

Estimated Number of Awards: 75–125.

Project Period: Up to 36 months.

Please note that applicants for multi-year awards are required to provide detailed budget information for the total grant period requested. The Department will determine at the time of the initial award the funding levels for each year of the grant award. The Department of Education is not bound by any estimates in this notice.

Note: To provide the applicant the capacity to effectively plan for and carry out the comprehensive long-term activities involved in ongoing, intensive professional development, to establish partnerships to support this work, and to document and demonstrate the effectiveness of its program for future dissemination, the Secretary anticipates awarding the entire three-year grant amount for the project at the time of the initial award.

Page Limits: Applicants are strongly encouraged to limit the application narrative to no more than 20 double-spaced pages.

The following standards are preferred: (1) A ''page'' is 8.5″ x 11″ (one side only) with one-inch margins (top, bottom, and sides). (2) Use 12-point font for all text in the application narrative.

The page limit does not apply to the cover sheet, the one-page abstract, budget section, appendices, and forms and assurances.

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: Budgets must include funds for at least two project staff members to attend a two-day annual meeting of the Teaching American History Grant Program in Washington, DC, each year of the project. Applicants must include funds to cover travel and lodging expenses for these training activities during each year of the project.

Program Description: The Teaching American History grant program is funded under Part A of Title X of the Elementary and Secondary Education Act.

Students who know and appreciate the great ideas of American history are more likely to understand and exercise their civic rights and responsibilities. Their understanding of traditional American history will be enhanced if teachers make the study of history more exciting, interesting, and engaging. Students need teachers who have a thorough understanding of American history as a separate subject within the core curriculum, and incorporate into their teaching effective strategies to help students learn.

The Teaching American History Grant Program will support projects to raise student achievement in American history by improving teachers' knowledge, understanding, and appreciation for American history through intensive, ongoing professional development. These professional development activities should reflect the best available research and practice in teaching, learning, and leadership. Project activities should enable teachers to develop further expertise in American History subject content, teaching strategies, use of technologies, and other essential elements of teaching to higher standards. Projects should be driven by a coherent, long-term plan and should be evaluated on the basis of their impact on teacher effectiveness and student learning. This assessment should guide subsequent professional development efforts.

This program will demonstrate how school districts and institutions with expertise in American history can collaborate over a three-year period to ensure that teachers develop the knowledge and skills necessary to teach American history in an exciting and engaging way. Through these projects, districts will demonstrate comprehensive professional development approaches for providing high-quality American history instruction. In addition to any dissemination conducted directly by grantees, the Department intends to take the products and information resulting from this grant and share the results with other communities.

Under this program, applicants must propose projects that:

- Develop and implement high-quality in-service and/or pre-service professional development that provides educators with content and teaching skills to prepare all students to achieve to higher standards in American history; and
- Develop and implement strategies for sustained and on-going collaboration that will take place over the course of at least three years among teachers and outside experts to improve instruction in American history.

Applicants should consider projects that include at least one or more of the following:

- Supporting participation of teams of teachers in summer institutes and summer immersion activities;
- Supporting school-based collaborative efforts among teachers, including programs that facilitate teacher observation and analyses of fellow history teachers' classroom practice to improve instruction;
- Developing programs to assist new history teachers in the classroom, such as—

(a) Mentoring and coaching by trained mentor teachers over the entire grant period;

(b) Team teaching with experienced history teachers; or

(c) Providing released time for observation and consultation with experienced history teachers;

• Providing collaborative professional development experiences for veteran history teachers;

• Establishing and maintaining professional networks that provide a forum for interaction among teachers and that allow for the exchange of information;

• Providing guidance to teachers on the use of technology to provide access to primary historical documents, enable cooperative learning efforts, and develop effective presentations of historical content; and

• Creating materials documenting the implementation and benefits of the program and products for other educators to use in the course of teaching American history as a separate subject within the core curriculum.

Application Content: To apply for Teaching American History program funds, applicants must fully describe, in their project narrative, projects that:

• Further the development of high-quality professional development programs, through collaboration, designed to improve American history education programs in elementary, middle, or high schools;

• Develop materials designed to help replicate or adapt the program;

• Document the program's outcomes and benefits; and

• Develop products and services that may be used to replicate the program in other settings.

Thus, grant applications must describe existing or proposed strategies that could successfully be implemented, expanded, documented, evaluated and disseminated. Taken together, these strategies and methods should comprise a research-based comprehensive American History education improvement project that:

• Is based on reliable theory, preliminary internal or external research, and evaluation regarding effective practice;

• Has the potential to improve students' achievement in American history;

• Highlights the development of model pre-service and/or in-service professional development for history teachers;

• Involves multiple partners and effectively combines resources to create quality, sustainable programs;

• Demonstrates the feasibility of further replication and dissemination;

• Is applicable to a broad range of rural and urban schools serving poor and disadvantaged students, including those schools that are chronically low-performing;

• Makes effective use of technology to further the program goals; and

• Describes methods by which the applicant will assess the project's outcomes.

Reporting Requirements and Expected Outcomes

The Secretary requires successful applicants to submit annual performance reports that document the grantee's yearly progress toward meeting expected programmatic outcomes. The Secretary will use these reports to measure the success of the grantee's project and contribute to a broader knowledge base about high-quality, effective professional development strategies that can improve the teaching and learning of American history nationwide. In addition, grantees will be required to submit a final performance report, due no later than 90 days after the end of the project period.

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. Section 437(d)(1) of the General Education Provisions Act (GEPA), however, allows the Secretary to exempt from rulemaking requirements rules governing the first grant competition under a new or substantially revised program authority (20 U.S.C. 1232(d)(1)). Funding was provided for this new initiative in the FY 2001 appropriations act, enacted December 21, 2000. The Secretary, in accordance with section 437(d)(1) of GEPA, has decided to forego public comment in order to ensure timely grant awards. These requirements will apply to the FY 2001 grant competition only.

Competition Requirements

Absolute Priority: The following requirement applies to all applicants seeking funding under this competition. An applicant must meet this requirement in order to be eligible for funding.

Collaboration With Other Agencies or Institutions

(a) Each applicant must propose to work in collaboration with one or more of the following entities:

• Institutions of higher education;

• Non-profit history or humanities organizations; or

• Libraries or museums.

(a) The applicant must identify the entity or entities with which it will collaborate and include in its application an assurance from appropriate officials of those entities that they will work with the applicant in implementing the proposal.

Invitational Priority

The Secretary is particularly interested in receiving applications from high-poverty rural and urban LEAs for projects designed to improve American history instruction in chronically low-performing schools.

Definition: In addition to definitions in the statute and EDGAR, the following definition applies:

Research-based, when used with respect to an activity or a program, means that, to the extent possible, the activity or program is based on the most rigorous theory, research, and evaluation available and effective in improving student achievement and performance and other program objectives.

Selection Criteria: The Secretary uses the following selection criteria to evaluate applications for grants under this competition. In all instances where the word ''project'' appears in the selection criteria, the reference to a Teaching American History program should be made.

The maximum composite score for all of these criteria is 100 points. The maximum score for each criterion is indicated in parentheses. Within each criterion, the Secretary evaluates each factor equally.

(a) Need for Project (10 points)

In determining the need for the proposed project, the Secretary considers the following factors:

(i) The extent to which the proposed project addresses the needs of disadvantaged students and students at risk of educational failure.

(ii) The extent to which specific gaps or weaknesses in services, infrastructure, or opportunities have been identified and will be addressed by the proposed project, including the nature and magnitude of those gaps or weaknesses.

(b) Significance. (20 points)

In determining the significance of the proposed project, the Secretary considers one or more of the following factors:

(i) The potential contribution of the proposed project to increased knowledge or understanding of effective

strategies to improve instruction and student achievement in American History.

(ii) The likelihood that the proposed project will result in systematic improvement in the delivery of professional development to improve teacher's knowledge, understanding and appreciation of American History.

(iii) The extent to which the proposed partnership with institutions with expertise in the field will contribute to teachers' ability to instruct students in American History in an engaging manner.

(iv) The likely utility of the products (such as information, materials, processes, or techniques) that will result from the proposed project, including the potential for their being used effectively in a variety of other settings.

(c) Quality of the Project Design (25 points)

In determining the quality of the design of the proposed project, the Secretary considers one or more of the following factors:

(i) The extent to which the goals, objectives, and outcomes to be achieved by the proposed project are clearly specified and measurable.

(ii) The extent to which the professional development activities to be provided by the project are of sufficient quality, intensity, and duration to lead to improved instruction in American History.

(iii) The extent to which the project involves the collaboration of appropriate partners with expertise in the content of American History to improve teachers' knowledge and instruction.

(iv) The extent to which coherent theory or quality external and internal research and evaluation underlie the proposed project.

(d) Quality of the Management Plan (15 points)

In determining the quality of the management plan for the proposed project, the Secretary considers one or more of the following factors:

(i) The adequacy of the management plan to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, timelines, continuous improvement strategies and milestones for accomplishing project tasks.

(ii) The extent to which the time commitments of the project director and other key project personnel are appropriate and adequate to meet the objectives of the proposed project.

(e) Quality of Project Personnel (5 points)

In determining the quality of the project personnel, the Secretary considers one or more of the following factors:

(i) The qualifications, including relevant training and experience in American history, of key project personnel and major partners, project consultants and contractors.

(ii) The extent to which the applicant encourages applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability.

(f) Quality of the Project Evaluation (15 points)

In determining the quality of the evaluation, the Secretary considers one or more of the following factors:

(i) The extent to which the methods of evaluation are thorough, feasible, and appropriate to the goals, objectives, and outcomes of the proposed project.

(ii) 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.

(iii) The extent to which the evaluation will provide guidance about effective strategies suitable for replication or testing in other settings.

(g) Adequacy of Resources (10 points)

In determining the adequacy of resources for the proposed project, the Secretary considers:

(i) The extent to which the costs are reasonable and the budget sufficient in relation to the objectives, design, and scope of project activities.

(ii) The relevance and demonstrated commitment of each partner in the proposed project to the implementation and success of the project.

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. Applicants proposing to perform activities in more than one State should immediately contact the Single Point of Contact for each of those States and follow the procedures established in each State under the Executive order.

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, area-wide, 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, area-wide, 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 #84.215X, 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. (Eastern Standard Time) 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 an applicant wants to apply for a grant, the applicant must—

(1) Mail the original and two copies of the application on or before the deadline date to: U.S. Department of Education, Application Control Center, Attention: CFDA # 84.215X, Room 3633, Regional Office Building #3, 7th and D Streets, SW., Washington, DC

or

(2) Hand deliver the original and two copies of the application by 4:30 p.m. (Eastern Standard Time) on or before the deadline date to: U.S. Department of Education, Application Control Center, Attention: CFDA #84.215X, Room 3633, Regional Office Building #3, 7th and D Streets, SW., Washington, DC.

(b) An applicant must show one of the following as proof of mailing:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary.

(c) If an application is mailed through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

Note: (1) The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

(2) The Application Control Center will mail a Grant Application Receipt Acknowledgment to each applicant. If an applicant fails to receive the notification of application receipt within 15 days from the date of mailing the application, the applicant should call the U.S. Department of Education Application Control Center at (202) 708–9494.

(3) The applicant must indicate on the envelope and—if not provided by the Department—in Item 3 of the Application for Federal Assistance (ED 424) the CFDA number—and suffix letter, if any—of the competition under which the application is being submitted.

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, and a checklist for applicants.

To apply for an award under this competition, your application must be organized 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

An applicant for a multi-year project must provide a budget narrative that provides budget information for each budget period of the proposed project period.

Part III: Application Narrative

The application narrative is where an applicant addresses the selection criteria that are used by reviewers in evaluating the application. Applicants are strongly encouraged to limit the application narrative to no more than 20 double-spaced, standard-type pages. The following standards are preferred: (1) A ''page'' is 8.5″ x 11″ (one side only) with one-inch margins (top, bottom, and sides). (2) If using a proportional computer font, applicants are requested to use a 12-point font.

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**. However, the application form, assurances, and certifications must each have an original signature. All 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 FURTHER INFORMATION CONTACT: Christine Miller or Alex Stein, Teaching American History Grant Program, U.S. Department of Education, 400 Maryland Avenue, SW., Washington, DC 20202–6200. Telephone (202) 260–8766 (Christine Miller) or (202) 205–9085 (Alex Stein). E-mail: *teachingamericanhistory@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 persons.

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: *http://www.ed.gov/legislation/FedRegister.*

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO) toll free, at 1–888–293–6498; or in the Washington, DC area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.access.gpo.gov/nara/index.html*

Program Authority: 20 U.S.C. 8001 et seq.

Dated: May 17, 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 the preferable page limits for the application narrative stated in this notice under *Page Limits.*

1. Begin with a one-page Abstract summarizing the proposed Teaching American History project, including a description of project objectives and activities and partners in the application. Also include 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 priority.

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 ''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. If the application is from a group, attach the group's agreement. When applying for funds as a group, such as a consortium, individual eligible applicants must enter into an agreement signed by all members of the group. The group's agreement must detail the activities each member of the group plans to perform, and must bind each member to every statement and assurance made in the group's application. (The designated applicant must submit the group'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.

8. Attach copies of all required assurances and forms.

Estimated Public Reporting Burden

According to the Paperwork Reduction Act of 1995, you are not 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 1810–0639, (Expiration Date: 05/31/2004). The time required to complete this information collection is estimated to average sixty-five (65) 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 Miller, Teaching American History Grant Program, U.S. Department of Education, 400 Maryland Avenue SW, FB–6, 5C126, Washington, DC 20202–6200.

If you have comments or concerns regarding the status of your individual submission of this form, write directly to: Christine Miller, Teaching American History Grant Program, U.S. Department of Education, 400 Maryland Avenue SW, FB–6, 5C126, Washington, DC 20202–6200.

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 entitled ''NOTICE TO ALL APPLICANTS''), and relevant appendices.

__4. Group agreement, if applicable.

__5. Assurances—Non-Construction Programs (SF 242B).

__6. Certifications Regarding Lobbying; Debarment, Suspension, and Other Responsibility Matters; and Drug-Free Workplace Requirements (ED 80–0013).

__7. Disclosure of Lobbying Activities (Standard Form LLL).

BILLING CODE 4001–01–U

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 X → Title: Teaching American History Grant 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

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. 01–12931 Filed 5–22–01; 8:45 am]
BILLING CODE 4001–01–C

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Oak Ridge Reservation

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Oak Ridge. The Federal Advisory Committee Act (Pub. L. No. 92–463, 86 Stat. 770) requires that public notice of these meeting be announced in the **Federal Register.**

DATES: Wednesday, June 13, 2001, 6 p.m.–9:30 p.m.

ADDRESSES: Garden Plaza Hotel, 215 South Illinois Avenue, Oak Ridge, TN 37830.

FOR FURTHER INFORMATION CONTACT: Pat Halsey, Federal Coordinator, Department of Energy Oak Ridge Operations Office, P.O. Box 2001, EM–922, Oak Ridge, TN 37831. Phone (865) 576–4025; Fax (865) 576–5333 or e-mail: *halseypj@oro.doe.gov.*

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda: Stewardship: Mr. David Geiser, Director of Long-Term Stewardship, DOE/Headquarters.

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Pat Halsey at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of five minutes to present their comments at the end of the meeting.

Minutes: Minutes of this meeting will be available for public review and copying at the Department of Energy's Information Resource Center at 105 Broadway, Oak Ridge, TN between 7:30 a.m. and 5:30 p.m. Monday through Friday, or by writing to Pat Halsey, Department of Energy Oak Ridge Operations Office, P.O. Box 2001, EM–922, Oak Ridge, TN 37831, or by calling her at (865) 576–4025.

Issued at Washington, DC on May 17, 2001.

Belinda G. Hood,

Acting Deputy Advisory Committee Management Officer.

[FR Doc. 01–13012 Filed 5–22–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Rocky Flats

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Rocky Flats. The Federal Advisory Committee Act (Pub. L. No. 92–463, 86 Stat. 770) requires that public notice of these meeting be announced in the **Federal Register**.

DATES: Thursday, June 7, 2001 6 p.m. to 9:30 p.m.

ADDRESSES: Jefferson County Airport Terminal Building, Mount Evans Room, 11755 Airport Way, Broomfield, CO.

FOR FURTHER INFORMATION CONTACT: Ken Korkia, Board/Staff Coordinator, Rocky Flats Citizens Advisory Board, 9035 North Wadsworth Parkway, Suite 2250, Westminster, CO, 80021; telephone (303) 420–7855; fax (303) 420–7579.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda

1. Rocky Flats site manager Barbara Mazurowski and Kaiser-Hill president Alan Parker will make a joint presentation on worker health and safety issues.
2. A representative from DOE-Headquarters will present the results of their findings on a study of safety issues at the Rocky Flats site.
3. The Environmental Restoration Committee will submit a recommendation for review and approval by the Board.
4. Other Board business may be conducted as necessary.

Public Participation: The meeting is open to the public. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Ken Korkia at the address or telephone number listed above. Requests must be received at least five days prior to the meeting and reasonable provisions will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of five minutes to present their comments.

Minutes: The minutes of this meeting will be available for public review and copying at the Public Reading Room located at the Office of the Rocky Flats Citizens Advisory Board, 9035 North Wadsworth Parkway, Suite 2250, Westminister, CO 80021; telephone (303) 420–7855. Hours of operations for the Public Reading Room are 9 a.m. to 4 p.m., Monday-Friday, except Federal holidays. Minutes will also be made available by writing or calling Deb Thompson at the address or telephone number listed above.

Issued at Washington, DC on May 17, 2001.

Belinda G. Hood,

Acting Deputy Advisory Committee Management Officer.

[FR Doc. 01–13013 Filed 5–22–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Fossil Energy

[FE Docket No. 01–15–NG]

Energia Azteca X, S, de R.L. de C.V. Order Granting Long-Term Authorization To Export Natural Gas to Mexico

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of order.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice that on May 7, 2001, it issued DOE/FE Order No. 1678 granting Energia Azteca X, S. de R.L. de C.V. (EAX) authority to export up to 135,000 million cubic feet (Mcf) of natural gas per day to northern Baja California, Mexico. The gas will be purchased from Coral Energy Resources, L.P. and transported by El Paso Natural Gas Pipeline and North Baja Pipeline to a U.S./Mexico border crossing near Yuma, Arizona. EAX will use it for fuel to generate electricity at a new 750-megawatt power plant EAX is building near Mexicali, Mexico. The plant is scheduled to begin commercial operation on April 1, 2003, and the exports will continue 15 years beyond that date through March 31, 2018. To the extent needed, additional amounts of gas may be exported on an interruptible basis during the plant's test period which is expected to start July 1, 2002.

This Order may be found on the FE web site at http://www.fe.doe.gov, or on our electronic bulletin board at (202) 586–7853. It is also available for inspection and copying in the Office of Natural Gas & Petroleum Import & Export Activities Docket Room, 3E–033, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585–0334, (202) 586–9478. The Docket Room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C., May 9, 2001.

Clifford P. Tomaszewski,

Manager, Natural Gas Regulation, Office of Natural Gas & Petroleum, Import & Export Activities, Office of Fossil Energy.

[FR Doc. 01–13014 Filed 5–22–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

[FE Docket No. 01–13–NG, et al.]

Office of Fossil Energy; H.Q. Energy Services (U.S.) Inc., et al.; Orders Granting and Transferring Authority to Import and Export Natural Gas

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of Orders.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy gives notice that during April 2001, it issued Orders granting and transferring authority to import and export natural gas. These Orders are summarized in the attached appendix and may be found on the FE web site at http://www.fe.doe.gov, or on the electronic bulletin board at (202) 586–7853. They are also available for inspection and copying in the Office of Natural Gas & Petroleum Import & Export Activities, Docket Room 3E–033, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 586–9478. The Docket Room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C., on May 15, 2001.

Clifford P. Tomaszewski,

Manager, Natural Gas Regulation, Office of Natural Gas & Petroleum, Import & Export Activities, Office of Fossil Energy.

Appendix—Orders Granting and Transferring Import/Export Authorizations

Order No.	Date issued	Importer/exporter FE Docket No.	Import Volume	Export volume	Comments
1675	04–12–01	H.Q. Energy Services (U.S.) Inc. 01–13–NG ..	200 Bcf	200 Bcf	Import a combined total from Canada and Mexico and to export a combined total to Canada and Mexico, beginning on May 1, 2001, and extending through April 30, 2003.
1432–A	04–17–01	Husky Gas Marketing Inc. (Successor to Renaissance Energy (U.S.) Inc.) 98–85–NG.			Transfer of long-term authority to import natural gas from Canada.
1037–A	04–17–01	Husky Gas Marketing Inc. (Successor to Renaissance Energy (U.S.) Inc.) 95–15–NG.			Transfer of long-term authority to import natural gas from Canada.
952–A	04–17–01	Husky Gas Marketing Inc. (Successor to Renaissance Energy (U.S.) Inc.) 94–37–NG.			Transfer of long-term authority to import natural gas from Canada.
1676	04–17–01	Virginia Power Energy Marketing, Inc.) 01–12–NG.	730 Bcf		Import and export a combined total from and to Canada, over a two-year term beginning on the date of first delivery.
1275–C	04–19–01	Engage Energy America L.L.C. (Successor to Engage Energy America Corp.) 97–36–NG.			Transfer of long-term authority to import natural gas from Canada.
1622–B	04–19–01	Engage Energy America L.L.C. (Successor to Engage Energy America Corp.) 00–58–NG.			Transfer of blanket authority to import natural gas from Canada.
1253–C	04–19–01	Engage Energy America L.L.C. (Successor to Engage Energy America Corp.) 97–03–NG.			Transfer of long-term authority to import natural gas from Canada.
1202–C	04–19–01	Engage Energy America L.L.C. (Successor to Engage Energy America Corp.) 96–52–NG.			Transfer of long-term authority to import natural gas from Canada.
1128–C	04–19–01	Engage Energy America L.L.C. (Successor to Engage Energy America Corp.) 95–104–NG.			Transfer of long-term authority to import natural gas from Canada.
1282–C	04–19–01	Engage Energy America L.L.C. (Successor to Engage Energy America Corp.) 97–37–NG.			Transfer of long-term authority to import natural gas from Canada.
1332–C	04–19–01	Engage Energy America L.L.C. (Successor to Engage Energy America Corp.) 97–48–NG.			Transfer of long-term authority to import natural gas from Canada.
1677	04–26–01	Altagas Marketing (U.S.) Inc. 01–14–NG	15 Bcf		Import from Canada over a two-year term beginning on the date of first delivery.

[FR Doc. 01–13011 Filed 5–22–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP01–359–000]

Dominion Transmission, Inc.; Notice of Application

May 17, 2001.

Take notice that on May 4, 2001, Dominion Transmission, Inc. (DTI), 445 West Main Street, Clarksburg, West Virginia 26301, filed in Docket No. CP01–359–000 an application pursuant to Section 7(b) of the Natural Gas Act (NGA) for permission and approval to abandon its storage well N205S, located in its Woodhull Storage Field in Steuben County, New York, all as more fully set forth in the application which is on file with the Commission and open to public inspection. This filing may be viewed on the web at *http://www.ferc.fed.us/online/rims.htm* (call 202–208–2222 for assistance).

DTI proposes to abandon its storage well N205S and to convert it to an observation well in the Woodhull Storage Pool. DTI requests authorization to abandon N205S because the expenditures required to maintain this well and the gathering lines that connect it to DTI's mainline are not operationally or economically justified. DTI also states that, due to continuing problems with the well and the connecting gathering line, the well has been unavailable to the gathering system each withdrawal season and is contributing nothing to pool deliverability. DTI states that the pool deliverability will be unaffected if well N205S is abandoned and converted to an observation well. DTI further states that it plans to abandon the lines that connect well N205S to DTI's mainline, specifically 1200 feet of 6-inch-diameter well line LN720S and 500 feet of 8-inch-diameter well line LN695S, under DTI's Part 157 blanket certificate authority.

Any questions regarding this application should be directed in writing to Sean R. Sleigh, Manager, Certificates, Dominion Transmission, Inc., 445 West Main Street, Clarksburg, West Virginia 26301 or by telephone at (304) 627–3462.

Any person desiring to be heard or any person desiring to make any protests with reference to said application should on or before June 7, 2001, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules. 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.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the NGA and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for DTI to appear or be represented at the hearing.

David P. Boergers,

Secretary.

[FR Doc. 01–12955 Filed 5–22–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–417–000]

Eastern Shore Natural Gas Co.; Notice of Proposed Changes in FERC Gas Tariff

May 17, 2001.

Take notice that on May 14, 2001, Eastern Shore Natural Gas Company (ESNG) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, certain revised tariff sheets in the above captioned docket, bear a proposed effective date of May 1, 2001.

ESNG states that the purpose of this instant filing is to track rate changes attributable to storage services purchased from Transcontinental Gas Pipe Line Corporation (Transco) under its Rate Schedules GSS and LSS. The costs of the above referenced storage services comprise the rates and charges payable under ESNG's respective Rate Schedules GSS and LSS. This tracking filing is being made pursuant to Section 3 of ESNG's Rate Schedules GSS and LSS.

ESNG states that copies of the filing have been served upon its jurisdictional customers and interested State Commissions.

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. 01–12957 Filed 5–22–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 10461–002–New York]

Erie Boulevard Hydropower, L.P.; Notice of Extension of Time to File Comments, Recommendations, Terms and Conditions, and Prescriptions

May 17, 2001.

By letter dated April 5, 2001, Erie Boulevard Hydropower, L.P. (Erie) requested an extension of time for the filing of comments in response to the Commission's Notice of Ready for Environmental Analysis and Soliciting Comments, Recommendations, Terms and Conditions, and Prescriptions issued March 27, 2001, concerning Erie's application for a proposed original license for the Parishville Project on the West Branch of the St. Regis River, near the village of Parishville, St. Lawrence County, New York. Erie stated that it had been meeting with the New York Department of Environmental Conservation (NYSDEC) as part of continuing negotiations on major licensing issues pertaining to the project and anticipated a settlement offer on those issues to be achieved by June 2001. Erie stated that the additional time is needed so the parties to the proceedings (particularly the resource agencies) can avoid having to develop and support positions, especially recommendations or mandatory conditions pursuant to Section 10(j) or Section 18 of the Federal Power Act, that may differ from proposals expected to be arrived at in the settlement offer.

By letter dated April 23, 2001, the Department of the Interior supported

Erie's request. By letter dated May 1, 2001, Erie reported it had also obtained verbal agreement on the extension request from representatives of the U.S. Fish and Wildlife Service, the NYSDEC, the Adirondack Mountain Club, New York Rivers United, Trout Unlimited, and American Whitewater.

Upon consideration, notice is hereby given that an extension of time for the filing of comments, recommendations, terms and conditions, and prescriptions is granted, and they are now due on July 25, 2001.

David P. Boergers,

Secretary.

[FR Doc. 01–12960 Filed 5–22–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 10462–002–New York]

Erie Boulevard Hydropower, L.P.; Notice of Extension of Time to File Comments, Recommendations, Terms and Conditions, and Prescriptions

May 17, 2001.

By letter dated April 5, 2001, Erie Boulevard Hydropower, L.P. (Erie) requested an extension of time for the filing of comments in response to the Commission's Notice of Ready for Environmental Analysis and Soliciting, Recommendations, Terms and Conditions, and Prescriptions issued March 27, 2001, concerning Erie's application for a proposed original license for the Allens Falls Project on the West Branch of the St. Regis River, near the village of Parishville, St. Lawrence County, New York. Erie stated that it had been meeting with the New York Department Environmental Conservation (NYSDEC) as part of continuing negotiations on major licensing issues pertaining to the project and anticipated a settlement offer on those issues to be achieved by June 2001. Erie stated that the additional time is needed so the parties to the proceedings (particularly the resource agencies) can avoid having to develop and support positions, especially recommendations or mandatory conditions pursuant to Section 10(j) or Section 18 of the Federal Power Act, that may differ from proposals expected to be arrived at in the settlement offer.

By letter dated April 23, 2001, the Department of the Interior supported Erie's request. By letter dated May 1, 2001, Erie reported it had also obtained verbal agreement on the extension request from representatives of the U.S. Fish and Wildlife Service, the NYSDEC, the Adirondack Mountain Club, New York Rivers United, Trout Unlimited, and American Whitewater.

Upon consideration, notice is hereby given that an extension of time for the filing of comments, recommendations, terms and conditions, and prescriptions is granted, and they are now due on July 25, 2001.

David P. Boergers,

Secretary.

[FR Doc. 01–12961 Filed 5–22–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–225–003]

Gulf South Pipeline Company, LP; Notice of Compliance Filing

May 17, 2001.

Take notice that on May 14, 2001, Gulf South Pipeline Company, LP (Gulf South) tendered for filing as part of its FERC Gas Tariff, Sixth Revised Volume No. 1, the following tariff sheets, to become effective March 1, 2001:

Substitute First Revised Sheet No. 100
Substitute First Revised Sheet No. 300
Substitute First Revised Sheet No. 400
Substitute First Revised Sheet No. 500
Substitute First Revised Sheet No. 603
Second Sub Original Sheet No. 1416
Second Sub Original Sheet No. 2902
Second Sub Original Sheet No. 2903

In its Order on Compliance filing and Rehearing, issued April 27, 2001, in Docket No. RP01–225, the Commission required Gulf South to refile certain aspects of its open tap and open season tariff provisions, consistent with its directives. This compliance filing incorporates the required changes to the appropriate tariff sheets.

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 maybe 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. 01–12959 Filed 5–22–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–416–000]

Northwest Pipeline Corp.; Notice of Proposed Changes in FERC Gas Tariff

May 17, 2001.

Take notice that on May 14, 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 June 14, 2001:

1st Rev Third Revised Sheet No. 255
1st Rev Third Revised Sheet No. 256

Northwest states that the purpose of this filing is to propose revisions to Northwest's tariff to provide for the equitable sharing of lateral facility costs between a shipper for whom a lateral facility was initially constructed and a third-party shipper that has requested service on a relatively inexpensive expansion of the original lateral facility.

Northwest states that a copy of this filing has been served upon Northwest's customers and upon interested state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at *http://www.ferc.fed.us/online/rims.htm* (call 202–208–2222 for

assistance). 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. 01–12958 Filed 5–22–01; 8:45 am]

BILLING CODE 6717–07–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–317–001]

Reliant Energy Gas Transmission Company; Notice of Compliance Filing

May 17, 2001.

Take notice that on May 14, 2001, Reliant Energy Gas Transmission Company (REGT) tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheet to be effective May 1, 2001:

Substitute Second Revised Sheet No. 253

REGT states that the purpose of this filing is to comply with the Commission's order issued April 27, 2001 in Docket No. RP01–317–000.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed 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. 01–12956 Filed 5–22–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC01–98–000–000, et al.]

Public Service Company of New Mexico, et al.; Electric Rate and Corporate Regulation Filings

May 16, 2001.

Take notice that the following filings have been made with the Commission:

1. Public Service Company of New Mexico

[Docket No. EC01–98–000]

Take notice that on May 10, 2001, Public Service Company of New Mexico (PNM), filed an application pursuant to Sections 203 of the Federal Power Act, 16 U.S.C. §§ 824b and Part 33 of the Commission's regulations, 18 CFR Part 33. PNM requests authorization to transfer control over PNM to a new holding company that will own PNM through a mandatory share exchange transaction involving existing PNM shareholders.

Comment date: May 31, 2001, in accordance with Standard Paragraph E at the end of this notice.

2. Oklahoma Gas and Electric Company

[Docket No. EC01–100–000]

Take notice that on May 11, 2001, Oklahoma Gas and Electric Company (OGE) filed with the Federal Energy Regulatory Commission (Commission) an application pursuant to section 203 of the Federal Power Act requesting authorization to transfer operational control of certain jurisdictional transmission facilities to the Southwest Power Pool Regional Transmission Organization as proposed and described in the filing made by the Southwest Power Pool on October 13, 2000 in Docket No. RT01–34–000.

OGE states that a copy of the filing has been served on the Oklahoma Corporation Commission and the Arkansas Public Service Commission.

Comment date: June 1, 2001, in accordance with Standard Paragraph E at the end of this notice.

3. PSEG Fossil LLC

[Docket No. EG01–42–000]

Take notice that on May 9, 2001, PSEG Fossil LLC (Applicant), having its principal place of business at 80 Park Plaza, T16, Newark, New Jersey 07102, filed with the Federal Energy Regulatory Commission (FERC or the Commission) an amended and restated application for redetermination of exempt wholesale generator (EWG) status pursuant to Part 365 of the Commission's regulations.

The Applicant is a limited liability company formed under the laws of the State of Delaware. The Applicant is engaged, directly or indirectly through an affiliate as defined in Section 2(a)(11)(B) of the Public Utility Holding Company Act of 1935 (PUHCA), exclusively in owning or owning and operating eligible electric facilities and participating in project development activities incidental to such eligible electric facilities as authorized under PUHCA. The Applicant owns and operates eligible facilities located in Pennsylvania and New Jersey.

Comment date: June 6, 2001, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

4. Electricity Capital, LLC; El Cap I, LLC; El Cap II, LLC

[Docket Nos. EG01–171–000; EG01–177–000; EG01–178–000]

Take notice that on May 11, 2001, Electricity Capital, LLC (Electricity Capital), El Cap I, LLC (El Cap I), and El Cap II, LLC (El Cap II), Delaware limited liability companies, filed with the Federal Energy Regulatory Commission an amendment to its application for determination of exempt wholesale generator status pursuant to part 365 of the Commission's regulations.

Applicants are engaged directly and exclusively in the business of owning and operating all or part of one or more eligible facilities and selling electric energy and capacity at wholesale. Applicants intend to produce electricity using natural gas-fired generators.

Comment date: June 6, 2001, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

5. Reliant Energy Mid-Atlantic Power Holdings, L.L.C.

[Docket No. EG01–211–000]

Take notice that on May 10, 2001, Reliant Energy Mid-Atlantic Power Holdings, L.L.C. (Applicant) filed with the Federal Energy Regulatory Commission (Commission) a second amended and restated application for redetermination of exempt wholesale generator (EWG) status pursuant to Part 365 of the Commission's regulations.

The Applicant is a Delaware limited liability company that owns and operates EWGs and eligible facilities in New Jersey, Maryland and Pennsylvania. The Applicant is engaged directly, or indirectly through an

affiliate as defined in Section 2(a)(11)(B) of the Public Utility Holding Company Act of 1935 (PUHCA), and exclusively in owning or operating or both owning and operating eligible electric facilities and participating in project development activities incidental to such eligible electric facilities as authorized under PUHCA.

Comment date: June 6, 2001, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

6. Calhoun Power Company I, LLC

[Docket No. EG01–212–000]

Take notice that on May 11, 2001, Calhoun Power Company I, LLC (Calhoun), with its principal office at 700 Universe Boulevard, Juno Beach, Florida 33408, filed with the Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

Calhoun states that it is a Delaware limited liability company developing a 628 megawatt electric generating facility located in Calhoun County near Anniston, Alabama, which will be used to produce energy sold exclusively at wholesale.

Comment date: June 6, 2001, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

7. Cogeneration Association of California; Coalinga Cogeneration Company; Kern River Cogeneration Company; Mid-Set Cogeneration Company; Sycamore Cogeneration Company; Texaco Kern Field Projects; Sargent Canyon Cogeneration Company; Salinas River Cogeneration Company; Texaco North Midway Cogeneration Project; Texaco McKittrick Cogeneration Project; Midway Sunset Cogeneration Company; and Watson Cogeneration Company

[Docket Nos. EL01–77–000; EL01–64–000; EL01–67–000; EL01–71–000; (Not consolidated)]

Take notice that on May 10, 2001, the Cogeneration Association of California, et al. tendered for filing a Petition for Declaratory Order Finding Federal Preemption or for Enforcement Action Under Section 210(h) of the Public Utility Regulatory Policies Act of 1978, Motion to Intervene in Support of Related Dockets and Motion to Consolidate.

Comment date: May 31, 2001, in accordance with Standard Paragraph E at the end of this notice.

8. Carolina Power & Light Company Duke Energy Corporation; South Carolina Electric & Gas Company; GridSouth Transco, LLC

[Docket No. RT01–74–002]

Take notice that on May 14, 2001, Carolina Power & Light Company, Duke Energy Corporation, and South Carolina Electric & Gas Company (Applicants), on behalf of GridSouth Transco, LLC, submitted a supplemental filing. The filing includes those revisions to the GridSouth documents required by the Commission's order of March 14, 2001, in Docket No. RT01–74–000.

Comment date: June 15, 2001, in accordance with Standard Paragraph E at the end of this notice.

9. Consumers Energy Company

[Docket No. ER01–318–005]

Take notice that on May 10, 2001, Consumers Energy Company (Consumers) tendered for filing Sub Original Sheet Nos. 129 and 162 to its Open Access Transmission Tariff, Consumers First Revised FERC Electric Tariff No. 6, in compliance with the Commission's April 27, 2001 Order in Docket No. ER01–318–004. Both sheets have effective dates of November 1, 2000.

Copies of the revised tariff sheets were served upon all those on the service list in this proceeding.

Comment date: May 31, 2001, in accordance with Standard Paragraph E at the end of this notice.

10. California Independent System Operator Corporation

[Docket No. ER01–889–005]

Take notice that on May 11, 2001, the California Independent System Operator Corporation (ISO) tendered for filing a compliance filing in the above captioned docket. The ISO states that this filing has been served on all parties on the official service list in this docket.

Comment date: June 1, 2001, in accordance with Standard Paragraph E at the end of this notice.

11. Arizona Public Service Company

[Docket No. ER01–1940–001]

Take notice that on May 11, 2001, Arizona Public Service Company (APS) tendered for filing FERC revisions to its Open Access Transmission Tariff (OATT) to make changes to the Arizona Independent Scheduling Administrator Association's Protocols Manual, Attachment L of APS OATT.

A copy of this filing has been served on all parties on the service list.

Comment date: June 1, 2001, in accordance with Standard Paragraph E at the end of this notice.

12. Public Service Company of New Mexico

[Docket No. ER01–1845–001]

Take notice that on May 11, 2001, Public Service Company of New Mexico (PNM) tendered for filing a correction to its April 20, 2001 submittal of First Revised Sheet Nos. 90, 91 and 92 of PNM's Open Access Transmission Tariff to incorporate a change to the pricing methodology for energy provided by PNM for Schedule 4—Energy Imbalance Service. The correction incorporates the intended change in the pricing language as described in the transmittal letter to the April 20 filing. PNM's filing is available for public inspection at its offices in Albuquerque, New Mexico.

Copies of the filing have been sent to all PNM Tariff customers, all entities that have pending interconnection requests with PNM and the New Mexico Public Regulation Commission.

Comment date: June 1, 2001, in accordance with Standard Paragraph E at the end of this notice.

13. Arizona Public Service Company

[Docket No. ER01–173–003]

Take notice that on May 11, 2001, Arizona Public Service Company (APS) tendered for filing FERC ordered revisions to its Open Access Transmission Tariff (OATT) in the above referenced docket.

A copy of this filing has been served on all parties of the official service list.

Comment date: June 1, 2001, in accordance with Standard Paragraph E at the end of this notice.

14. Kansas City Power & Light Co

[Docket No. ER01–1707–001]

Take notice that on May 11, 2001, Kansas City Power & Light Company (KCPL) tendered for filing an amendment to its initial filing in the above-referenced proceeding. In particular, KCPL has provided additional cost support for its proposed rate and has submitted to proposed rate schedule in the format required by Section 35.9 of the Commission's Regulations (18 CFR 35.9).

Comment date: June 1, 2001, in accordance with Standard Paragraph E at the end of this notice.

15. Elizabethtown Power, LLC

[Docket No. ER01–1509–001]

Take notice that on May 11, 2001, Elizabethtown Power, LLC tendered for filing its FERC Electric Tariff, Original Volume No. 1 and accompanying Code

of Conduct in compliance with the Commission's May 10, 2001, Order in the above-referenced docket.

Comment date: June 1, 2001, in accordance with Standard Paragraph E at the end of this notice.

16. Lumberton Power, LLC

[Docket No. ER01–1507–001]

Take notice that on May 11, 2001, Lumberton Power, LLC tendered for filing its FERC Electric Tariff, Original Volume No. 1 and accompanying Code of Conduct in compliance with the Commission's May 10, 2001, Order in the above-referenced docket.

Comment date: June 1, 2001, in accordance with Standard Paragraph E at the end of this notice.

17. Perryville Energy Partners, L.L.C.

[Docket No. ER01–1397–001]

Take notice that on May 11, 2001, Perryville Energy Partners, L.L.C. tendered for filing an amendment to the designations submitted with its Application for Acceptance of Market Based Rates, Certain Waivers and Blanket Authority, filed on March 5, 2001.

Comment date: June 1, 2001, in accordance with Standard Paragraph E at the end of this notice.

18. Xcel Energy Operating Companies Northern States Power Company

[Docket No. ER01–1332–001]

Take notice that on May 11, 2001, Northern States Power Company (NSP), a wholly-owned utility operating company subsidiary of Xcel Energy Inc., tendered for filing in Compliance with the Commission's Order of April 5, 2001, in the above referenced docket.

NSP requests the letter agreements be accepted for filing effective January 1, 2001, and requests waiver of the Commission's notice requirements in order for the Agreements to be accepted for filing on the date requested.

Comment date: June 1, 2001, in accordance with Standard Paragraph E at the end of this notice.

19. Westar Generating, Inc.

[Docket Nos. ER01–1305–003]

Take notice that on May 11, 2001, Westar Generating, Inc. (Westar) tendered for filing an Order No. 614 conformed Rate Schedule FERC No.1 between Westar and Western Resources, Inc. in compliance with the requirements of the Commission's April 27, 2001 Order Accepting for Filing and Suspending Subject To Refund, Proposed Purchase Power Agreement, Requiring Compliance Filing, Granting Waivers, and Establishing Hearing Procedures, 95 FERC § 61,137.

Copies of the filing were served on the Kansas Corporation Commission, Western Resources, Inc and on each person designated on the official service list compiled by the Secretary in this proceeding.

Comment date: June 1, 2001, in accordance with Standard Paragraph E at the end of this notice.

20. Southern Energy Delta, L.L.C. Southern Energy Potrero, L.L.C.

[Docket Nos. ER00–936–004; ER00–937–004]

Take notice that on May 11, 2001, Mirant Delta, LLC (formerly Southern Energy Delta, L.L.C.) and Mirant Potrero, LLC (formerly Southern Energy Potrero, L.L.C.) (collectively, the Mirant Parties) tendered for filing a refund report as required by the Offer of Settlement filed in the above-captioned proceedings on September 28, 2000, and approved by letter order issued pursuant to direction of the Commission on March 15, 2001, 94 FERC 61,275 (2001).

Comment date: June 1, 2001, in accordance with Standard Paragraph E at the end of this notice.

21. AmerGen Vermont, LLC

[Docket No. ER00–1027–002]

Take notice that on May 11, 2001, AmerGen Vermont, LLC (AmerGen Vermont) tendered for filing the Power Purchase Agreement with Vermont Yankee Nuclear Power Corporation (VYNPC), designated as AmerGen Vermont, LLC, Rate Schedule FERC No. 2, is canceled effective as of May 11, 2001.

Comment date: June 1, 2001, in accordance with Standard Paragraph E at the end of this notice.

22. Cinergy Services, Inc.

[Docket No. ER01–2018–000]

Take notice that on May 10, 2001, Cinergy Services, Inc. (Services) tendered for filing on behalf of its operating companies, The Cincinnati Gas & Electric Company and PSI Energy, Inc. (collectively Cinergy Operating Companies) a Letter Agreement, dated April 3, 2001, as a supplement to the Service Agreement No. 43, dated January 22, 1997, between Southwestern Electric Cooperative, Inc. (SWEC) and the Cinergy Operating Companies under the COC FERC Electric Market-Based Power Sales Tariff, Volume No. 7.

SWEC and the Cinergy Operating Companies have agreed to procedures for the curtailment of some of SWEC's load.

Copies of the filing were served on SWEC and the State Regulatory Commissions of Illinois, Ohio, Kentucky and Indiana.

Comment date: May 31, 2001, in accordance with Standard Paragraph E at the end of this notice.

23. Public Service Company of New Mexico

[Docket No. ER01–2019–000]

Take notice that on May 10, 2001, Public Service Company of New Mexico (PNM) tendered for filing two executed service agreements with Portland General Electric Company (Portland), under the terms of PNM's Open Access Transmission Tariff. One agreement is for short-term firm point-to-point transmission service and one is for non-firm point-to-point transmission service.

The effective date for the agreements is May 2, 2001, the date of execution. PNM's filing is available for public inspection at its offices in Albuquerque, New Mexico.

Copies of the filing have been sent to Portland and to the New Mexico Public Regulation Commission.

Comment date: May 31, 2001, in accordance with Standard Paragraph E at the end of this notice.

24. Carolina Power & Light Company and Florida Power Corporation

[Docket No. ER01–2020–000]

Take notice that on May 10, 2001, Carolina Power & Light Company (CPL) and Florida Power Corporation (FPC) tendered for filing a Notice of Cancellation of their joint Open Access Transmission Tariff (OATT), FERC Electric Tariff, Original Volume No. 1. This cancellation is being filed because CP&L and FPC have filed separate tariffs to replace the joint OATT on April 26, 2001 in Docket No. ER01–1807–000.

Copies of the filing were served upon the CP&L's and FPC's open access tariff customers, and the state commissions of North Carolina, South Carolina and Florida.

Comment date: May 31, 2001, in accordance with Standard Paragraph E at the end of this notice.

25. Entergy Services, Inc.

[Docket No. ER01–2021–000]

Take notice that on May 10, 2001, Entergy Services, Inc., on behalf of Entergy Louisiana, Inc., tendered for filing an Interconnection and Operating Agreement with Washington Parish Energy Center, L.L.C. (Energy Center), and a Generator Imbalance Agreement with Energy Center.

Comment date: May 31, 2001, in accordance with Standard Paragraph E at the end of this notice.

26. Illinois Power Company

[Docket No. ER01–2022–000]

Take notice that on May 10, 2001, Illinois Power Company (Illinois Power), 500 South 27th Street, Decatur, Illinois 65251–2200, tendered for filing with the Commission an Amended and Restated Service Agreement for Network Integration Transmission Service with Corn Belt Electric Cooperative Inc. (Corn Belt) entered into pursuant to Illinois Power's Open Access Transmission Tariff.

Illinois Power requests an effective date of May 1, 2001 for the Amended Agreement and accordingly seeks a waiver of the Commission's notice requirement. Illinois Power states that a copy of this filing has been sent to Corn Belt.

Comment date: May 31, 2001, in accordance with Standard Paragraph E at the end of this notice.

27. American Transmission Systems, Inc.

[Docket No. ER01–2023–000]

Take notice that on May 10, 2001, American Transmission Systems, Inc. tendered for filing a Service Agreement to provide Non-Firm Point-to-Point Transmission Service for Strategic Energy L.L.C., the Transmission Customer. Services are being provided under the American Transmission Systems, Inc. Open Access Transmission Tariff submitted for filing by the Federal Energy Regulatory Commission in Docket No. ER99–2647–000.

The proposed effective date under the Service Agreement is May 8, 2001 for the above mentioned Service Agreement in this filing.

Comment date: May 31, 2001, in accordance with Standard Paragraph E at the end of this notice.

28. American Transmission Systems, Inc.

[Docket No. ER01–2024–000]

Take notice that on May 10, 2001, American Transmission Systems, Inc. tendered for filing a Service Agreement to provide Firm Point-to-Point Transmission Service for Strategic Energy L.L.C., the Transmission Customer. Services are being provided under the American Transmission Systems, Inc. Open Access Transmission Tariff submitted for filing by the Federal Energy Regulatory Commission in Docket No. ER99–2647–000.

The proposed effective date under the Service Agreement is May 8, 2001 for the above mentioned Service Agreement in this filing.

Comment date: May 31, 2001, in accordance with Standard Paragraph E at the end of this notice.

29. Puget Sound Energy,

[Docket No. ER01–2025–000]

Take notice that on May 10, 2001, Puget Sound Energy, Inc., as Transmission Provider, tendered for filing a service agreement for Firm Point-To-Point Transmission Service and a service agreement for Non-Firm Point-To-Point Transmission Service with Merchant Energy Group of the Americas, Inc. (MEGA), as Transmission Customer. A copy of the filing was served upon MEGA.

Comment date: May 31, 2001, in accordance with Standard Paragraph E at the end of this notice.

30. Progress Energy, Inc. On behalf of Florida Power Corporation

[Docket No. ER01–2026–000]

Take notice that on May 11, 2001, Florida Power Corporation (FPC) tendered for filing Service Agreements for Short-Term Firm and Non-Firm Point-to-Point Transmission Service with FirstEnergy Services Corp. Service to this Eligible Customer will be in accordance with the terms and conditions of the Open Access Transmission Tariff filed on behalf of FPC.

FPC is requesting an effective date of April 15, 2001 for the Service Agreements.

A copy of the filing was served upon the Florida Public Service Commission.

Comment date: June 1, 2001, in accordance with Standard Paragraph E at the end of this notice.

31. Progress Energy, Inc. On behalf of Carolina Power & Light Company

[Docket No. ER01–2027–000]

Take notice that on May 11, 2001, Carolina Power & Light Company (CP&L) tendered for filing Service Agreements for Short-Term Firm and Non-Firm Point-to-Point Transmission Service with FirstEnergy Services Corp. Service to this Eligible Customer will be in accordance with the terms and conditions of the Open Access Transmission Tariff filed on behalf of CP&L.

CP&L is requesting an effective date of April 15, 2001 for the Service Agreements.

Copies of the filing were served upon the North Carolina Utilities Commission and the South Carolina Public Service Commission.

Comment date: June 1, 2001, in accordance with Standard Paragraph E at the end of this notice.

32. American Electric Power Service Corporation

[Docket No. ER01–2028–000]

Take notice that on May 11, 2001, the American Electric Power Service Corporation (AEPSC) tendered for filing blanket Service Agreements for new customers and replacement blanket Service Agreements for existing customers under the AEP Companies' Power Sales Tariffs. The Power Sales Tariffs were accepted for filing by the Commission as FERC Electric Tariff Original Volume No. 5, Effective October 10, 1997 in Docket Number ER 97–4143–00 and FERC Electric Tariff Original Volume No. 8, Effective January 8, 1998 in Docket Number ER 98–542–000.

AEPSC respectfully requests waiver of notice to permit the Service Agreements to be made effective to be effective on or prior to April 16, 2001.

A copy of the filing was served upon the Parties and the State Utility Regulatory Commissions of Arkansas, Indiana, Kentucky, Louisiana, Michigan, Ohio, Oklahoma, Tennessee, Texas, Virginia and West Virginia.

Comment date: June 1, 2001, in accordance with Standard Paragraph E at the end of this notice.

33. South Carolina Electric & Gas Company

[Docket No. ER01–2029–000]

Take notice that on May 11, 2001, South Carolina Electric & Gas Company (SCE&G) tendered for filing an executed service agreement with SCE&G Merchant Function providing for transmission and ancillary services on a long-term basis to the Ravenel Delivery Point pursuant to SCE&G's Open Access Transmission Tariffs.

Comment date: June 1, 2001, in accordance with Standard Paragraph E at the end of this notice.

34. South Carolina Electric & Gas Company

[Docket No. ER01–2030–000]

Take notice that on May 11, 2001, South Carolina Electric & Gas Company (SCE&G) tendered for filing an executed service agreement establishing Central Electric Power Cooperative, Inc. (CEPC) as a customer under the terms of SCE&G's Negotiated Market Sales Tariff.

SCE&G requests an effective date of March 19, 2001, the date service commenced. Accordingly, SCE&G requests waiver of the Commission's notice requirements. Copies of this filing were served upon CEPC and the South Carolina Public Service Commission.

Comment date: June 1, 2001, in accordance with Standard Paragraph E at the end of this notice.

35. Northern Indiana Public Service Company

[Docket No. ER01–2031–000]

Take notice that on May 11, 2001, Northern Indiana Public Service Company (Northern Indiana) tendered for filing a Service Agreement pursuant to its Wholesale Market-Based Rate Tariff with the CMS Marketing, Services and Trading Company (CMS). Northern Indiana has requested an effective date of May 14, 2000.

Copies of this filing have been sent to CMS, the Indiana Utility Regulatory Commission, and the Indiana Office of Utility Consumer Counselor.

Comment date: June 1, 2001, in accordance with Standard Paragraph E at the end of this notice.

36. Tucson Electric Power Company

[Docket No. ER01–2033–000]

Take notice that on May 11, 2001, Tucson Electric Power Company tendered for filing one (1) Service Agreement (for firm service) pursuant to Part II of Tucson's Open Access Transmission Tariff, which was filed in Docket No. ER01–208–000.

The details of the service agreement is as follows:

1. Service Agreement for Firm Point-to-Point Transmission Service dated as of March 23, 2001 by and between Tucson Electric Power Company and Arizona Electric Power Cooperative, Inc.—FERC Electric Tariff Vol. No. 2, Service Agreement No. 166. No service has commenced at this time.

Comment date: June 1, 2001, in accordance with Standard Paragraph E at the end of this notice.

37. Tucson Electric Power Company

[Docket No. ER01–2034–000]

Take notice that on May 11, 2001, Tucson Electric Power Company tendered for filing one (1) Umbrella Service Agreement (for short-term firm service) and one (1) Service Agreement (for non-firm service) pursuant to Part II of Tucson's Open Access Transmission Tariff, which was filed in Docket No. ER01–208–000.

The details of the service agreements are as follows:

1. Umbrella Agreement for Short-Term Firm Point-to-Point Transmission Service dated as of March 5, 2001 by and between Tucson Electric Power Company and Calpine Energy Services, L.P.—FERC Electric Tariff Vol. No. 2, Service Agreement No. 159. No service has commenced at this time.

2. Form of Service Agreement for Non-Firm Point-to-Point Transmission Service dated as of March 5, 2001 by and between Tucson Electric Power Company and Calpine Energy Serves, L.P.—FERC Electric Tariff Vol. No. 2, Service Agreement No. 160. No service has commenced at this time.

Comment date: June 1, 2001, in accordance with Standard Paragraph E at the end of this notice.

38. Allegheny Energy Service Corporation on Behalf of Monongahela Power Company, The Potomac Edison Company, and West Penn Power Company (Allegheny Power)

[Docket No. ER01–2035–000]

Take notice that on May 11, 2001, Allegheny Energy Service Corporation on behalf of Monongahela Power Company, The Potomac Edison Company and West Penn Power Company (Allegheny Power), tendered for filing Service Agreement No. 352 to add Calpine Energy Services, L.P. to Allegheny Power's Open Access Transmission Service Tariff which has been accepted for filing by the Federal Energy Regulatory Commission in Docket No. ER96–58–000. The proposed effective date under the Service Agreement is May 10, 2001 or a date ordered by the Commission.

Copies of the filing have been provided to the Public Utilities Commission of Ohio, the Pennsylvania Public Utility Commission, the Maryland Public Service Commission, the Virginia State Corporation Commission, and the West Virginia Public Service Commission.

Comment date: June 1, 2001, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). 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. 01–12950 Filed 5–22–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 137–002 California]

Pacific Gas and Electric; Notice of Availability of Final Environmental Assessment

May 17, 2001.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission) regulations, 18 CFR part 380 (Order No. 486, 52 F.R. 47897), the Office of Energy Projects has reviewed the application for license for the Mokelumne River Hydroelectric Project, a complex of multiple reservoirs, diversions, conduits, and powerhouses on the North Fork Mokelumne River, east of Sacramento, California in Alpine, Amador, and Calaveras Counties and has prepared a Final Environmental Assessment (FEA) for the project. The project occupies federal lands managed by the USDA Forest Service (Eldorado and Stanislaus National Forests) and the USDI Bureau of Land Management.

The FEA contains the staff's analysis of the potential environmental impacts of the project and concludes that licensing the project, with appropriate environmental protective measures, would not constitute a major federal action that would significantly affect the quality of the human environment.

Copies of the FEA are available for review at the Commission's Public Reference Room, located at 888 First Street, NE., Washington, DC 20426, or by calling (202) 208–1371. The FEA may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call (202) 208–2222 for assistance).

For further information, contact Jim Fargo (202) 219–2848.

David P. Boergers,

Secretary.

[FR Doc. 01–12951 Filed 5–22–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Amendment of License and Soliciting Comments, Motions To Intervene, and Protests

May 17, 2001.

Take notice that the following hydroelectric applications have been filed with the Commission and are available for public inspection:

a. *Application Type:* Amendment of License—Small Turbine Generator Installation.

b. *Project No.:* 2145–042 and 943–075.

c. *Date Filed:* May 16, 2001.

d. *Applicant:* Public Utility District No. 1 of Chelan County, Washington.

e. *Name of Project:* Rocky Reach and Rock Island Hydroelectric Projects.

f. *Location:* On the Columbia River near the city of Wenatchee, in Chelan and Douglas Counties, in Washington state. The projects occupy lands managed by the Bureau of Land Management and the U.S. Forest Service.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Robert A. Salter, Public Utility District No. 1 of Chelan County, Washington, P.O. box 1231, Wenatchee, WA, 98807; (509) 663–8121.

i. *FERC Contact:* Questions about this notice can be answered by Vince Yearick at (202) 219–3073 or e-mail address: *vince.yearick@ferc.fed.us.* The Commission cannot accept comments, recommendations, motions to intervene or protest sent by e-mail; these documents must be filed as described below.

j. *Deadline for filing comments, motions to intervene, and protests:* 14 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. 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.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Filing:* Public Utility District No. 1 of Chelan County, Washington, has filed applications requesting that its licenses for the Rocky Reach and Rock Island projects be amended to allow for the installation of small turbine generators within the attraction water conduits of existing adult fishways.

At the Rocky Reach Project, Chelan PUD would install a small, 0.8 MW, fixed-blade propeller turbine generator within the attraction water conduit upstream of the point where water enters the fishway. The installation would not occur within the fishway itself.

At the Rock Island Project, Chelan PUD would install a small, 0.7 MW, Kaplan turbine generator in the attraction water conduit of the left bank adult fishway. The installation would not occur within the fishway itself.

l. A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room at 888 First Street NE., Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on the web at http://www.ferc.fed.us/online/rims.htm. Call (202) 208–2222 for assistance. A copy is also available for inspection and reproduction at the address in item (h) above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Any filings must bear in all capital letters in the title ''COMMENTS,'' ''RECOMMENDATIONS FOR TERMS AND CONDITIONS,'' ''PROTEST,'' or ''MOTION TO INTERVENE,'' as applicable, and the Project Number(s) of the particular application to which the filing refers. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 01–12952 Filed 5–22–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Protests

May 17, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No:* 11938–000.

c. *Date Filed:* March 30, 2001.

d. *Applicant:* Y Canal Hydropower, Inc.

e. *Name of Project:* Y Canal Hydroelectric Project.

f. *Location:* On the North Side Canal Company irrigation system, on a man-made canal, in Gooding County, Idaho, near the Town of Bliss. The project would use land administered by the Bureau of Land Management.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. §§ 791(a)–825(r).

h. *Applicant Contacts:* Rodney Smith or Silvio Coletti, Y Canal Hydropower, Inc. 2727 South Merimac Place, Boise, ID 83709, (208) 562–1527, (Fax) (208) 562–8664, E-mail: power@BalatonPower.com.

i. *FERC Contact:* Any questions on this notice should be addressed to Mr. Lynn R. Miles, Sr. at (202) 219–2671, or e-mail address: lynn.miles@ferc.fed.us.

j. *Deadline for filing motions to intervene, protests and comments:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments recommendations,

interventions, and protests, may be electronically filed 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.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The proposed project will include a powerplant, penstock, open cement canal, and a diversion off the Y Canal. No dams, spillways, or reservoirs are proposed for this project. The applicant estimates that approximately 2 miles of new lines will be needed to connect to existing lines.

The project would have an annual generation of 6,709,503 kWh.

l. A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on http://www.ferc.fed.us/online/rims.htm (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

m. *Preliminary Permit*—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

n. *Preliminary Permit*—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

o. *Notice of Intent*—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

p. *Proposed Scope of Studies under Permit*—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

q. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

r. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

s. *Agency Comments*—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 01–12953 Filed 5–22–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Protests

May 17, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11964–000.

c. *Date Filed:* April 18, 2001.

d. *Applicant:* Symbiotic, LLC.

e. *Name of Project:* Blackfoot Dam Hydroelectric Project.

f. *Location:* The proposed project would be located on the Blackfoot River, approximately 35 miles east of the town of Blackfoot, in Caribou County, Idaho. The project would be located on an existing federally-owned dam administered by the Bureau of Indian Affairs.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. §§ .791(a)–825(r).

h. *Applicant Contact:* Mr. Brent L. Smith, President, Northwest Power Services, Inc., P.O. Box 535, Rigby, ID 83442, (208) 745–8630, (fax) (208) 745–7909, or e-mail address: npsihydro@aol.com.

i. *FERC Contact:* Any questions on this notice should be addressed to Mr. Lynn R. Miles, Sr. at (202) 219–2671, or e-mail address: lynn.miles@ferc.fed.us.

j. *Deadline for filing motions to intervene, protests and comments:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, D.C. 20426. Comments recommendation, interventions, and protests, may be electronically filed 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.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. Description of Project: (1) An existing earth-fill dam approximately 44 feet high and 304 feet long; (2) a reservoir having a surface area of 38.000 acres with a storage capacity of 350,000 acre-feet at a normal water surface elevation of 6,300 feet; (3) a 8 feet foot-diameter 400 foot-long steel penstock; (4) a concrete powerhouse containing one generating unit with a capacity of 3 megawatts; (5) a 15 kv transmission line approximately 14 miles long; and (6) appurtenant facilities.

The project would have an annual generation of 13.15 GWh.

l. A copy of the application is available for inspection and reproduction at the Commission's Pubic Reference Room, located at 888 First Street, NE, Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on http://www.ferc.fed.us/online/rims.htm (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

m. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

n. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

o. Notice of Intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

p. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

q. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

r. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

s. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 01–12954 Filed 5–22–01; 8:45 am]

BILLING CODE 6717–-01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6983–4]

Agency Information Collection Activities: New Collection; Comment Request; Recordkeeping and Reporting Requirements for the Fuel Quality Regulations for Diesel Fuel Sold in 2001 and Later Years

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that EPA is planning to submit the following new Information Collection Request (ICR) to the Office of Management and Budget (OMB): Recordkeeping and Reporting Requirements for the Fuel Quality Regulations for Diesel Fuel Sold in 2001 and Later Years. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before July 23, 2001.

ADDRESSES: Transportation and Regional Programs Division, Office of

Transportation and Air Quality, Office of Air and Radiation, Mail Code 6406J, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. A paper or electronic copy of the draft ICR may be obtained without charge by contacting the person listed below.

FOR FURTHER INFORMATION CONTACT: Anne-Marie Pastorkovich, (202) 564–8987, fax: (202) 565–2085, pastorkovich.anne_marie@epa.gov.

SUPPLEMENTARY INFORMATION:

Affected entities: Entities potentially affected by this action are refiners, importers, pipelines, petroleum marketers and other distributors, terminals, fuel oil dealers, fuel additive manufacturers, retailers and wholesale purchaser-consumers.

Title: Recordkeeping and Reporting Requirements for the Fuel Quality Regulations for Diesel Fuel Sold in 2001 and Later Years.

Abstract: The pollution emitted by diesel engines contributes greatly to our nation's continuing air quality problems. On January 18, 2001, EPA published a final rule that establishes standards for heavy-duty engines and vehicles and for highway diesel sulfur control. New emissions standards for these engines and vehicles will apply starting with model year 2007. Since the new technology developed requires low sulfur diesel fuel [15 parts per million (ppm) sulfur or less], the regulations require the availability of this fuel starting by no later than 2006, with all highway diesel fuel required to meet the 15 ppm standard by 2010. See ''Control of Air Pollution from New Motor Vehicles: Heavy-Duty Engine and Vehicle Standards and Highway Diesel Fuel Sulfur Control Requirements,'' 66 FR 5002 (January 18, 2001).

The diesel sulfur rule contains many types of flexibility aimed at reducing burdens on small businesses and those faced with particular hardships. All refiners producing highway diesel fuel and all importers are able to take advantage of the temporary compliance option offered in the final regulations at 40 CFR 80.530. This option would generally permit the refiner or importer to continue to produce or import fuel meeting a 500 ppm sulfur standard until May 31, 2010 through the use of marketable credits.

Diesel producers who market gasoline in the geographic phase-in area defined in the gasoline sulfur regulations may receive additional flexibility under this diesel fuel program (see 40 CFR 80.217 and 80.540). Refiners that seek and are granted small refiner status may have their choice of three options:

- *500 ppm option.* A small refiner may continue to produce and sell diesel fuel meeting the 500 ppm sulfur standard for four additional years, i.e., until June 1, 2010, provided that it reasonably ensures the existence of sufficient volumes of 15 ppm fuel in the marketing area(s) that it serves.
- *Small refiner credit option.* A small refiner that chooses to produce 15 ppm fuel prior to June 1, 2010 may generate and sell credits under the broader temporary compliance option. Since a small refiner has no requirement to produce 15 ppm fuel under this option, any fuel it produced at or below 15 ppm sulfur would qualify for generating credits.
- *Diesel/gasoline compliance date option.* For small refiners that are also subject to the gasoline sulfur program (see 40 CFR subpart H), the refiner may choose to extend the duration of its applicable interim gasoline standards by three years, provided that it produces all of its highway diesel fuel at 15 ppm sulfur beginning on June 1, 2006.

In addition, exemptions are possible for research and development purposes. The specific recordkeeping and reporting requirements for this program, and associated flexibilities, are discussed below. For a more detailed description of the diesel program, please refer to the January 18, 2001 **Federal Register** notice.

This Information Collection Request (ICR) would make ICR additions to the existing fuels regulations applicable to diesel fuel under ICR number 1718.02, which expires July 31, 2001. (ICR number 1718.03 has been reserved for its renewal.) The additional requirements covered under this ICR were included in the final rule published in the **Federal Register** on January 18, 2001.

The information under this ICR will be collected by EPA's Transportation and Regional Programs Division, Office of Transportation and Air Quality, Office of Air and Radiation (OAR), and by EPA's Air Enforcement Division, Office of Regulatory Enforcement, Office of Enforcement and Compliance Assurance (OECA). The information collected will be used by EPA to evaluate compliance with diesel sulfur control requirements under the diesel rule. This oversight by EPA is necessary to ensure attainment of the air quality goals of the diesel program. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15.

The EPA would like to solicit comments to:

(i) Evaluate whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) 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;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) 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.

Burden Statement: It is estimated that there will be 48,690 reports, 72,648 burden hours, and total costs (labor, overhead and maintenance, purchased services, and annualized capital costs) of $9,208,880. This figure includes the initial burden associated with learning and adapting to the new requirements. A large portion of this burden relates to labor hours needed for start-up programming needs (*e.g.* establishment of new product codes and adapting company databases to account for credits and in order to generate information in a format for annual reports).

Dated: May 8, 2001.

Deborah K. Wood,

Acting Director, Transportation and Regional Programs Division.

[FR Doc. 01–12892 Filed 5–22–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6981–7]

Agency Information Collection Activities: Proposed Collection; Comment Request; National Emission Standards for Hazardous Air Pollutants for Beryllium Rocket Motor Firing; 40 CFR Part 61, Subpart D

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that EPA is planning to submit the following continuing Information Collection Request (ICR) to the Office of

Management and Budget (OMB): National Emission Standards for Hazardous Air Pollutants for Beryllium Rocket Motor Firing; 40 CFR part 61, subpart D; EPA ICR Number 1125.03; OMB Number 2060–0394; expiring October 31, 2001. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before July 23, 2001.

ADDRESSES: U.S. Environmental Protection Agency, 401 M Street S.W., Office of Compliance, Mail Code 2223A, Washington, D.C. 20460. A hard copy of an ICR may be obtained without charge by calling the identified information contact individual.

FOR FURTHER INFORMATION CONTACT: Elson Lim at (202) 564–7006 and FAX (202) 564–0050, or by E-mail at *Lim.Elson@epa.gov.*

SUPPLEMENTARY 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 displayed in 40 CFR part 9.

The EPA would like to solicit comments to:

(i) 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;

(ii) 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;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) 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.

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 collection, 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.

ICR

In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that EPA is planning to submit the continuing Information Collection Request (ICR) to the Office of Management and Budget (OMB).

Title: National Emission Standards for Hazardous Air Pollutants for Beryllium Rocket Motor Firing; 40 CFR part 61, subpart D; EPA ICR Number 1125.03, OMB Number 2060–0394, expiring October 31, 2001.

Affected Entities: These standards apply to sources that are rocket motor test sites that use beryllium propellant.

Abstract: The National Emission Standards for Hazardous Air Pollutants (NESHAP) 40 CFR part 61, subpart D was promulgated on April 6, 1973, and amended on November 7, 1985, for this source category. These standards establish limits for beryllium. The rule requires subject test sites to test ambient air for beryllium during and after firing a rocket motor. Samples are analyzed within 30 days and results are reported to EPA Region by registered letter by the business day following the determination and calculation. The rule also requires continuous stack sampling of beryllium combustion products during and after firing a rocket motor, and analysis and reporting within 30 days. In addition, other reporting requirements include notification of anticipated firing date; air quality emissions and ambient air quality and emission test reports. Recordkeeping requirements include air sampling test results, record of emission test results and making these records available to the Agency. Records are kept for a period of two years for the air sampling test results.

Burden Statement: In the currently approved ICR, the total hours were estimated to be 8.33 and the recordkeeping and reporting burden was estimated to be $299 per year. This estimate was based on one test facility. There are no capital and start-up cost for this ICR. There is also no operation and maintenance cost documented since no new sources are anticipated to become subject of these standards. There are no costs for continuous emission monitoring for this ICR and no known information that may impact the burden in the next ICR.

Dated: May 9, 2001.

Michael Stahl,

Director, Office of Compliance.

[FR Doc. 01–12895 Filed 5–22–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6977–8]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; Investigations Into Compliance of Stationary Source With the Accidental Release Prevention Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: Investigations into Possible Noncompliance of Stationary Sources with the Accidental Release Prevention Program established in 40 CFR Part 68, EPA ICR No. 1956.01. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before June 22, 2001.

ADDRESSES: Send comments, referencing EPA ICR No. 1956.01 to the following addresses: Sandy Farmer, U.S. Environmental Protection Agency, Collection Strategies Division (Mail Code 2822), 1200 Pennsylvania Avenue, NW., Washington, DC 20460; and to Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION: For a copy of the ICR contact Sandy Farmer at EPA by phone at (202) 260–2740, by E-mail at farmer.sandy@epamail.epa.gov, or download off the Internet at *http://www.epa.gov/icr* and refer to EPA ICR No. 1956.01. For technical questions about the ICR contact Silvia Palomo on (312) 353–2172.

SUPPLEMENTARY INFORMATION:

Title: Investigations into Compliance of Stationary Sources with the Accidental Release Prevention Program

established in 40 CFR part 68, EPA ICR Number 1956.01. This is a new collection.

Abstract: On June 20, 1996, EPA published risk management regulations mandated under the accidental release prevention provisions under the Clean Air Act Section 112(r)(7), 42 U.S.C. 7412(r)(7). These regulations were codified in 40 CFR part 68. The intent of Section 112(r) is to prevent accidental releases to the air and mitigate the consequences of such releases by focusing prevention measures on chemicals that pose the greatest risk to the environment. The chemical accident prevention rule required owners and operators of stationary sources subject to the rule to submit a risk management plan by June 21, 1999 to EPA. The Office of Chemical Emergency Preparedness and Prevention (OCEPP), Superfund Division, Region 5, is responsible for implementing and enforcing the Risk Management Program. In order to fulfill its responsibilities as the implementing office, OCEPP will collect information from major stationary sources of air emissions to determine whether or not these sources are in compliance with the risk management program regulations.

The information will be requested through certified mail and pursuant to Section 114(a) of the Clean Air Act, 42 U.S.C. 7414(a). Therefore, response to the information collection is mandatory. The information collected will include the names of the regulated substances used, produced, or stored on-site; amount of the regulated substances; copies of inventory records; capacity of the container which stores or handles the regulated substance; and the number of employees.

Any information submitted to EPA for which a claim of confidentiality is made will be safeguarded according to the Agency policies set forth in Title 40, Chapter 1, Part 2, Subpart B—Confidentiality of Business Information (see 40 CFR part 2; 41 FR 36902, September 1, 1976; amended by 43 FR 40000, September 8, 1978; 43 FR 42251, September 20, 1978; 44 FR 17674, March 23, 1979).

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15. The **Federal Register** document required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on May 9, 2000 (65 FR 26829). EPA received comments on the ICR from the following organizations: American Chemistry Council; Center for Regulatory Effectiveness (CRE); National Paint & Coating Association; and from one person.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 14.8 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Major stationary sources of air emissions that have applied for or obtained a Title V operating permit.

Estimated Number of Respondents: 1,800.

Frequency of Response: One-time.

Estimated Total Annual Hour Burden: 26,640 hours.

Estimated Total Annualized Capital, Operating/Maintenance Cost Burden: 0.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the following addresses. Please refer to EPA ICR No. 1956.01 in any correspondence.

Dated: May 3, 2001.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 01–12898 Filed 5–22–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6983–3]

Notice of Final Decision To Grant Vickery Environmental, Incorporated a Modification of an Exemption From the Land Disposal Restrictions of the Hazardous and Solid Waste Amendments of 1984 Regarding Injection of Hazardous Wastes

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final decision on a request to modify an exemption from the Hazardous and Solid Waste Amendments of the Resource Conservation and Recovery Act.

SUMMARY: Notice is hereby given by the Environmental Protection Agency (EPA or Agency) that modification of an exemption to the land disposal restrictions under the 1984 Hazardous and Solid Waste Amendments to the Resource Conservation and Recovery Act (RCRA) has been granted to Vickery Environmental, Inc. (VEI) of Vickery, Ohio. This modification allows VEI to continue to inject two (2) RCRA-regulated hazardous wastes which will be banned from land disposal on May 7, 2001, as a result of regulations promulgated in the **Federal Register** (FR) on November 8, 2000 (65 FR 67132), into four Class I injection wells at the Vickery, Ohio, facility. As required by 40 CFR part 148, VEI has demonstrated, to a reasonable degree of certainty, that there will be no migration of hazardous constituents from the injection zone utilized by VEI's waste disposal facility located near Vickery, Ohio, for as long as the newly exempted wastes remain hazardous. This decision constitutes a final Agency action for which there is no administrative appeal.

DATES: This action is effective as of May 7, 2001.

FOR FURTHER INFORMATION CONTACT: Harlan Gerrish, Lead Petition Reviewer, USEPA, Region 5, telephone (312) 886–2939. Copies of the petition and all pertinent information relating thereto are on file and are part of the Administrative Record. It is recommended that you contact the lead reviewer prior to reviewing the Administrative record.

SUPPLEMENTARY INFORMATION:

I. Background

Chemical Waste Management (CWM), the predecessor of VEI, submitted a petition for an exemption from the restrictions on land disposal of hazardous wastes on January 19, 1988.

Revised documents were received on December 4, 1989, and several supplemental submittals were subsequently made. The exemption was granted on August 7, 1990. On September 12, 1994, CWM submitted a petition to modify the exemption to include wastes bearing 23 additional RCRA wastes codes. Region 5 reviewed documents supporting the request and granted the modification of the exemption on May 16, 1995. A notice of the modification appeared on June 5, 1995, at 60 FR 29592 *et seq.* On April 9, 1996, CWM submitted a petition to again modify the exemption to allow 91 additional RCRA waste codes. Region 5 reviewed documents supporting the request and granted the modification on the exemption on June 24, 1996. A notice of the modification appeared on July 15, 1996, at 61 FR 36880 *et seq.* Again on May 13, 1997, CWM submitted a request to add 11 waste codes to the list. Region 5 reviewed the evidence submitted by CWM and granted the request. Notice of the approval appeared on August 12, 1997 (63 FR 43109). On October 13, 1997, CWM notified the EPA that the name of the operator of the Vickery facility would become Waste Management of Ohio (WMO). This change was acknowledged by EPA through a letter added to the Administrative Record on November 10, 1997. On August 28, 1998, WMO requested that two additional wastes codes be approved for injection. Notice of the approval appeared on December 10, 1998 (63 FR 68284). In the same year, on November 5, 1998, WMO submitted a petition to exempt four additional waste codes. Approval of this petition appeared on February 10, 1999 (64 FR 6650). On January 24, 2000, Waste Management of Ohio informed EPA of a corporate reorganization and subsequent name change from Waste Management of Ohio to Vickery Environmental, Inc. This change was acknowledged by EPA through a letter added to the Administrative Record on March 9, 2000.

The rule promulgated on November 8, 2000, bans K174 and K175 from injection after May 7, 2001, unless VEI's exemption is modified to allow injection of those wastes. As K-coded wastes, the codes represent a number of chemicals, many of which have already been approved for injection at Vickery under other waste codes. The previously unapproved chemicals found in K174 are: 1,2,3,4,6,7,8-Heptachlorodibenzo-p-dioxin, 1,2,3,4,6,7,8-Heptachlorodibenzofuran, 1,2,3,4,7,8,9-Heptachlorodibenzofuran, 1,2,3,4,6,7,8,9-Octachlorodibenzo-p-dioxin, and 1,2,3,4,6,7,8,9-Octachlorodibenzofuran. These are all large and complex molecules which will diffuse more slowly than will the chloride ion which is the most mobile molecule already approved for injection. Note that each of the new molecules contains at least seven chlorine atoms. The hazardous material in the waste represented by K175 is mercury which is already approved as D009. After review of the material submitted, the EPA has determined, as required by 40 CFR 148.20(f), that there is a reasonable degree of certainty that the hazardous constituents contained in the wastes bearing the codes to be banned will behave hydraulically and chemically like wastes for which VEI was granted its original exemption and will not migrate from the injection zone in hazardous concentrations within 10,000 years. The injection zone is the Mt. Simon Sandstone and the Rome, Conasauga, Kerbel, and Knox Formations. The confining zone is comprised of the Wells Creek and Black River Formations.

List of RCRA Waste Codes Approved for Injection: D001 D002 D003 D004 D005 D006 D007 D008 D009 D010 D011 D012 D013 D014 D015 D016 D017 D018 D019 D020 D021 D022 D023 D024 D025 D026 D027 D028 D029 D030 D031 D032 D033 D034 D035 D036 D037 D038 D039 D040 D041 D042 D043 F001 F002 F003 F004 F005 F006 F007 F008 F009 F010 F011 F012 F019 F020 F021 F022 F023 F024 F025 F026 F027 F028 F032 F034 F035 F037 F038 F039 K001 K002 K003 K004 K005 K006 K007 K008 K009 K010 K011 K013 K014 K015 K016 K017 K018 K019 K020 K021 K022 K023 K024 K025 K026 K027 K028 K029 K030 K031 K032 K033 K034 K035 K036 K037 K038 K039 K040 K041 K042 K043 K044 K045 K046 K047 K048 K049 K050 K051 K052 K060 K061 K062 K069 K071 K073 K083 K084 K085 K086 K087 K088 K093 K094 K095 K096 K097 K098 K099 K100 K101 K102 K103 K104 K105 K106 K107 K108 K109 K110 K111 K112 K113 K114 K115 K116 K117 K123 K124 K125 K126 K131 K132 K136 K140 K141 K142 K143 K144 K145 K147 K148 K149 K150 K151 K156 K157 K158 K159 K160 K161 K169 K170 K171 K172 K174 K175 P001 P002 P003 P004 P005 P006 P007 P008 P009 P010 P011 P012 P013 P014 P015 P016 P017 P018 P020 P021 P022 P023 P024 P026 P027 P028 P029 P030 P031 P033 P034 P036 P037 P038 P039 P040 P041 P042 P043 P044 P045 P046 P047 P048 P049 P050 P051 P054 P056 P057 P058 P059 P060 P062 P063 P064 P065 P066 P067 P068 P069 P070 P071 P072 P073 P074 P075 P076 P077 P078 P081 P082 P084 P085 P087 P088 P089 P092 P093 P094 P095 P096 P097 P098 P099 P101 P102 P103 P104 P105 P106 P108 P109 P110 P111 P112 P113 P114 P115 P116 P118 P119 P120 P121 P122 P123 P127 P128 P185 P188 P189 P190 P191 P192 P194 P196 P197 P198 P199 P201 P202 P203 P204 P205 U001 U002 U003 U004 U005 U006 U007 U008 U009 U010 U011 U012 U014 U015 U016 U017 U018 U019 U020 U021 U022 U023 U024 U025 U026 U027 U028 U029 U030 U031 U032 U033 U034 U035 U036 U037 U038 U039 U041 U042 U043 U044 U045 U046 U047 U048 U049 U050 U051 U052 U053 U055 U056 U057 U058 U059 U060 U061 U062 U063 U064 U066 U067 U068 U069 U070 U071 U072 U073 U074 U075 U076 U077 U078 U079 U080 U081 U082 U083 U084 U085 U086 U087 U088 U089 U090 U091 U092 U093 U094 U095 U096 U097 U098 U099 U101 U102 U103 U105 U106 U107 U108 U109 U110 U111 U112 U113 U114 U115 U116 U117 U118 U119 U120 U121 U122 U123 U124 U125 U126 U127 U128 U129 U130 U131 U132 U133 U134 U135 U136 U137 U138 U139 U140 U141 U142 U143 U144 U145 U146 U147 U148 U149 U150 U151 U152 U153 U154 U155 U156 U157 U158 U159 U160 U161 U162 U163 U164 U165 U166 U167 U168 U169 U170 U171 U172 U173 U174 U176 U177 U178 U179 U180 U181 U182 U183 U184 U185 U186 U187 U188 U189 U190 U191 U192 U193 U194 U196 U197 U200 U201 U202 U203 U204 U205 U206 U207 U208 U209 U210 U211 U213 U214 U215 U216 U217 U218 U219 U220 U221 U222 U223 U225 U226 U227 U228 U234 U235 U236 U237 U238 U239 U240 U243 U244 U246 U247 U248 U249 U271 U277 U278 U279 U280 U328 U353 U359 U364 U365 U366 U367 U372 U373 U375 U376 U377 U378 U379 U381 U382 U383 U384 U385 U386 U387 U389 U390 U391 U392 U393 U394 U395 U396 U400 U401 U402 U403 U404 U407 U408 U409 U410 U411

I. Conditions

General conditions of this exemption are found at 40 CFR part 148. The exemption granted to VEI on August 7, 1990, included a number of specific conditions. Conditions numbered (1), (2), (3), (4), and (9) remain in force. Construction of a monitoring well required under condition 5 has been completed, and the required monitoring will continue through the life of the facility. Conditions numbered (6), (7), and (8) have been fully satisfied. The results of the work carried out under these conditions confirms that the model used to simulate fluid movement

within the injection zone for the next 10,000 years is valid and results of the simulation bound the region of the injection zone within which the waste will be contained.

Valerie J. Jones,

Acting Director, Water Division, Region 5.

[FR Doc. 01–12891 Filed 5–22–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6981–8]

Gulf of Mexico Program Citizens Advisory Committee Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of meeting.

SUMMARY: Under the Federal Advisory Act, Public Law 92463, EPA gives notice of a Meeting of the Gulf of Mexico Program (GMP) Citizens Advisory Committee.

DATES: The Meeting will be held on Tuesday, June 12, 2001, from 1 p.m. to 5:30 p.m. and on Wednesday, June 13, 2001, from 8:30 a.m. to 11:45 a.m.

ADDRESSES: The meetings will be held at the Florida Marine Research Institute, 100 8th Avenue, S.E., St. Petersburg, FL, (727) 896–8626 ext. 2010

FOR FURTHER INFORMATION CONTACT: Gloria D. Car, Designated Federal Officer, Gulf of Mexico Program Office, Building 1103, Room 202, Stennis Space Center, MS 39529–6000 at (228) 688–2421.

SUPPLEMENTARY INFORMATION: Proposed agenda is attached.

The meeting is open to the public.

Dated: May 11, 2001.

Gloria D. Car,

Designated Federal Officer.

[FR Doc. 01–12897 Filed 5–22–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–66287; FRL–6784–3]

Benomyl; Receipt of Request for Registration Cancellations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with section 6(f)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, EPA is issuing a notice of receipt of request by E.I. duPont de Nemours and Company (DuPont) to cancel the registrations for all of their products containing methyl 1-(butylcarbamoyl)-2-benzimidazole carbamate (benomyl). EPA will decide whether to approve the request after consideration of public comment.

DATES: Comments on the requested cancellation of product and use registrations must be submitted to the address provided below by June 22, 2001.

FOR FURTHER INFORMATION CONTACT: Demson Fuller, Special Review and Reregistration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–8062; fax number: (703) 308–7042; e-mail address: fuller.demson@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. Although this action may be of particular interest to persons who produce or use pesticides, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the information in this notice, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations'' and then look up the entry for this document under the**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person.* The Agency has established an official record for this action under docket control number OPP–66287. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

C. How and to Whom Do I Submit Comments?

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–66287 in the subject line on the first page of your response.

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 electronically by e-mail to: opp-docket@epa.gov, or you can submit a computer disk as described above. 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–66287. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI that I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or

all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Provide specific examples to illustrate your concerns.
6. Offer alternative ways to improve the notice or collection activity.
7. Make sure to submit your comments by the deadline in this notice.
8. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. What Action is the Agency Taking

This notice announces receipt by the Agency of request from E.I. duPont de Nemours and Company to cancel eight pesticide products registered under sections 3 and 24(c) of FIFRA. These registrations are listed in Table 1.

A. Background Information

Benomyl is a benzimidazole carbamate and systemic foliar fungicide registered for use on almonds, apples, anise, apricots, asparagus, avocado, banana, barley, bean vine, blueberries, brassica (broccoli, Brussels sprouts, cabbage, chicory, chinese cabbage, cauliflower, collards, kale, kohlrabi, mustard greens, rutabagas, and turnips), caneberries (dewberries, blackberries, boysenberries, loganberries, and raspberries), cardoon, carrots, celery, cherries, citrus, conifers, corn, cucurbits (cucumber, melons, pumpkins, and squash), currants, dandelions, dill, figs, grapes, macadamia nuts, mangoes, mushrooms, nectarines, onions, oats, papayas, peaches, peanuts, pears, peas, pecans, peppers, pineapple, pistachio, plums, prunes, rape, rice, rye, soybeans, spinach, strawberry, sugar beets, tomatoes, wheat, and yams.

Dupont met with the Agency on April 18, 2001, and requested a voluntary cancellation of all their registrations for products containing benomyl, to be effective December 31, 2001. Dupont stated that this decision was based on business reasons. They submitted this request in writing in a letter dated April 18, 2001.

On May 1, 2001, Dupont submitted a second letter requesting that the effective date of cancellation be moved from December 31, 2001, to May 1, 2001. Under 6(f)(1(C), a registrant can waive the 180–day comment period for minor uses, however 6(f)(1)(B) requires that the Agency provide for a 30–day comment period before acting on any 6(f) request. Therefore, EPA notes that it cannot grant a cancellation request until the requisite public comment period expires and EPA has considered all public comments received.

B. Requests for Voluntary Cancellation

Under section 6(f)(1)(A) of FIFRA, registrants may request, at any time, that their pesticide registrations be canceled or amended to terminate one or more pesticide uses. Section 6(f)(1)(B) of FIFRA requires that before acting on a request for voluntary cancellation, EPA must provide a 30–day public comment period on the request for voluntary cancellation. In addition, section 6(f)(1)(C) of FIFRA requires that EPA provide a 180–day comment period on a request for voluntary termination of any minor agricultural use before granting the request, unless (1) the registrants request a waiver of the comment period, or (2) the Administrator determines that continued use of the pesticide would pose an unreasonable adverse effect on the environment. The registrant has requested that EPA waive the 180–day comment period. EPA is granting the registrants' request to waive the 180–day comment period. EPA anticipates granting the cancellation request shortly after the end of the 30–day comment period for this notice. The registrations for which cancellations were requested are identified in the following table.

TABLE 1.—REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION

Company	Reg. No	Product
E.I. duPont deNemours and Company	352–354	Dupont Benlate® Fungicide
	352–377	Benomyl Technical
	352–385	Dupont Benlate® OD Fungicide
	352–564	Dupont Benlate® SP Fungicide

Additionally, cancellation is requested for the following DuPont Special Local Need (SLN) Registrations:

TABLE 2.—SLN REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION

SLN Number	Crop	Reg. No	Product
AZ–930015	Onions	352–354	Dupont Benlate® Fungicide
VT–770005	Apples	352–354	Dupont Benlate® Fungicide
WA–000009	Asparagus Crowns	352–564	Dupont Benlate® SP Fungicide
WA–770040	Asparagus Crowns	352–354	Dupont Benlate® Fungicide

III. What is the Agency's Authority for Taking this Action?

Section 6(f)(1) of FIFRA provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be canceled. FIFRA section 6(f)(1) further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register**, make reasonable efforts to inform persons who rely on the pesticide for minor agricultural uses, and provide a 30–day period in which the public may comment. Thereafter, the Administrator may approve such a request.

IV. Procedures for Withdrawal of Request

Registrants who choose to withdraw a request for cancellation must submit such withdrawal in writing to the person listed under **FOR FURTHER INFORMATION CONTACT**. This written withdrawal of the request for cancellation will apply only to the applicable FIFRA section 6(f)(1) request listed in this notice. If the product(s) have been subject to a previous cancellation action, the effective date of cancellation and all other provisions of any earlier cancellation action are controlling. The withdrawal request must also include a commitment to pay any reregistration fees due, and to fulfill any applicable unsatisfied data requirements.

V. Provisions for Disposition of Existing Stocks

The effective date of cancellation will be the date of the cancellation order. The orders effecting these requested cancellations will generally permit a registrant to sell or distribute existing stocks for 1–year after the date the cancellation request was received. This policy is in accordance with the Agency's statement of policy as prescribed in the **Federal Register** of June 26, 1991 (56 FR 29362) (FRL–3846–4). Exceptions to this general rule will be made if a product poses a risk concern, or is in noncompliance with reregistration requirements, or is subject to a Data Call-In. In all cases, product-specific disposition dates will be given in the cancellation orders.

Existing stocks are those stocks of registered pesticide products which are currently in the United States and which have been packaged, labeled, and released for shipment prior to the effective date of the cancellation action. Unless the provisions of an earlier order apply, existing stocks already in the hands of dealers or users can be distributed, sold, or used legally until they are exhausted, provided that such further sale and use comply with the EPA-approved label and labeling of the affected product. Exception to these general rules will be made in specific cases when more stringent restrictions on sale, distribution, or use of the products or their ingredients have already been imposed, as in a Special Review action, or where the Agency has identified significant potential risk concerns associated with a particular chemical.

Dupont stated in their April 18, 2001 letter, that it would not sell or distribute any of the canceled products following the date of cancellation and requested that EPA permit sale of existing stocks of products in the channels of trade until December 31, 2002, as permitted under FIFRA section 6(a)(1). In their May 1, 2001 letter, Dupont proposed that they be permitted to sell and distribute stocks of canceled products until June 30, 2001. Dupont did not request a change in date of December 31, 2002, for existing stocks of products in the channels of trade. EPA anticipates granting these requests.

VI. Future Tolerance Revocations.

EPA anticipates drafting a future **Federal Register** notice proposing revocation of tolerances on commodities on which there has been no registered uses of benomyl. With this notice, EPA seeks comment as to whether any individuals or groups want to support continuation of these tolerances.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: May 10, 2001.

Jack E. Housenger,

Acting Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. 01–12905 Filed 5–22–01; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPP–100170; FRL–6782–4]

Eastern Research Group, Inc.; Transfer of Data

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces that pesticide-related information submitted to EPA's Office of Pesticide Programs (OPP) pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Federal Food, Drug, and Cosmetic Act (FFDCA), including information that may have been claimed as Confidential Business Information (CBI) by the summiteer, will be transferred to Eastern Research Group, Inc. in accordance with 40 CFR 2.307(h)(3) and 2.308(i)(2). Eastern Research Group, Inc. has been awarded a contract to perform work for OPP, and access to this information will enable Eastern Research Group, Inc. to fulfill the obligations of the contract.

DATES: Eastern Research Group, Inc. will be given access to this information on or before May 29, 2001.

FOR FURTHER INFORMATION CONTACT: By mail: Erik R. Johnson, FIFRA Security Officer, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 305–7248; e-mail address: johnson.erik@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action applies to the public in general. As such, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

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/.

II. Contractor Requirements

Under contract number GS–10F–0036F, the contractor will perform the following:

The contractor shall revise the draft Pesticide Fate Database that was prepared under a previous contract. Revisions may include changes in the database relational structure and format for the Fish Accumulation and the Field

Dissipation studies. The Agency shall review the draft database and indicate changes and corrections that must be made. The contractor shall incorporate the changes into the final version.

This contract involves no subcontractors.

OPP has determined that the contract described in this document involves work that is being conducted in connection with FIFRA, in that pesticide chemicals will be the subject of certain evaluations to be made under this contract. These evaluations may be used in subsequent regulatory decisions under FIFRA.

Some of this information may be entitled to confidential treatment. The information has been submitted to EPA under sections 3, 4, 6, and 7 of FIFRA and under sections 408 and 409 of FFDCA.

In accordance with the requirements of 40 CFR 2.307(h)(3), the contract with Eastern Research Group, Inc., prohibits use of the information for any purpose not specified in the contract; prohibits disclosure of the information to a third party without prior written approval from the Agency; and requires that each official and employee of the contractor sign an agreement to protect the information from unauthorized release and to handle it in accordance with the FIFRA Information Security Manual. In addition, Eastern Research Group, Inc. is required to submit for EPA approval a security plan under which any CBI will be secured and protected against unauthorized release or compromise. No information will be provided to Eastern Research Group, Inc. until the requirements in this document have been fully satisfied. Records of information provided to Eastern Research Group, Inc. will be maintained by EPA Project Officers for the contract. All information supplied to Eastern Research Group, Inc. by EPA for use in connection with the contract will be returned to EPA when Eastern Research Group, Inc. has completed its work.

List of Subjects

Environmental protection, Business and industry, Government contracts, Government property, Security measures.

Dated: May 7, 2001.

Joanne Martin,

Acting Director, Information Resources and Services Division, Office of Pesticide Programs.

[FR Doc. 01–12968 Filed 5–22–01; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPP–34226A; FRL–6775–9]

Availability of Reregistration Eligibility Decision Document for Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces availability and starts a 60–day public comment period on the Reregistration Eligibility Decision document (RED) for the pesticide active ingredient triallate. The RED represents EPA's formal regulatory assessment of the health and environmental data base of the subject chemical and presents the Agency's determination regarding which pesticidal uses are eligible for reregistration.

DATES: Comments, identified by docket control number OPP–34226A, must be received on or before May 20, 2001 in the **Federal Register**.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I.C. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–34226A in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Carol Stangel, Special Review and Reregistration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–8007; and e-mail address: stangel.carol@epa.gov.

For technical questions on this RED, contact: Michael Goodis, Special Review and Reregistration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–8007; and e-mail address: goodis.michael@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. This action may, however, be of interest to persons who are or may be required to conduct testing of chemical substances under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) or the Federal Food, Drug, and Cosmetic Act (FFDCA); environmental, human health, and agricultural advocates; pesticide users; and members of the public interested in the use of pesticides. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically*. You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. 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/.

To access RED documents and RED fact sheets electronically, go directly to the reregistration pesticide information table on the EPA Office of Pesticide Programs Home Page, at http://www.epa.gov/pesticides/reregistration/status.htm. For related information, see http://www.epa.gov/pesticides.

2. *In person*. The Agency has established an official record for this action under docket control number OPP–34226A. The official record consists of the document specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

C. How and to Whom Do I Submit Comments?

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–34226A in the subject line on the first page of your response.

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 Highway, 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 electronically by e-mail to: opp-docket@epa.gov, or you can submit a computer disk as described above. 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 6.1/8.0/9.0 or ASCII file format. All comments in electronic form must be identified by docket control number OPP–34226A. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI That I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified under **FOR FURTHER INFORMATION CONTACT**.

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Provide specific examples to illustrate your concerns.
6. Offer alternative ways to improve the notice or collection activity.
7. Make sure to submit your comments by the deadline in this document.
8. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. Background

A. What Action is the Agency Taking?

The Agency has issued a RED for the pesticide active ingredient listed in this document. Under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1988, EPA is conducting an accelerated reregistration program to reevaluate existing pesticides to make sure they meet current scientific and regulatory standards. The data base to support the reregistration of the chemical included in this document is substantially complete, and the pesticide's risks have been mitigated so that it will not pose unreasonable risks to people or the environment when used according to its approved labeling. In addition, EPA is reevaluating existing pesticides and reassessing tolerances under the Food Quality Protection Act (FQPA) of 1996. The pesticide included in this notice also has been found to meet the FQPA safety standard.

All registrants of pesticide products containing the active ingredient triallate have been sent the appropriate RED, and must respond to labeling requirements and product-specific data requirements (if applicable) within 8 months of receipt. Products also containing other pesticide active ingredients will not be reregistered until those other active ingredients are determined to be eligible for reregistration.

The reregistration program is being conducted under Congressionally-mandated time frames, and EPA recognizes both the need to make timely reregistration decisions and to involve the public. Therefore, EPA is issuing this RED as a final document with a 60–day comment period. Although the 60–day public comment period does not affect the registrant's response due date, it is intended to provide an opportunity for public input and a mechanism for initiating any necessary amendments to the RED. All comments will be carefully considered by the Agency. If any comment significantly affects a RED, EPA will amend the RED by publishing the amendment in the **Federal Register**.

B. What is the Agency's Authority for Taking this Action?

The legal authority for this RED falls under FIFRA, as amended in 1988 and 1996. Section 4(g)(2)(A) of FIFRA directs that, after submission of all data concerning a pesticide active ingredient, ''the Administrator shall determine whether pesticides containing such active ingredient are eligible for reregistration,'' before calling in product-specific data on individual end-use products, and either reregistering products or taking ''other appropriate regulatory action.''

List of Subjects

Environmental protection, Pesticides.

Dated: May 4, 2001.

Lois Rossi,

Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. 01–12903 Filed 5–22–01; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[PF–1020; FRL–6780–7]

Notice of Filing a Pesticide Petition to Establish a Tolerance for a Certain Pesticide Chemical in or on Food

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of a pesticide petition proposing the establishment of regulations for residues of a certain pesticide chemical in or on various food commodities.

DATES: Comments, identified by docket control number PF–1020, must be received on or before June 22, 2001.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I.C. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, it is imperative that you identify docket control number PF–1020 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Cynthia Giles-Parker, Fungicide Branch, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 305–7740; e-mail address: giles-parker.cynthia@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be affected by this action if you are an agricultural producer, food manufacturer or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS codes	Examples of potentially affected entities
Industry	111 112 311 32532	Crop production Animal production Food manufacturing Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations,'' ''Regulation 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/.

2. *In person.* The Agency has established an official record for this action under docket control number PF–1020. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as confidential business information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

C. How and to Whom Do I Submit Comments?

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 PF–1020 in the subject line on the first page of your response.

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 Highway, 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 electronically by e-mail to: opp-docket@epa.gov, or you can submit a computer disk as described above. 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 PF–1020. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI That I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified under **FOR FURTHER INFORMATION CONTACT.**

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Provide specific examples to illustrate your concerns.
6. Make sure to submit your comments by the deadline in this notice.
7. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the

name, date, and **Federal Register** citation.

II. What Action is the Agency Taking?

EPA has received a pesticide petition as follows proposing the establishment and/or amendment of regulations for residues of a certain pesticide chemical in or on various food commodities under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a. EPA has determined that this petition contains data or information regarding the elements set forth in section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the petition. Additional data may be needed before EPA rules on the petition.

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: May 3, 2001.

James Jones,

Director, Registration Division, Office of Pesticide Programs.

Summary of Petition

The petitioner summary of the pesticide petition is printed below as required by section 408(d)(3) of the FFDCA. The summary of the petition was prepared by the petitioner and represents the view of the petitioners. EPA is publishing the petition summary verbatim without editing it in any way. The petition summary announces the availability of a description of the analytical methods available to EPA for the detection and measurement of the pesticide chemical residues or an explanation of why no such method is needed.

BASF Corporation, Agricultural Products

PP 0F6139

EPA has received pesticide petition number 0F6139 from BASF Corporation, Agricultural Products, P.O. Box 13528, Research Triangle Park, NC 27709–3528 proposing, pursuant to section 408(d) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(d), to amend 40 CFR part 180 by establishing tolerances for combined residues of BAS 500 F or pyraclostrobin (methyl-N-(((1-(4-chlorophenyl)pyrazol-3-yl)oxy, o-tolyl)N-methoxycarbamate) and its metabolite BF 500-3 (methyl-N-(((1-(4-chlorophenyl pyrazol-3-yl)oxy)o-tolyl)carbamate); expressed as parent compound in or on the raw agricultural commodities almond hulls at 1.6 ppm, banana at 0.04 parts per million (ppm), barley (grain) at 0.4 ppm, barley (hay) at 25 ppm, barley (straw) at 6.0 ppm, berries (crop group) at 1.0 ppm, bulb vegetables (crop group) at 0.7 ppm, citrus fruits (crop group) at 0.7 ppm, cucurbits (crop group) at 0.5 ppm, fruiting vegetables (crop group) at 1.0 ppm, grape at 2.0 ppm, grass seed (seed screenings) at 27 ppm, grass seed (straw) at 14.0 ppm, grass seed (forage) at 10.0 ppm, grass seed (hay) at 4.5 ppm, lentil at 0.5 ppm, orange oil at 4.2 ppm, orange pulp (dry) at 6.3 ppm, peanut at 0.05 ppm, peanut oil at 0.1 ppm, pea (dry, seed) at 0.4 ppm, radish tops at 16.0 ppm, raisin at 6.0 ppm, root vegetables (crop subgroup 1-B) at 0.4 ppm, rye (grain) at 0.04 ppm, rye (straw) at 0.5 ppm), stone fruits (crop group) at 0.7 ppm, strawberry at 0.4 ppm, sugar beet (dry pulp) at 1.6 ppm, sugar beet (root) at 0.2 ppm, sugar beet (top) at 8.0 ppm, tomato paste at 2.0 ppm, tree nuts (crop group) at 0.04 ppm, tuberous and corm vegetables (crop subgroup 1-C) at 0.04 ppm, wheat (grain) at 0.2 ppm, wheat (hay) at 6.0 ppm, wheat (straw) at 6.0 ppm, cattle (fat) at 0.1 ppm, cattle (kidney) at 0.1 ppm, cattle (liver) at 0.6 ppm, cattle (milk) at 0.03 ppm, cattle (muscle) at 0.1 ppm, poultry (egg) at 0.1 ppm, poultry (muscle) at 0.1 ppm, poultry (liver) at 0.1 ppm, poultry (fat) at 0.1 ppm. EPA has determined that the petition contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficency of the submitted data at this time or whether the data support granting of the petition. Additional data may be needed before EPA rules on the petition.

A. Residue Chemistry

1. *Plant and animal metabolism.* Nature of the residue studies (OPPTS 860.1300) were conducted in grape, potato and wheat as representative crops in order to characterize the fate of BAS 500 F in all crop matrices. BAS 500 F demonstrated a similar pathway and fate in all three crops. In all three crops the BAS 500 F residues of concern were characterized as parent (BAS 500 F) and BAS 500–3.

2. *Analytical method.* In plants the method of analysis is aqueous organic solvent extraction, column clean up and quantitation by LC/MS/MS. In animals the method of analysis involves base hydrolysis, organic extraction, column clean up and quantitation by LC/MS/MS or derivatization (methylation) followed by quantitation by GC/MS.

3. *Magnitude of residues.* Field trials were carried out in order to determine the magnitude of the residue in the following crops: almond, banana, barley, carrot, citrus, cucurbits (crop group), peas (dry, field), grape, grass grown for seed, lentil, onions (dry bulb and green), peanut, pecan, peppers (bell and chili), pistachio, potato, radish, berries (crop group), rye, stone fruits, strawberry, sugar beet, tomato and wheat. The residue trials in bananas were carried out in Latin America. Field trials for the rest of the crops were conducted in the United States and Canada. Field trials were carried out using the maximum label rate, the maximum number of applications, and the minimum preharvest interval for each crop or crop group. In addition, processing studies were conducted on the following crops to determine concentration factors during normal processing of the raw agricultural commodity into the processed commodities: citrus, grape, peanut, potato, stone fruits, sugar beet, tomato, and wheat. Magnitude of the residue trials were also carried out in cow and poultry.

B. Toxicological Profile

1. *Acute toxicity.* Based on available acute toxicity data BAS 500 F and its formulated products do not pose acute toxicity risks. The acute toxicity studies place technical BAS 500 F in toxicity category IV for acute oral, category III for acute dermal, and category II for acute inhalation. BAS 500 F is category III for both eye and skin irritation and is not a dermal sensitizer. Two formulated end use products are proposed, an Emulsifiable Concentrate (EC) and an Extruded Granule (EG). The EC has an acute oral toxicity category of II, acute dermal of III, acute inhalation of IV, eye and skin irritation categories of III, and is not a dermal sensitizer. The WG has acute oral and dermal toxicity categories of III, acute inhalation of IV, eye irritation of III, skin irritation of IV, and is not a dermal sensitizer.

TABLE 1.—ACUTE TOXICITY OF TECHNICAL BAS 500 F

Study Type	Species	Results	Toxicity Category
Oral LD_{50}	Rat	LD_{50}*> 5,000 mg/kg bwt	IV

TABLE 1.—ACUTE TOXICITY OF TECHNICAL BAS 500 F—Continued

Study Type	Species	Results	Toxicity Category
Dermal LD_{50}	Rat	LD_{50} > 2,000 mg/kg bwt	III
Inhalation LC_{50}	Rat	0.31 < LC_{50}**< 1.07 mg/L	II
Eye irritation	Rabbit	Slight irritation	III
Skin irritation	Rabbit	Moderate irritation	III
Skin sensitization	Guinea pig	Non-sensitizing	
Acute oral neurotoxicity (0, 100, 300, and 1,000 mg/kg bwt)	Rat	No neurotoxic effects at doses up to 1,000 mg/kg	

*Lethal Dose 50%
**Lethal Concentration 50%

TABLE 2.—ACUTE TOXICITY OF FORMULATED END-USE PRODUCT, BAS 500 00F (HEADLINE EC FUNGICIDE)

Study Type	Species	Results	Toxicity Category
Oral LD_{50}	Rat	LD_{50} > 500 mg/kg bwt (males); 260 mg/kg (200–500 mg/kg) bwt (females)	II
Dermal LD_{50}	Rat	LD_{50} > 4,000 mg/kg bwt	III
Inhalation LC_{50}	Rat	LC_{50} = 3.51 mg/L	IV
Eye irritation	Rabbit	Moderate irritation	III
Skin irritation	Rabbit	Moderate irritation	III
Skin sensitization	Guinea pig	Non-sensitizing	

TABLE 3.—ACUTE TOXICITY OF FORMULATED END-USE PRODUCT, BAS500 02F (CABRIO EG AND INSIGNIA FUNGICIDES)

Study Type	Species	Results	Toxicity Category
Oral LD_{50}	Rat	LD_{50} > 2,000 mg/kg bwt	III

TABLE 3.—ACUTE TOXICITY OF FORMULATED END-USE PRODUCT, BAS500 02F (CABRIO EG AND INSIGNIA FUNGICIDES)—Continued

Study Type	Species	Results	Toxicity Category
Dermal LD_{50}	Rat	LD_{50} > 2,000 mg/kg bwt	III
Inhalation LC_{50}	Rat	LC_{50} = 4.7 mg/L	IV
Eye irritation	Rabbit	Slight irritation	III
Skin irritation	Rabbit	Slight irritation	IV
Skin sensitization	Guinea pig	Non-sensitizing	

2. *Genotoxicity.* Ames Test (one study; point mutation): Negative; *in vitro* CHO/HGPRT Locus Mammalian Cell Mutation Assay (one study; point mutation): Negative; *in vitro* V79 Cells CHO Cytogenetic Assay (one study; chromosome damage): Negative; *in vivo* Mouse Micronucleus (one study; chromosome damage): Negative; *in vitro* Rat Hepatocyte (one study; DNA damage and repair): Negative.

BAS 500 F has been tested in a total of five genetic toxicology assays consisting of *in vitro* and *in vivo* studies. It can be stated that BAS 500 F did not show any mutagenic, clastogenic or other genotoxic activity when tested under the conditions of the studies mentioned above. Therefore, BAS 500 F does not pose a genotoxic hazard to humans.

TABLE 4.—SUMMARY OF GENOTOXICITY STUDIES ON BAS 500 F

Study	Test Organism	Concentration Range	Results
Gene mutation: Ames reverse mutation assay	*S. typhimurium* strains TA 1535, TA 100, TA 1537 and TA 98; *E. Coli* strain WP2 uvrA; with and without metabolic activation.	20 to 5,000 µg per plate	Negative with and without metabolic activation
Gene mutation: *in vitro* Chinese Hamster Ovary*in vitro* cell study (HGPRT locus)	HGPRT locus of Chinese Hamster Ovary cells, with and without metabolic activation	0.625 to 20 µg/mL*	Negative with and without activation
Chromosomal aberration:*in vitro* cytogenicity	Chinese hamster V79 cells, with and without metabolic activation	0.005 to 25 µg/mL	Negative with and without metabolic activation
Unscheduled DNA synthesis:*in vitro* assay with primary rat hepatocytes	Primary hepatocytes from Wistar rats	0.004 to 1.0 µg/mL	Negative

TABLE 4.—SUMMARY OF GENOTOXICITY STUDIES ON BAS 500 F—Continued

Study	Test Organism	Concentration Range	Results
Cytogenetic study *in vivo*: mousemicronucleus test	NMRI mice	0, 75, 150 and 300 mg/kg bwt	Negative

*micrograms per milliliter

3. *Reproductive and developmental toxicity*. The reproductive and developmental toxicity of BAS 500 F was investigated in a 2–generation rat reproduction study as well as in rat and rabbit teratology studies. There were no adverse effects on reproduction in the 2–generation study so the no observed adverse effect level (NOAEL) is the highest dose tested of 300 parts per million (ppm) (32.6 milligrams per kilogram body weight per day (mg/kg bwt/day)). Parental toxicity in the form of reduced body weight gain and pup effects were observed at the highest dose tested only. Pup effects consisted primarily of reduced body weight gain. Most likely due to the small pup size, reduced organ weights were observed in the thymus, spleen and brain of F2 pups, and a slight delay in vaginal opening time was observed in some F1 female pups. Therefore, the parental systemic and developmental toxicity NOAELs are the same at 75 ppm (8.2 mg/kg bwt).

No teratogenic effects were noted in either the rat or rabbit developmental studies. In the rat study, maternal toxicity observed at the mid and high dose consisted of decreased food consumption and body weight gain. There were no treatment-related developmental effects. The maternal NOAEL was 10 mg/kg bwt and the developmental NOAEL was the highest dose tested of 50 mg/kg bwt.

In the rabbit teratology study, maternal toxicity observed at the mid and high doses consisted of decreased food consumption and body weight gain (severe at the high dose). An increased postimplantation loss was also observed at the mid and high doses due to an increase in early resorptions. In rabbits, these types of effects are often observed with significant stress on the mothers (as seen by the body weight gain decrease in this study) and not indicative of frank developmental toxicity. The NOAEL for both maternal and developmental toxicity was 5 mg/kg bwt.

TABLE 5.—SUMMARY OF REPRODUCTIVE AND DEVELOPMENTAL STUDIES ON BAS 500 F

Study	NOAEL	LOAEL *	Effects at LOAEL or Higher
Multigeneration rat reproduction: 0, 25, 75, and 300 ppm (0, 2.7, 8.2, and 32.6 mg/kg bwt)	Reproductive function: 32.6 mg/kg bwt (300 ppm); systemic toxicity: 8.2 mg/kg bwt (75 ppm); developmental toxicity: 8.2 mg/kg bwt (75 ppm)	Reproductive function: >32.6 mg/kg bwt (> 300 ppm); systemic toxicity: 32.6 mg/kg bwt (> 300 ppm); developmental toxicity: 32.6 mg/kg bwt (> 300 ppm)	No impairment of reproductive function at any of the dose levels tested. 300 ppm: parental - reduced body weight and food consumption; pups - reduced body weight during lactation with corresponding organ weight changes (F2) and slightly delayed vaginal opening (F1 only)
Rat teratology: 0, 10, 25, and 50 mg/kg bwt	Maternal toxicity: 10 mg/kg bwt; developmental toxicity: 50 mg/kg bwt	Maternal toxicity: 25 mg/kg bwt; developmental toxicity: > 50 mg/kg bwt	No teratogenic effects. 25 mg/kg bwt: maternal effects were decreased body weight gain and decreased food consumption. 50 mg/kg bwt: maternal effects were a severe decrease in body weight gain, and reduced food consumption.
Rabbit teratology: 0, 5, 10, and 20 mg/kg bwt	Maternal: 5 mg/kg bwt; developmental toxicity: 5 mg/kg bwt	Maternal: 10 mg/kg bwt; developmental toxicity: 10 mg/kg bwt	No teratogenic effects. 10 mg/kg bwt: maternal effects were decreased body weight gain and food consumption, and decreased mean gravid uterus weight; developmental effects were increased post-implantation loss due to early resorptions, with subsequent decrease in mean live fetuses per rabbit. 20 mg/kg bwt: maternal effects were severely decreased body weight gain, decreased food consumption, and decreased gravid uterus weight; developmental effects were increased postimplantation loss due primarily to early resorptions.

*Lowest observed adverse effect level

4. *Subchronic toxicity*. The subchronic toxicity of BAS 500 F was investigated in 90–day feeding studies with rats, mice and dogs, and in a 28–day dermal administration study in rats. A 90–day neurotoxicity study in rats was also performed. Generally, mild toxicity was observed. At high dose levels in feeding studies, general findings in all three species were decreased food consumption and body weight gain and a thickening of the duodenum. Anemia occurred at high dose levels in both rats and mice with accompanying extramedullary hematopoiesis of the spleen in rats. In rats only, a finding of liver cell hypertrophy was indicative of a physiological response to the handling of the chemical. Overall, only mild toxicity was observed in oral subchronic testing.

In the 28–day repeat dose dermal study, no systemic effects were noted up to the highest dose tested.

In a 90–day rat neurotoxicity study, a direct neurotoxic effect was not observed. The grip strength of forelimbs was statistically significantly decreased in high dose females at the end of the study. This was assessed as being related to the significant body weight impairment at this dose level. This is confirmed by the fact that functional observational batteries and motor activity measurement did not reveal any other signs indicative for neurotoxicity. Moreover, comprehensive microscopic investigation of the central and peripheral nervous system did not reveal any substance-dependent changes. This is outlined in the table.

TABLE 6.—SUMMARY OF SUBCHRONIC STUDIES FOR BAS 500 F

emsp;	NOAEL	LOAEL	Effects at LOAEL or Higher
4–Week dermal rat: 0, 40, 100, and 250 mg/kg bwt	250 mg/kg bwt (systemic)	> 250 mg/kg bwt	Skin irritation at application site; no systemic effects related to treatment
90-Day rat feeding study: 0, 50, 150, 500, 1000 and 1,500 ppm (0, 3.5, 10.7, 34.7, 68.8 and 105.8 mg/kg bwt for males; 0, 4.2, 12.6, 40.8, 79.7,and 118.9 mg/kg bwt for females).	3.5 mg/kg bwt males; 4.2 mg/kg bwt females (equivalent to 50 ppm both sexes)	10.7 mg/kg bwt males; 12.6 mg/kg bwt females (equivalent to 150 ppm both sexes)	Generally mild toxicity at high doses. 150 ppm (LOAEL): decreased absolute liver weight males; increased extramedullary hematopoiesis. ≥ 500 ppm: decreased food consumption and body weight change; leukocytosis; hemolytic anemia males; mild anemia females; decreased serum liver enzymes; increased relative weights of spleen and adrenal gland (both sexes), kidney, testes, brain (males), and liver and ovaries (females); mucosal hyperplasia of duodenum; increased extramedullary hematopoiesis of spleen; hepatocellular hypertrophy.
90-Day mouse feeding study: 0, 50, 150, 500, 1,000, and 1,500 ppm (0, 9.2, 30.4, 119.4, 274.4, and 475.5 mg/kg bwt for males; 0, 12.9, 40.4, 162, 374.1, and 634.8 mg/kg bwt for females)	9.2 mg/kg bwt males; 12.9 mg/kg bwt females (equivalent to 50 ppm for both sexes)	30.4 mg/kg bwt males; 40.4 mg/kg bwt females (equivalent to 150 ppm both sexes)	Generally mild toxicity at high doses. 150 ppm (LOAEL): decreased body weight gain and hematocrit (males); decreased triglycerides and thickening of the duodenum (females). ≥ 500 ppm: decreased body weight change; mild leukopenia; mild hypochromic microcytic anemia; decreased serum protein, globulins, and triglycerides; thickening of the duodenal mucosa.
90–Day Beagle dog feeding study: 0, 100, 200 and 450 ppm (0, 2.8, 5.8, and 12.9 mg/kg bwt males; 0, 3.1, 6.2, 13.6 mg/kg bwt females)	5.8 mg/kg bwt males; 6.2 mg/kg bwt females (equivalent to 200 ppm for both sexes)	12.9 mg/kg bwt males; 13.6 mg/kg bwt females (equivalent to 450 ppm both sexes)	Generally mild toxicity at high doses. 450 ppm (LOAEL): Decreased food consumption (females); slight body weight loss and diarrhea; decreased serum protein, albumin, and globulins; increased platelets (females); hypertrophy in duodenum.
90-Day rat feeding neurotoxicity study 0, 50, 250, 750 - males, 0, 50, 250 and 1500 ppm - females (0, 3.5, 16.9, 49.9 mg/kg bwt - males; 0, 4.0, 20.4, 49.9 and 119.9 mg/kg bwt - females)	Systemic: 3.5 mg/kg bwt (50 pm) - males; 20.4 mg/kg bwt (250 ppm)- females	Systemic: 16.9 mg/kg bwt (250 ppm) - males; 49.9 mg/kg bwt (750 ppm) - females	250 ppm (males): Reduced food and water consumption.

5. *Chronic toxicity*. The following are summaries of chronic toxicity studies submitted to EPA.

BAS 500 F was administered to groups of five male and five female purebred Beagle dogs in the diet at concentrations of 0, 100, 200 and 400 ppm over a period of 12 months. Signs of toxicity were observed at the high dose. Diarrhea was observed throughout the study period for both sexes. High dose males and females initially lost weight and body weight gain was decreased for the entire study period for females. Hematological changes observed were an increase in white blood cells in males, and an increase in platelets in both sexes at the high dose. Clinical chemistry demonstrated a

decrease in serum total protein, albumin, globulins, and cholesterol in high dose animals of both sexes, possibly due to the diarrhea and reduced nutritional status of the animals. The NOAEL was 200 ppm (ca. 5.5 mg/kg bwt/day males; 5.4 mg/kg bwt/day females).

For the chronic toxicity portion of the rat study, BAS 500 F was administered to groups of 20 male and 20 female Wistar rats at dietary concentrations of 0, 25, 75, and 200 ppm for 24 months. For the carcinogenicity portion of the rat study, BAS 500 F was administered to groups of 50 male and 50 female Wistar rats at dietary concentrations of 0, 25, 75, and 200 ppm for 24 months. The results of a 2–year chronic toxicity study and a 2–year carcinogenicity study in rats indicate that a maximum tolerated dose was clearly met at the high dose of 200 ppm (ca. 9 mg/kg bwt males and 12 mg/kg bwt females). This is demonstrated by a body weight gain depression of 10–11% in males and 14–22% in females. The only other effect observed was a decrease in serum alkaline phosphatase in both sexes at the high dose and decreased alanine aminotransferase in high dose males. There was no evidence that BAS 500 F produced a carcinogenic effect in rats. The NOAEL for the chronic rat and the cancer rat study is 75 ppm (ca. 3.4 mg/kg bwt/day males; 4.6 mg/kg bwt/day females).

BAS 500 F was administered to groups of 50 male and 50 female B6C3F1 mice at dietary concentrations of 0, 10, 30, 120, and 180 ppm (females only) for 18 months. Body weights were reduced at the highest doses tested in both males and females. The high dose body weight gain decreases of 27% in females and 29% in males exceeded that required for a maximum tolerated dose. No other signs of toxicity were noted at any dose level. The NOAEL was found to be 120 ppm (ca. 20.5 mg/kg bwt/day) for females and 30 ppm (ca. 4.1 mg/kg bwt/day) for males. There was no evidence that BAS 500 F produced a carcinogenic effect in mice.

6. *Carcinogenicity*. There were no tumors associated with treatment observed in either a 2–year rat oncogenicity study or in an 18–month mouse oncogenicity study. Based on EPA Proposed Guidelines For Carcinogen Risk Assessment, BASF believes that BAS 500 F will be classified as ''not likely'' to be carcinogenic to humans. Under the current assessment method, BASF believes that EPA will classify BAS 500 F as Group E '(evidence of noncarcinogenicity to humans).

TABLE 7.—SUMMARY OF CHRONIC TOXICITY/ONCOGENICITY STUDIES ON BAS 500 F

Study	NOAEL	LOAEL	Comments
12–Month beagle dog feeding study: 0, 100, 200 and 400 ppm (0, 2.8, 5.5 and 10.8 mg/kg bwt males; 2.7, 5.4, 11.2 mg/kg bwt females)	5.5 mg/kg bwt males; 5.4 mg/kg bwt females (200 ppm both sexes)	10.8 mg/kg bwt males; 11.2 mg/kg bwt females (400 ppm both sexes)	Generally mild toxicity. 400 ppm: decreased body weight gain (initially in males and throughout study in females); decreased food consumption (females); diarrhea; decreased serum total protein, albumin, globulins, and cholesterol; increased platelets; increased white blood cells (males).
18-Month mouse oncogenicity study: 0, 10, 30, and 120 ppm males (1.4, 4.1, and 17.2 mg/kg bwt); 0, 10, 30, 120 and 180 ppm females (1.6, 4.8, 20.5, 32.8 mg/kg bwt)	4.1 mg/kg bwt males (30 ppm); 20.5 mg/kg bwt females (120 ppm)	17.2 mg/kg bwt males (120 ppm); 32.8 mg/kg bwt females (180 ppm)	Generally mild toxicity. No treatment-related tumors. 120 ppm: decreased body weight and body weight change (males). 180 ppm (females only): Decreased body weight and body weight change.
24-Month chronic toxicity study in Rats: 0, 25, 75, and 200 ppm (0, 1.1, 3.4, and 9.0 mg/kg bwt males; 0, 1.5, .4.6 and 12.3 mg/kg bwt females)	3.4 mg/kg bwt males; 4.6 mg/kg bw females (75 ppm both sexes)	9.0 mg/kg bwt males; 12.3 mg/kg bwt females (200 ppm both sexes)	Generally mild toxicity. 200 ppm: decreased body weight and body weight change; decreased serum alkaline phosphatase (both sexes) and alanine aminotransferase (males)
24-month carcinogenicity study in rats: 0, 25, 75 and 200 ppm (0, 1.2, 3.4, and 9.2 mg/kg bwt males; 0, 1.5, 4.7, and 12.6 mg/kg bw females)	3.4 mg/kg bwt males; 4.7 mg/kg bwt females (75 ppm both sexes).	9.2 mg/kg bwt males; 12.6 mg/kg bwt females (200 ppm both sexes)	Generally mild toxicity. No treatment-related tumors. 200 ppm: decreased body weight gain (both sexes); decreased food consumption (males); increased liver cell necrosis.

7. *Animal metabolism*. In hens the residues of concern were determined to be parent compound and a hydroxlated metabolite, BAS 500–16. In goats the residues of concern were determined to be parent and a hydroxylated metabolite BAS 500–10.

8. *Metabolite toxicology*. A comparison of the rat metabolism results with the plant metabolism/residue results indicate that toxicology studies performed with the parent compound are sufficient to cover dietary exposure. Therefore, no specific toxicity studies were conducted on metabolites of this compound.

9. *Endocrine disruption*. No specific tests have been conducted with BAS 500 F to determine whether the chemical may have an effect in humans that is similar to an effect produced by a naturally occurring estrogen or other endocrine effects. However, there were no significant findings in other relevant toxicity studies (i.e., subchronic and chronic toxicity, teratology, and multigeneration reproductive studies) which would suggest that BAS 500 F produces endocrine-related effects.

10. *Threshold effects*. Based on a review of the available chronic toxicity data, BASF believes EPA will establish the Reference Dose (RfD) for BAS 500 F at 0.04 mg/kg/day. This RfD for BAS 500 F is based on the 2–year chronic and 2–year oncogenicity studies in rats with a threshold average NOAEL of 4 mg/kg/day for males and females. Using an uncertainty factor of 100, the RfD is calculated to be 0.04 mg/kg/day. Based on the acute toxicity data, BASF believes that 500 F does not pose any dietary risks.

11. *Non-threshold effects*. There were no tumors associated with treatment observed in either a 2–year rat oncogenicity study or in an 18–month mouse oncogenicity study. Based on

EPA Proposed Guidelines For Carcinogen Risk Assessment, BASF believes that BAS 500 F will be classified as ''not likely'' to be carcinogenic to humans. Under the current assessment method, BASF believes that EPA will classify BAS 500 F as Group E (evidence of noncarcinogenicity to humans).

C. Aggregate Exposure

BASF believes that pyraclostrobin does not pose any acute dietary risks, so an acute exposure analysis is not necessary. Based on a review of the available chronic toxicity data, BASF believes EPA will base the chronic RfD for pyraclostrobin on the 2–year chronic and 2–year oncogenicity studies in rats, which had an average threshold NOAEL of 4 mg/kg/day for males and females. BASF further believes that EPA will use an uncertainty factor of 100 and establish the RfD at 0.04 mg/kg/day. The following table expresses the results of the chronic aggregate analysis of exposure to pyraclostrobin. This analysis is discussed further below.

TABLE 8.—SUMMARY OF CHRONIC AGGREGATE EXPOSURE TO BAS 500 F

	U.S. Population (% of RfD)	Children 1–6 (% of RfD)
Chronic dietary exposure	5%	10%
Residential exposure*	2.5%	12.5%
Total RfD used by diet and residential exposure	7.5%	22.5%
Remainder of RfD available for water (%) (Drinking Water Level of Concern)	92.5%	77.5%
SCIGROW modelground water estimation**	<1%	<1%
GENEEC model (56 d) surface water estimation**	<1%	<1%
Total of RfD used by diet, water and residential	7.5%	77.5%

*Acute values used as worst case
**Used highest values predicted from the model for all agricultural uses; assumes 2 liters/day consumed and 60 kg bwt for adults and 1 liter/day and 10 kg bwt for children

1.*Dietary exposure*— i. *Food*. For purposes of assessing the potential dietary exposure, BASF has estimated aggregate exposure based on the Theoretical Maximum Residue Contribution (TMRC) from the proposed tolerances for BAS 500 F.

A Tier 1 worst case estimate of dietary exposure was conducted assuming that 100% of all crops for which tolerances are established are treated and that pesticide residues are always found at the tolerance levels. The TMRC from the proposed uses of BAS 500 F on all crops is 0.002 mg/kg bwt/day and utilizes 5% of the RfD for the overall U.S. population. The exposure of the most highly exposed subgroup in the population, children (1–6 years old), is 0.004 mg/kg bwt/day and utilizes 10% of the RfD.

The following table summarizes the mean dietary exposures and the percents of RfD occupied by these exposures.

TABLE 9.—SUMMARY OF CHRONIC DIETARY EXPOSURE TO BAS 500 F—(DRES (DIETARY RISK EVALUATION SYSTEM))

Group	µg/kg body weight/day	%RfD
U.S. population	2.004	5
All infants (<1 year old)	2.260	6
Children 1–6 years old	4.144	10
Children 7–12 years old	2.092	5
Females 13–50 years old	1.338	3

ii. *Drinking water*. Estimates of ground water levels and surface water levels were determined using the Screening Concentration in Groundwater (SCIGROW) and Generic Estimated Environmental Concentration (GENEEC) models, respectively. The drinking water levels of concern (DWLOCs) for chronic exposure are obtained by subtracting the chronic dietary food exposures and residential exposures from the RfD, as outlined in Table 10.

TABLE 10.—PERCENTAGES OF REFERENCE DOSE FOR CHRONIC WATER EXPOSURE TO BAS 500 F

	U.S. Population (% of RfD)	Children 1–6 (% of RfD)
Chronic dietary exposure	5%	10%
Residential exposure*	2.5%	12.5%
Total RfD used by diet and residential	7.5%	22.5%
Remainder of RfD available for water (%) (Drinking Water Level of Concern)	92.5%	77.5%
SCIGROW ground water estimation**	<1%	<1%
GENEEC (56 d) surface water estimation**	<1%	<1%

TABLE 10.—PERCENTAGES OF REFERENCE DOSE FOR CHRONIC WATER EXPOSURE TO BAS 500 F—Continued

	U.S. Population (% of RfD)	Children 1–6 (% of RfD)
Total of RfD used by diet, water and residential	7.5%	77.5%

*Acute values used as worst case

** Used highest values predicted from the model for all agricultural uses; Assumes 2 liters/day consumed and 60 kg bwt for adult and 1 liter/day and 10 kg bwt for child

The SCIGROW and GENEEC estimates of ground and surface water levels for BAS 500 F are well below the DWLOC. Overall, using worst-case parameters the predicted aggregate exposure by all potential routes for both adults and children is less than the chronic referencedose.

2. *Non-dietary exposure.* BAS 500 F is planned for use on residential lawns. Acute exposure was estimated using data from a BAS 500 F turf transferable residue (TTR) study, a dermal penetration of 2.6% and default values from the EPA Standard Operating Procedures for residential exposure. For adults, the exposure estimate of 0.001 mg/kg bwt/day is equivalent to only 2.5% of the chronic reference dose. Estimation of exposure of children includes dermal contact on the lawn plus oral ingestion via fingers in the mouth, grass and dirt. Using the worst-case EPA defaults, the acute exposure result is estimated to be 0.005 mg/kg bwt/day which is 12.5% of the chronic Reference Dose.

D. Cumulative Effects

Section 408(b)(2)(D)(v) requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.'' BAS 500 F is a foliar fungicide which belongs to the new class of strobilurin chemistry. It is a synthetic analog of strobilurin A, a naturally occurring antifungal metabolite of the mushroom *Strobillurus tenacellus* (Anke et. al., 1977). The active ingredient acts in the fungal cell through inhibition of electron transport in the mitochondrial respiratory chain at the position of the cytochrome-bc1 complex. The protective effect is due to the resultant death of the fungal cells by disorganization of the fungal membrane system. BAS 500 F also acts curatively to prevent the increase and spread of fungal infections by inhibiting mycelial growth and sporulation on the leaf surface. BAS 500F inhibits spore germination, germ tube growth and penetration into the host tissues.

The EPA is currently developing methodology to perform cumulative risk assessments. At this time, there is no available data to determine whether BAS 500F has a common mechanism of toxicity with other substances or how to include this pesticide in a cumulative risk assessment. Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, BAS 500 F does not appear to produce a toxic metabolite produced by other substances

E. Safety Determination

1. *U.S. population.* Using the conservative exposure assumptions described above and based on the completeness and the reliability of the toxicity data, BASF has estimated that aggregate exposure to BAS 500 F will utilize 5% of the RfD for the U.S. population. BASF concludes that there is a reasonable certainty that no harm will result from the aggregate exposure to BAS 500 F, including anticipated dietary exposure and non-occupational exposures.

2. *Infants and children.* A developmental study was conducted via oral gavage in rats with dosages of 0, 10, 25, and 50 mg/kg bwt/day with a maternal NOAEL of 10 mg/kg bwt/day and a developmental NOAEL of 50 mg/kg bwt/day. No evidence of developmental toxicity was observed up to the highest dose tested. These NOAELs are higher than the NOAEL of 4 mg/kg bwt/day from the chronic rat study used to establish the RfD.

A developmental study was conducted via oral gavage in rabbits with dosages of 0, 5, 10, and 20 mg/kg bwt/day. The NOAEL for both maternal and developmental toxicity was 5 mg/kg bwt/day. No teratogenic effects were observed at any dose level, and the only developmental effect observed was an increase in postimplantation loss at doses which produced maternal toxicity. These NOAELs are higher than the NOAEL of 4 mg/kg bwt/day from the chronic ratstudy used to establish the RfD.

A 2–generation reproduction study in rats was conducted with dosages of 0, 2.7, 82, and 32.6 mg/kg bwt/day. The NOAELs are 32.6 mg/kg bwt/day (highest dose tested) for reproductive function and 8.2 mg/kg bwt/day for parental and developmental toxicity. No impairment of reproductive function was noted at any dose level. At the high dose reduced parental body weight gains were accompanied by reduced pup weights and corresponding reduced pup organ weights (F2 only) and slightly delayed vaginal opening (F1 only). The slight delay in vaginal opening was most likely due to the smaller pups and corresponding delay in physical development. These NOAELs are higher than the NOAEL of 4 mg/kg bwt/day from the chronic rat study used to establish the RfD.

Based on these results, no additional safety factors to protect children are warranted. Since developmental and reproductive toxicity occurs at levels above the levels shown to exhibit parental toxicity and since these levels are higher than those used to calculate the RfD, BASF believes the RfD of 0.04 mg/kg/day (4 mg/kg/day and an Uncertainty Factor of 100) is an appropriate measure of safety for infants and children.

Dietary exposure of the most highly exposed subgroup in the population, children (1–6 years old) is 0.004 mg/kg bwt/day. This accounts for 10% of the RfD. Worst case default predictions indicate that residential uses of BAS 500 F will amount to 12.5% of the RfD and that contamination of drinking water is extremely small and amounts to <1% of the reference dose. Aggregate exposure of children (1–6 years old) amounts to 22.5% of the RfD. In addition, there were no significant findings in relevant toxicity studies (i.e., subchronic and chronic toxicity, teratology, and multi-generation reproductive studies) which would suggest that BAS 500 F produces endocrine-related effects.

Therefore, based on the completeness and reliability of the toxicity data and the conservative exposure assessment, BASF concludes that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to BAS 500 F, including all anticipated dietary exposure and all other non-occupational exposures.

F. International Tolerances

A maximum residue level (MRL) has not been established for BAS 500 F in any crop by the Codex Alimentarius Commission.

[FR Doc. 01–12907 Filed 5–22–01; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[PF–1019; FRL–6780–2]

Notice of Filing a Pesticide Petition to Establish a Tolerance fora Certain Pesticide Chemical in or on Food

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of a pesticide petition proposing the establishment of regulations for residues of a certain pesticide chemical in or on various food commodities.

DATES: Comments, identified by docket control number PF–1019, must be received on or before June 23, 2001.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I.C. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, it is imperative that you identify docket control number PF–1019 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Shaja R. Brothers, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–3194; e-mail address: brothers.shaja@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be affected by this action if you are an agricultural producer, food manufacturer or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS codes	Examples of potentially affected entities
Industry	111 112 311 32532	Crop production Animal production Food manufacturing Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. 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/.

2. *In person.* The Agency has established an official record for this action under docket control number PF–1019. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as confidential business information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

C. How and to Whom Do I Submit Comments?

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 PF–1019 in the subject line on the first page of your response.

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 Highway, 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 electronically by e-mail to: opp-docket@epa.gov, or you can submit a computer disk as described above. 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 PF–1019. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI That I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified under **FOR FURTHER INFORMATION CONTACT.**

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.

6. Make sure to submit your comments by the deadline in this notice.

7. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. What Action is the Agency Taking?

EPA has received a pesticide petition as follows proposing the establishment and/or amendment of regulations for residues of a certain pesticide chemical in or on various food commodities under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a. EPA has determined that this petition contains data or information regarding the elements set forth in section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the petition. Additional data may be needed before EPA rules on the petition.

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: May 9, 2001.

Peter Caulkins,

Acting Director, Registration Division, Office of Pesticide Programs.

Summary of Petition

The petitioner summary of the pesticide petition is printed below as required by section 408(d)(3) of the FFDCA. The summary of the petition was prepared by the petitioner and represents the view of the petitioners. EPA is publishing the petition summary verbatim without editing it in any way. The petition summary announces the availability of a description of the analytical methods available to EPA for the detection and measurement of the pesticide chemical residues or an explanation of why no such method is needed.

Interregional Reseach Project Number 4 (IR-4)

PP 5E4434 and 0E6219

EPA has received pesticide petitions (5E4434 and 0E6219) from the Interregional Reseach Project Number 4 (IR-4), New Jersey Agricultural Experiment Station, Rutgers University, New Brunswick, NJ 08903 proposing, pursuant to section 408(d) of FFDCA, 21 U.S.C. 346a(d), to amend 40 CFR part 180 by establishing tolerances for residues of the fungicide, aluminum tris (O-ethylphosphonate) (referred to in this document as fosetyl-Al) in or on the raw agricultural commodities as follows:

1. PP 5E4434 proposes the establishment of tolerances for the bushberrysubgroup, and lingonberry, salal, and juneberry at 40 parts per million (ppm).

2. PP 0E6221 proposes the establishment of tolerances for turnip roots and tops (leaves) at 50 ppm, peas (succulent) at 0.3 ppm, and citrus at 5 ppm.

EPA has determined that these petitions contain data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of these petitions. Additional data may be needed before EPA rules on these petitions.

A. Residue Chemistry

1. *Plant metabolism*. The metabolism of fosetyl-Al in plants is adequately understood. Adequate data on the nature of the residues in plants, including identification of major metabolites and degradates of fosetyl-Al, are available. Radiolabeled studies on the uptake, translocation and metabolism in plants show that the chemical proceeds through hydrolytic cleavage of the ethyl ester. The major residues are fosetyl-Al, phosphorus acid, and ethanol. The tolerances are established for the parent only, that is fosetyl-Al.

2. *Analytical method*. Adequate methods are available for enforcement purposes. There are two analytical methods acceptable for determining residues of fosetyl-Al in plants: a gas chromatography method is available for enforcement of tolerance in pineapple and is listed as Method I in PAM, Vol. II; a gas chromatography/phosphorus specific flame photometric detector (FPD-P) method (Rhone-Poulenc Method No. 163) for citrus has undergone a successful method tryout on oranges and has been sent to the Food and Drug Administration for inclusion in PAM as Method II.

3. *Magnitude of residues*. Magnitude of residue data are adequate for the proposed commodities.

B. Toxicological Profile

1. *Acute toxicity*. A complete battery of acute toxicity studies for fosetyl-Al technical has been conducted. The lethal doseLD_{50} from the acute oral rat is 5.4 grams/kilograms (g/kg) and the LD_{50} from an acute dermal rabbit study is>2 g/kg. The LD_{50} for a rat inhalation study is >1.73 milligrams/liter (mg/L). The acute oral rat and primary dermal irritation studies indicate category IV toxicity. A guinea pig dermal sensitization study shows fosetyl-Al is not a skin sensitizer. The primary eye irritation study in rabbits shows fosetyl-Al to be an eye irritant with Category I toxicity.

2. *Genotoxicity*. Fosetyl-Al is neither mutagenic nor genotoxic. The genetic toxicity potential of fosetyl-Al was assessed in several assays. Eight mutagenicity tests performed with fosetyl-Al were negative. The tests included two Ames assays with*S. typhimurium*, two phase induction assays using*E. coli*, two micronucleus studies in mice, one DNA repair assay using *E. coli* and one mutation assay in *Saccharomyces cerevisiae*.

3. *Reproductive and developmental toxicity*. Fosetyl-Al is not a reproductive toxicant and shows no evidence of estrogenic or androgenic related effects.

i. In a three generation reproduction study, fosetyl-Al was administered to rats at dietary levels of 0, 6,000, 12,000 or 24,000 ppm. No adverse effects on reproductive performance or pup survival were observed in any dose group. The lowest observed adverse effect level (LOAEL) was established at 12,000 ppm based on effects on animal weights and urinary tract changes. The no observed adverse effect level (NOAEL) for all effects was 6,000 ppm.

ii. A developmental study in rats dosed via oral gavage at 500, 1,000 or 4,000 mg/kg/day showed a developmental NOAEL of 1,000 mg/kg. At 4,000 mg/kg, there was maternal toxicity, as evidenced by effects on animal weights, maternal deaths, increased resorptions, and delayed fetal ossification.

iii. A rabbit developmental study showed no toxic effects at oral doses up to 500 mg/kg. Effects of fosetyl-Al on fetal development were observed only in the rat at a dose producing severe maternal toxicity. In the absence of maternal toxicity, no adverse effects on fetal development were observed, i.e. at

1,000 mg/kg/day in rats or at 500 mg/kg/day in rabbits.

4. *Subchronic toxicity.* In subchronic studies, no significant toxicity was observed even at doses exceeding the limit of 1,000 mg/kg/day.

i. A 21–day dermal study in rabbits showed mild to moderate skin irritation and a NOAEL of 1.5 g/kg/day.

ii. A 90–day feeding study in rats showed a NOAEL of>5,000 ppm; the LOAEL was 25,000 ppm with extramedullary hematopoiesis in the spleen.

iii. A 90–day dog feeding study showed a NOAEL of 10,000 ppm and a LOAEL at 50,000 ppm, at which the test animals had a lower serum potassium level than untreated animal.

5. *Chronic toxicity.* Chronic toxicity studies have been conducted in dogs and rats.

i. *Dog.* Fosetyl-Al was fed to dogs for 2 years at concentrations of 0, 10,000, 20,000, and 40,000 ppm. The NOAEL was 10,000 ppm, equivalent to 250 mg/kg/day. The LOAEL was 20,000 ppm based on a slight degenerative effect on the testes. These testicular changes, as well as a few scattered clinical changes, were seen in the high dose dogs. No effects were observed in the urinary tract.

ii. *Rat.* Fosetyl-Al was administered via a mixture in the diet to CD rats at target levels of 0, 2,000, 8,000, and 30,000/40,000 ppm for approximately 2 years. Based on these levels, respective doses were 100, 400 and 2,000/1,500 mg/kg/day. After 2 weeks at 40,000 ppm, this dietary level was reduced to 30,000 ppm due to the occurrence of red coloration of the urine and a decrease in body weight gain. Although these findings were no longer apparent after week 2, analytical verification of dietary levels revealed that the highest dietary level ranged from approximately 38,000 to 61,000 ppm during the first 32 weeks of the study. No significant differences in body weight or food consumption were noted at 2,000 or 8,000 ppm. No biologically significant differences were observed in ophthalmoscopy, hematology, clinical chemistry, or urinalysis for treated and control animals. Calculi in the urinary bladder were observed for several male and female rats in the high dose group. Non-neoplastic findings consisted of epithelial hyperplasia and inflammation in the urinary bladders of males at 30,000/40,000 ppm. Increased incidences of hydronephrosis, inflammation, and epithelial hyperplasia in the kidney were also observed in males from the high dose group. Females from the same group exhibited increased incidences of epithelial hyperplasia in the urinary bladder and hydronephrosis in the kidney. The NOAEL in the chronic rat study was 8,000 ppm (400 mg/kg/day). The lowest NOAEL for chronic effects of fosetyl-Al is 10,000 ppm (250 mg/kg/day) based on the dog study. This NOAEL is based on minor changes at 20,000 ppm. In the rat, calculi in the urinary bladder and related histopathological changes in the bladder and kidneys of males and females were observed at 30,000/40,000 ppm.

6. *Carcinogenicity.* Long-term feeding studies were conducted with technical grade fosetyl-Al in mice and rats and with monosodium phosphite, the primary urinary metabolite of fosetyl-Al, in rats. These studies, and a mechanistic study in rats, are described below:

i. *Rat.* In addition to the chronic studies previously noted, calculi in the urinary bladder were also observed for several male and female rats at 30,000/40,000 ppm. Microscopic examination revealed transitional cell carcinomas and papillomas in the urinary bladders of high dose males. A statistically significant increase in adrenal pheochromocytomas (benign and malignant combined) was observed in males at 8,000 and 30,000/40,000 ppm. The adrenal slides were independently reread by two consulting pathologists who found no significant dose-related increases in the incidence of pheochromocytomas or hyperplasia.

The NOAEL for fosetyl-Al in the chronic rat study was 8,000 ppm; however, a subsequent mechanistic study in rats conducted with dietary levels of 8,000, 30,000 and 50,000 ppm demonstrated that the massive doses of 30,000 and 50,000 ppm fosetyl-Al alter calcium/phosphorous homeostasis resulting in severe acute renal injury, similar to that observed in the chromic rat study, and the formation of calculi in kidneys, ureters, and bladder. Under conditions of chronic exposure, these effects could lead to the formation of bladder tumors as seen in the chronic rat study. At 8,000 ppm, no evidence of renal injury was observed, a result consistent with the absence of bladder tumors. Thus, the bladder tumors induced by fosetyl-Al were the result of acute renal injury followed by a chronic toxic reaction rather than a true carcinogenic effect. An carcinogenicity study in rats was conducted with monosodium phosphite administered via dietary mixture at levels of 2,000, 8,000, and 32,000 ppm. No evidence of carcinogenicity was observed in this study.

ii. *Mouse.* A 2–year feeding/carcinogenicity study was conducted in mice fed diets containing fosetyl-Al at 0, 2,500, 10,000, or 20,000/30,000 ppm. The 20,000 ppm dose was increased to 30,000 ppm during week 19 of the study. The NOAEL for all effects was 20,000/30,000 ppm (3,000/4,500 mg/kg/day). There were no carcinogenic effects observed under the conditions of this study.

iii. The Office of Pesticide Programs', Health Effects Division, Carcinogenicity Peer Review Committee (CPRC) concluded in their report of June 29, 1993 that the pesticidal use of fosetyl-Al is unlikely to pose a carcinogenic hazard for humans given that: Tumors develop in rats under extreme conditions that are unlikely to be achieved other than under laboratory conditions (at a dose in excess of the EPA dose limit for carcinogenicity studies); tumors in rats are believed to develop only at doses that produce stones; human dietary exposure to fosetyl-Al is only about one-500,000th of the NOAEL for stone formation in the rat (the most sensitive experimental model); and the dose of fosetyl-Al which can be absorbed dermally by applicators is also probably too low to result in stone formation. EPA has therefore chosen to use the Reference Dose (RfD) to quantify dietary risk to humans.

7. *Animal metabolism.* Rat metabolism studies showed that most of the radiolabel rapidly appeared in exhaled carbon dioxide. There was also some radiolabel excreted in the urine as phosphite, along with a smaller amount as the unchanged parent compound. It appears that fosetyl-Al is essentially completely absorbed after ingestion and extensively hydrolyzed to carbon dioxide which is exhaled. The phosphite is excreted in the urine without further oxidation to phosphate. Aluminum does not appear to be absorbed to a significant extent from the gastrointestinal trac.

8. *Metabolite toxicology.* There are no metabolites of toxicological concern. The tolerances are established for the parent only, that is fosetyl-Al.

9. *Endocrine disruption.* No evidence of estrogenic or androgenic effects were noted in any study with fosetyl-Al. No adverse effects on mating or fertility indices and gestation, live birth, or weaning indices were noted in a three-generation rat reproduction study at doses well above EPA's limit of 1,000 mg/kg/day. Therefore, Aventis Crop Science concludes that fosetyl-Al does not have any effect on the endocrine system.

C. Aggregate Exposure

1. *Dietary exposure.* EPA has established the chronic RfD for fosetyl-

Al at 2.5 mg/kg/day. This RfD is based on a NOAEL of 250 mg/kg/day from a 2–year feeding study in dogs and the use of a 100 fold safety factor to account for interspecies and intraspecies differences. No appropriate endpoint attributable to a single dose exposure was identified in oral toxicity studies. Therefore, an acute RfD was not established and there is no expectation of acute risk. Since no dermal or systemic toxicity was seen at the limit dose following repeated dermal applications in the 21–day toxicity study using rats, no endpoint value was calculated for short- and intermediate-term exposure and risk. The Agency has concluded that fosetyl-Al is unlikely to pose a carcinogenic hazard to humans. Therefore, a cancer exposure and risk assessment is not appropriate.

i. *Food*. For all currently registered uses of fosetyl-Al, chronic food exposure for various subgroups of the U.S. population was estimated by EPA through the use of the Dietary Exposure Evaluation Model (DEEM) software. The DEEM analysis evaluated the individual food consumption as reported by respondents in the USDA 1989-1991 nationwide Continuing Surveys of Food Intake by Individuals. As the risk estimate was low for even the most highly exposed subpopulation, no anticipated residues were used. One hundred percent crop treated and tolerance level residues were assumed for all crops. Based on the results of this conservative analysis, exposure to fosetyl-Al residues from the proposed uses is expected to be minimal. Aventis Crop Science concludes that dietary exposure to fosetyl-Al resulting from the currently registered and the proposed uses of the product will be well below the Agency's level of concern.

ii. *Drinking water*. There is no established maximum contaminant level or health advisory level for fosetyl-Al. The potential for ground water and/or surface water contamination by fosetyl-Al and its degradates is expected to be very low, in most cases, due to the rapid degradation of the compound in soil to non-toxic degradates under both aerobic and anaerobic conditions. Under aerobic laboratory conditions, the half-life of fosetyl-Al is between 1 and 1.5 hours in loamy sand, silt loam and clay loam and 20 minutes in sandy loam soil. The degradation proceeds through the hydrolysis of the ethyl ester bond, resulting in the formation of phosphorous acid and ethanol. The ethanol is further degraded into carbon dioxide. Based on the short half-life of fosetyl-Al and the known fate of phosphates under anaerobic conditions, EPA determined that an anaerobic soil metabolism study was not necessary. An anaerobic aquatic soil metabolism study was conducted. When anaerobic conditions were established by flooding soil, the half-life was 40 hours with silty clay loam and 14 hours with sandy loam soil. Aventis Crop Science expects that potential fosetyl-Al residues in drinking water are not a significant contribution to aggregate exposure.

2. *Non-dietary exposure*. Fosetyl-Al is currently registered for residential use on turf and ornamental plants. Chronic exposure is not expected for residential uses. There is also no expectation of acute risk. No appropriate endpoint attributable to a single dose exposure was identified in oral toxicity studies and consequently, an acute RfD cannot be calculated. No endpoint value is calculable for short- and intermediate-term exposure and a risk analysis cannot be performed since no dermal or systemic toxicity was seen at the limit dose following repeated dermal applications in the 21–day toxicity study using rats. The Agency has previously concluded that fosetyl-Al is unlikely to pose a carcinogenic hazard to human. Therefore, a cancer exposure and risk assessment is not appropriate. Thus, Aventis Crop Science concludes that the ornamental and turf uses do not add significantly to the aggregate exposure for fosetyl-Al.

D. Cumulative Effects

Effects associated with fosetyl-Al are unlikely to be cumulative with any other compound. The formation of calculi and bladder tumors in rats is the only significant toxicological effect observed with fosetyl-Al. These effects were observed in rat only at a dose which not only exceeds estimated human exposure by several orders of magnitude but is in excess of the EPA dose limit for carcinogenicity studies. Therefore, an aggregate assessment based on common mechanisms of toxicity is not appropriate as exposure to humans will be well below the levels producing calculi and bladder tumors in rats. Further, considering the rapid elimination of fosetyl-Al in the rat metabolism study, any effects associated with fosetyl-Al are unlikely to be cumulative with any other compound. Based on these reasons, only the potential risks of fosetyl-Al are considered in the exposure assessment.

E. Safety Determination

1. *U.S. population*. Chronic risk estimates associated with exposure to fosetyl-Al in food and water are expected to be well below the Agency's level of concern. The DEEM chronic exposure analysis previously performed by the Agency for all currently registered food uses shows that exposure to fosetyl-Al utilizes 3.1% of the cPAD for the U.S. population, 2.7% of the cPAD for females (13–50 years), 6.3% of the cPAD for children 1-6 years old, and 4.2% of the cPAD for non-Hispanic (other than black or white). This analysis was conducted assuming 100% crop treated and tolerance level residue values for all crops. The contribution of fosetyl-Al residues in surface and ground water to chronic aggregate exposure is expected to be minimal. Therefore, Aventis Crop Science concludes that even when considering the potential incremental risk resulting from the proposed uses, there is a reasonable certainty that no harm will result from aggregate exposure to fosetyl-Al residues.

2. *Infants and children*. No indication of increased susceptibility of rat or rabbit fetuses to *in utero* and/or postnatal exposure was noted in the developmental and reproductive toxicity studies. The Agency has previously determined that no additional safety factor to protect infants and children is necessary for this product.

Using the conservative assumptions described in the exposure section, aggregate exposure to fosetyl-Al from currently registered food uses will utilize up to 6.3% of the RfD for infants and children. Even when considering the potential incremental dietary risk resulting from the proposed uses, the potential for exposure to residues in drinking water and from non-dietary, non-occupational exposure, the aggregate exposure to fosetyl-Al is expected to be well below 100% of the RfD. Aventis Crop Science concludes that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to fosetyl-Al residues.

F. International Tolerances

There are presently no Codex Alimentarius Commission maximum residue levels established for residues of fosetyl-Al.

[FR Doc. 01–12906 Filed 5–22–01; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[PF–1023; FRL–6782–5]

Notice of Filing a Pesticide Petition to Establish a Tolerance fora Certain Pesticide Chemical in or on Food

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of a pesticide petition proposing the establishment of regulations for residues of a certain pesticide chemical in or on various food commodities.

DATES: Comments, identified by docket control number PF–1023, must be received on or before June 22, 2001.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I.C. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, it is imperative that you identify docket control number PF–1023 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Joseph M. Tavano, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–8375; e-mail address: tavano.joseph@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be affected by this action if you are an agricultural producer, food manufacturer or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS codes	Examples of potentially affected entities
Industry	111 112 311 32532	Crop production Animal production Food manufacturing Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically*. You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person*. The Agency has established an official record for this action under docket control number PF–1023. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as confidential business information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

C. How and to Whom Do I Submit Comments?

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 PF–1023 in the subject line on the first page of your response.

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 Highway, 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 electronically by e-mail to: opp-docket@epa.gov, or you can submit a computer disk as described above. 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 PF–1023. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI That I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified under **FOR FURTHER INFORMATION CONTACT**.

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.

6. Make sure to submit your comments by the deadline in this notice.

7. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. What Action is the Agency Taking?

EPA has received a pesticide petition as follows proposing the establishment and/or amendment of regulations for residues of a certain pesticide chemical in or on various food commodities under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a. EPA has determined that this petition contains data or information regarding the elements set forth in section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the petition. Additional data may be needed before EPA rules on the petition.

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: May 11, 2001.

Richard P. Keigwin, Jr., Acting,

Director, Registration Division, Office of Pesticide Programs.

Summary of Petition

The petitioner summary of the pesticide petition is printed below as required by section 408(d)(3) of the FFDCA. The summary of the petition was prepared by the petitioner and represents the view of the petitioner. EPA is publishing the petition summary verbatim without editing it in any way. The petition summary announces the availability of a description of the analytical methods available to EPA for the detection and measurement of the pesticide chemical residues or an explanation of why no such method is needed.

Rohm and Haas Company

1F6259

EPA has received a pesticide petition (1F6259) from Rohm and Haas Company, 100 Independence Mall West, Philadelphia, PA 19106–2399 proposing, pursuant to section 408(d) of the FFDCA, 21 U.S.C. 346a(d), to amend 40 CFR part 180 by establishing a tolerance for residues of methoxyfenozide benzoic acid, 3-methoxy-2-methyl-,2-(3,5-dimethylbenzoyl)-2-(1,1-dimethylethyl) hydrazide in or on the raw agricultural commodity stone fruits crop group and prunes at 5 and 7 parts per million (ppm) respectively. EPA has determined that the petition contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the petition. Additional data may be needed before EPA rules on the petition.

A. Residue Chemistry

1. *Plant metabolism.* The qualitative nature of methoxyfenozide residues in plants and animals is adequately understood and was previously published in the **Federal Register** of July 5, 2000 (65 FR 41355) (FRL–6496–5).

2. *Analytical method.* An high performance liquid chromotography using ultra-violet detection (HPLC/UV) method TR 34–00–109 for the enforcement of tolerances in stone fruits has been developed. Confirmatory method validation data have been submitted for this method. The validated limit of quantitation (LOQ) of the analytical method was 0.02 ppm in all matrices for methoxyfenozide.

3. *Magnitude of residues.* Geographically representative field trials with methoxyfenozide 80WP and 2F formulations were conducted to support the proposed crop group tolerance for the stone fruit representative crops peaches, plums and cherries. The results of the field trials indicate that residues of methoxyfenozide will not exceed the proposed crop group tolerance of 5.0 ppm for stone fruits or 7.0 ppm for prunes.

B. Toxicological Profile

The toxicological profile and endpoints for methoxyfenozide which supports this petition to establish tolerances were previously published in the **Federal Register** of July 5, 2000 (65 FR 41355).

B. Aggregate Exposure

1. *Dietary exposure*—i. *Food.* Acute exposure and risk. Acute dietary risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1–day or single exposure. No appropriate toxicological endpoint attributable to a single exposure was identified in the available toxicology studies on methoxyfenozide including the acute neurotoxicity study in rats, the developmental toxicity study in rats and the developmental toxicity study in rabbits. Since no acute toxicological endpoints were established, Rohm and Haas considers acute aggregate risk to be negligible.

Rohm and Haas used the Dietary Exposure Evaluation Model™ (DEEM) V.7.075; Novigen Sciences, Washington, DC) software for conducting a chronic dietary (food) risk analysis. DEEM is a dietary exposure analysis system that is used to estimate exposure to a pesticide chemical in foods comprising the diets of the U.S. population, including population subgroups. DEEM contains food consumption data as reported by respondents in the USDA continuing surveys of food intake by individuals conducted in 1994–1996. Rohm and Haas assumed 100% of crops would be treated and contain methoxyfenozide residues at the tolerance level. The following tolerance levels were used in the analysis:

Commodity	Tolerance level, ppm
Bulb vegetables	0.1 ppm
Corn, aspirated grain fractions	1.0 ppm
Corn, field, forage	15 ppm
Corn, field, grain	0.05 ppm
Corn, field, stover (fodder)	105 ppm
Corn, oil	0.2 ppm
Corn, silage	5.0 ppm
Corn, sweet, forage	30 ppm
Corn, sweet (K+CWHR)	0.05 ppm
Corn, sweet, stover (fodder)	60 ppm
Cotton, undelinted seed	2.0 ppm
Fat*	0.5 ppm
Fruiting vegetables	2.0 ppm
Grapes	1.0 ppm
Head and stem brassica (5A)	6.5 ppm
Herbs and spices	8 ppm
Leaf petioles (4B)	10.0 ppm
Leafy brassica greens (5B)	20.0 ppm

Commodity	Tolerance level, ppm
Leafy vegetables (4A)	25 ppm
Leaves of root and tuber vegetables	0.1 ppm
Legume vegetables	0.05 ppm
Liver	0.4 ppm
Meat*	0.02 ppm
Meat byproducts* (except liver)	0.1 ppm
Milk	0.1 ppm
Pome fruit	1.5 ppm
Prunes	7.0 ppm
Raisins	1.5 ppm
Root and tuber vegetables	0.05 ppm
Stone fruits	5.0 ppm

* Of cattle, goats, hogs, horses, and sheep.

Processing factors were also applied to grape juice (1.2x), grape juice concentrate (3.6x), apple juice/cider (1.3x), apple juice concentrate (3.9x), dried apples (8x), dried pears (6.25x), tomato juice (1.5x), tomato puree (3.3x), tomato paste (5.4x), tomato catsup (2.5x), dried tomatoes (14.3x), dehydrated onions (9x), white dry potatoes (6.5x), sprouted soybean seeds (0.33x), corn grain sugar (high fructose corn syrup; 1.5x), dried beef (1.92x), dried veal (1.92x), dried apricots (6.0x), dried cherries (4.0x), cherry juice (1.5x), dried peaches (7.0x), dried plums (5.0x), and plum/prune juice (1.4x). The processing factors are default values from DEEM.

As shown in the following table, the resulting dietary food exposures occupy up to 37.6% of the chronic population adjusted dose (PAD) for the most highly exposed population subgroup, children 1 to 6 years old. These results should be viewed as conservative (health protective) risk estimates. Refinements such as use of percent crop-treated information and/or anticipated residue values would yield even lower estimates of chronic dietary exposure.

SUMMARY: CHRONIC DIETARY EXPOSURE ANALYSIS BY DEEM (TIER 1)

Population subgroup	Exposure milligram/kilogram/day (mg/kg/day)	Percent of chronic PAD
U.S. population—48 contiguous States	0.0189	18.9
All infants (<1–year)	0.0315	31.5
Nursing infants <1–year old	0.0134	13.4
Non-nursing infants <1–year old	0.0368	36.8
Children 1 to 6 years old	0.0376	37.6
Children 7 to 12 years old	0.0216	21.6
Females 13+ (nursing)	0.0156	19.1
U.S. population (autumn season)	0.0191	19.1
U.S. population (spring season)	0.0190	19.0
Northeast region	0.0206	20.6
Western region	0.0210	21.0
Hispanics	0.0191	19.1
Non-Hispanic/non-white/non-black	0.0249	24.8

Percent chronic PAD = (Exposure divided by chronic PAD) x 100%.

The subgroups listed are:

1. The U.S. population (total).
2. Those for infants and children.
3. The other subgroup(s), if any, for which the percentage of the chronic PAD occupied is greater than that occupied by the subgroup U.S. population (total).
4. The most highly exposed of the females subgroups (in this case, females, (13+ years, nursing).

ii. *Drinking water.* There are no water-related exposure data from monitoring to complete a quantitative drinking water exposure analysis and risk assessment for methoxyfenozide. Generic expected environmental concentration (GENEEC) and/or EPA's pesticide root zone model/exposure analysis modeling system (PRZM/EXAMS) (both produce estimates of pesticide concentration in a farm pond) are used to generate estimated environmental concentrations (EECs) for surface water and screening concentration in ground water (SCI-GROW) (an empirical model based upon actual monitoring data collected for a number of pesticides that serve as benchmarks) predicts EECs in ground water. These models take into account the use patterns and the environmental profile of a pesticide, but do not include consideration of the impact that processing raw water for distribution as drinking water would likely have on the removal of pesticides from the source water. The primary use of these models at this stage is to provide a coarse screen for assessing whether a pesticide is likely to be present in drinking water at concentrations which would exceed human health levels of concern.

A drinking water level of comparison (DWLOC) is the concentration of a pesticide in drinking water that would be acceptable as a theoretical upper limit in light of total aggregate exposure to that pesticide from food, water, and residential uses. HED uses DWLOCs internally in the risk assessment process as a surrogate measure of potential exposure associated with pesticide exposure through drinking water. In the absence of monitoring data for a pesticide, the DWLOC is used as a point of comparison against the conservative EECs provided by computer modeling (SCI-GROW, GENEEC, PRZM/EXAMS).

a. *Acute exposure and risk.* Because no acute dietary endpoint was determined, Rohm and Haas concludes that there is a reasonable certainty of no harm from acute exposure from drinking water.

b. *Chronic exposure and risk.* Tier II screening-level assessments can be conducted using the simulation models SCI-GROW and PRZM/EXAMS to generate EECs for ground and surface water, respectively. The modeling was conducted based on the environmental profile and the maximum seasonal application rate proposed for methoxyfenozide (1.0 lb ai/acre/season). PRZM/EXAMS was used to generate the surface water EECs, because it can factor the persistent nature of the chemical into the estimates.

The EECs for assessing chronic aggregate dietary risk used by HED are 6 parts per billion (ppb) (in ground water, based on SCI-GROW) and 98.5 parts per billion (ppb) (in surface water, based on the PRZM/EXAMS, long-term mean).The back-calculated DWLOCs for

assessing chronic aggregate dietary risk range from 624 ppb for the most highly exposed population subgroup (children 1 to 6 years old) to 2,839 ppb for the U.S. population (48 contiguous States—all seasons).

The SCI-GROW and PRZM/EXAMS chronic EECs are less than the Agency's level of comparison (the DWLOC value for each population subgroup) for methoxyfenozide residues in drinking water as a contribution to chronic aggregate exposure. Rohm and Haas thus concludes with reasonable certainty that residues of methoxyfenozide in drinking water will not contribute significantly to the aggregate chronic human health risk and that the chronic aggregate exposure from methoxyfenozide residues in food and drinking water will not exceed the Agency's level of concern (100% of the chronic PAD) for chronic dietary aggregate exposure by any population subgroup. EPA generally has no concern for exposures below 100% of the chronic PAD, because it is a level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to the health and safety of any population subgroup. This risk assessment is considered high confidence, conservative, and very protective of human health.

DWLOC FOR CHRONIC EXPOSURE TO METHOXYFENOZIDE

Population subgroup	Chronic PAD (mg/kg/day)	Food exposure (mg/kg/day)	Maximum water exposure (mg/kg/day)	SCI-GROW (µg/L)	GENEEC 56–day Average (µg/L)	DWLOC (µg/L)
U.S. population–48 contiguous states		0.0189	0.0811			2,839
Females 13+ (nursing)		0.0191	0.0809			2,427
Non-nursing infants <1–year old	0.10	0.0368	0.0632	6	98.5	632
Children 1 to 6 years old		0.0376	0.0624			624
Children 7 to 12 years old		0.0216	0.0784			784

Notes: Maximum water exposure (mg/kg/day) = chronic PAD (mg/kg/day) - chronic food exposure. DWLOC (µg/L) = (Maximum water exposure (mg/kg/d) x body weight (kg)) divided by (1/1,000 mg/µg x water consumed daily (L/day)). Body weights (kg) for adults is 70, for females 13+ is 60 kg and for all children is 10 kg. Drinking water consumption is 2 liters per day for adults and 1 liter per day for children.

2. *Non-dietary exposure.* Methoxyfenozide is not currently registered for use on any residential non-food sites. Therefore, there is no non-dietary acute, chronic, short- or intermediate-term exposure.

D. Cumulative Effects

Section 408(b)(2)(D)(v) requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

EPA does not have, at this time, available data to determine whether methoxyfenozide has a common mechanism of toxicity with other substances or how to include this pesticide in a cumulative risk assessment. Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, methoxyfenozide does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, it is assumed that methoxyfenozide does not have a common mechanism of toxicity with other substances.

E. Safety Determination

1. *U.S. population.* Using the DEEM exposure assumptions described in this unit, Rohm and Haas has concluded that aggregate exposure to methoxyfenozide from food will utilize 18.9% of the chronic PAD for the U.S. population. The major identifiable subgroup with the highest aggregate exposure is children 1 to 6 years old at 37.6% of the chronic PAD and is discussed below. EPA generally has no concern for exposures below 100% of the chronic PAD because the chronic PAD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health. Despite the potential for exposure to methoxyfenozide in drinking water, the aggregate exposure is not expected to exceed 100% of the chronic PAD. Rohm and Haas concludes that there is a reasonable certainty that no harm will result from aggregate exposure to methoxyfenozide residues.

2. *Infants and children.* In assessing the potential for additional sensitivity of infants and children to residues of methoxyfenozide, EPA considered data from developmental toxicity studies in the rat and rabbit and a 2–generation reproduction study in the rat. The developmental toxicity studies are designed to evaluate adverse effects on the developing organism resulting from maternal pesticide exposure during gestation. Reproduction studies provide information relating to effects from exposure to the pesticide on the reproductive capability of mating animals and data on systemic toxicity.

FFDCA section 408 provides that EPA shall apply an additional ten-fold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the data base unless EPA determines that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA risk assessments either directly through use of a margin of exposure (MOE) analysis or through using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk to humans. EPA believes that reliable data support using the standard uncertainty factor (UF) (usually 100 for combined interspecies and intraspecies variability) and not the additional ten-fold MOE/UF when EPA has a complete data base under existing guidelines and when the severity of the effect in infants or children or the potency or unusual toxic properties of a compound do not raise

concerns regarding the adequacy of the standard MOE/safety factor.

The toxicology data base for methoxyfenozide included acceptable developmental toxicity studies in both rats and rabbits as well as a 2–generation reproductive toxicity study in rats. The data provided no indication of increased sensitivity of rats or rabbits to *in utero* and/or postnatal exposure to methoxyfenozide. There is a complete toxicity data base for methoxyfenozide and exposure data are complete or are estimated based on data that reasonably accounts for potential exposures. Based on the completeness of the data base and the lack of prenatal and postnatal toxicity, EPA determined that an additional safety factor was not needed for the protection of infants and children.

Since no acute toxicological endpoints were established, acute aggregate risk is considered to be negligible. Using the exposure assumptions described in this unit, Rohm and Haas has concluded that aggregate exposure to methoxyfenozide from food will utilize 37.6% of the cPAD for infants and children. EPA generally has no concern for exposures below 100% of the cPAD because the cPAD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health. Despite the potential for exposure to methoxyfenozide in drinking water, Rohm and Haas does not expect the aggregate exposure to exceed 100% of the cPAD. Short and intermediate term risks are judged to be negligible due to the lack of significant toxicological effects observed. Based on these risk assessments, Rohm and Haas concludes that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to methoxyfenozide residues.

F. International Tolerances

There are no established or proposed Codex, Canadian or Mexican limits for residues of methoxyfenozide in/on plant or animal commodities. Therefore, no compatibility issues exist with regard to the proposed U.S. tolerances.

[FR Doc. 01–12904 Filed 5–22–01; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPP–50885; FRL–6777–9]

Issuance of an Experimental Use Permit

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted an experimental use permit (EUP) to the following pesticide applicant. An EUP permits use of a pesticide for experimental or research purposes only in accordance with the limitations in the permit.

FOR FURTHER INFORMATION CONTACT: By mail: Barbara Mandula, Biopesticides and Pollution Prevention Division (7511C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. Office location, telephone number, and e-mail address: 1921 Jefferson Davis Hwy., Rm. 9016, Crystal Mall #2, Arlington, VA; (703) 308–7378; e-mail address: mandula.barbara@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. Although this action may be of particular interest to those persons who conduct or sponsor research on pesticides, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the information in this action, consult the designated contact person listed for the individual EUP.

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

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/.

II. EUP

EPA has issued the following EUP:

73417–EUP–1. Issuance. Greenville Farms, 1689 N. 1200 E. Logan, Utah 84341. This EUP allows the use of 83 pounds of the herbicide dyers woad rust on 12 acres of rangeland to evaluate the control of dyers woad. The program is authorized only in the State of Utah. The EUP is effective from March 1, 2001 to March 1, 2002.

Persons wishing to review this EUP are referred to the designated contact person. Inquiries concerning this permit should be directed to the person cited above. It is suggested that interested persons call before visiting the EPA office, so that the appropriate file may be made available for inspection purposes from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

Authority: 7 U.S.C. 136.

List of Subjects

Environmental protection, Experimental use permits.

Dated: May 2, 2001.

Janet L. Andersen,

Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. 01–12902 Filed 5–22–01; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6982–8]

Massachusetts Marine Sanitation Device Standard; Receipt of Petition

Notice is hereby given that a petition has been received from the State of Massachusetts requesting a determination of the Regional Administrator, U.S. Environmental Protection Agency, pursuant to section 312(f)(3) of Public Law 92–500 as amended by Public Law 95–217 and Public Law 100–4, that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for the Three Bay/Centerville Harbor Area in the Town of Barnstable, County of Barnstable, State of Massachusetts, to qualify as a ''No Discharge Area'' (NDA). The areas covered under this petition include Cotuit Bay, West Bay, East Bay, and Squaw Island Marsh, north of a line drawn 500 feet south of their mouths at Nantucket Sound. The area also includes the following sub-embayments: North Bay, Prince Cove, Marstons Mills River South of Route 28, Scudder Bay South of Bumps River Road, Bumps River East of Bumps River Road, Centerville River West of Craigville Beach Road, and Halls Creek South of

Craigville Beach Road. The proposed NDA encompasses approximately 2,150 surface acres in the Southwest corner in the Town of Barnstable. The area is roughly bounded by: 41°36′40.0″ N by 70°26′41.1″ W, 41°37′26.9″ N by 70°19′05.4″ W, 41°38′19.8″ N by 70°19′21.9″ W, and 41° 39′03.2″ N—70°24′53.8″ W.

The State of Massachusetts has certified that there will be two pump-out facilities located within the proposed area to service vessels in the Three Bay/Centerville Harbor Area. The first, is a pump-out boat operated by the Harbormasters Office, and docked at the Oyster Harbor Marine when not in use. The boat has a holding capacity of 300 gallons. The pump-out boat is available Wednesday through Sunday from 0930 to 1630 (9:30 a.m.–4:30 p.m.) from Memorial Day to Thanksgiving. The pump-out boat is accessible by VHF marine radio via Channel 9 and by calling the Marine and Environmental Affairs Division (MEAD) in Barnstable at (508) 790–6273. The second pump-out facility is a self service trailer unit and located at the Oyster Harbor Marine, with a holding capacity of 250 gallons, and provides access for vessels up to 50 feet in length and a draft of 4 feet at mean low water. This facility is available daily from June 15 through September 15 from approximately 0800 to 1700 (8 a.m. to 5 p.m.). During the early spring and late fall this facility is available by contacting the Harbormaster Office by phone at (508) 790–6273.

The town of Barnstable maintains public facilities at four locations, Loops Beach, Craigville Beach, Covells Beach and Dowse's Beach, and are seasonal. In addition the three marinas located within the proposed NDA provide on-shore toilet facilities for marina patrons and their guests.

The waste from the pump-out boat is off loaded to the trailer unit and then transported to the Barnstable Water Pollution Control Facility. The Barnstable Board of Health issues a waste permit for this disposal.

The number of mooring permits indicate that 1,667 vessels reside within the Three Bay/Centerville Harbor Area and 1584 are identified as recreational and 83 are commercial vessels. The Three Bay/Centerville Harbor Area is primarily a ''parking lot'' harbor and 70% of the vessel population is under 25 feet in length, and therefore do not have any type of Marine Sanitation Device (MSD). There are a number of locations in the Three Bay/Centerville Harbor Area with public launching ramps, however, the size and condition of the ramps and the depth of the water generally limit use to vessels 25 feet and under. In addition to the vessels that reside in the Three Bay/Centerville Harbor Area, there is a transient population estimated at 110 vessels which have MSDs.

The resources of the Three Bay/Centerville Harbor Area are recreational and commercial. There are four public beaches, the Dead Neck Audubon Bird/Wildlife Refuge, and town conservation lands located within the proposed No Discharge Area. The area is also used by both recreational and commercial shell fishermen for the harvest of quahogs, and soft-shell clams.

Comments and reviews regarding this request for action may be filed on or before June 22, 2001. Such communications, or requests for information or a copy of the applicant's petition, should be addressed to Ann Rodney, U.S. Environmental Protection Agency—New England Region, 1 Congress Street, Suite 1100, CWQ, Boston, MA 02114–2023. Telephone: (617) 918–1538.

Ira Leighton,

Acting Regional Administrator, Region 1.

[FR Doc. 01–12890 Filed 5–22–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6983–7]

Notice of Availability for Public Review and Comment of the Continuing Planning Process (CPP) for the State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability for public review and comment of the continuing planning process (CPP) for the State of Missouri.

SUMMARY: The Clean Water Act (the Act) at section 303(e) and EPA's implementing regulation at 40 CFR 130.5, require that each State shall establish and maintain a continuing planning process (CPP) consistent with the Act. Each State is responsible for managing it's water quality program to implement the processes specified in the CPP, and EPA is responsible for periodically reviewing the adequacy of the State's CPP. This document is being published in accordance with paragraph 3 of the settlement agreement in the matter of American Canoe Association, *et al.*, v. EPA, No. 98–1195–CV–W–SOW–ECF Cons. with 98–4282–CV–W–SOW–ECF. Consistent with the settlement agreement, EPA is publishing this notice of availability of the CPP to interested parties. The current CPP in force for the Missouri Department of Natural Resources (MDNR) is the 58 page document entitled Continuing Planning Process dated May 1984. By November 27, 2001 EPA will prepare a preliminary written summary of its review of the CPP and will make that summary available upon request to interested parties for their review and comment. There will be a 60 day comment period following the completed summary. Copies of the CPP will be available beginning May 28, 2001 by contacting the person listed in the following **FOR FURTHER INFORMATION CONTACT** section. Once available, copies of EPA's preliminary written summary may also be requested.

Footnote—The Missouri Department of Natural Resources (MDNR) has acknowledged that the 1984 CPP needs updating. The MDNR 2000 Water Planning 604(b) grant contains a workplan element that calls for the review and revision of the current CPP, with a preliminary draft scheduled for May, 2001 and a final draft tentatively scheduled for submission to the Missouri Clean Water Commission in late 2001. This process is underway. When an official draft is made available by MDNR for public review, this office will likewise make it available for public review. EPA intends to review and comment on the draft.

FOR FURTHER INFORMATION CONTACT: Robert Steiert, Water, Wetlands and Pesticide Division, Geographic Planning and Coordination Branch at (913) 551–7433 or by E-mail at steiert.robert@epa.gov .

Dated: May 16, 2001,

Nat Scurry,

Acting Deputy Regional Administrator, Region VII.

[FR Doc. 01–13047 Filed 5–22–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6983–1]

Clean Water Act Section 303(d): Final Agency Action on 11 Total Maximum Daily Loads (TMDLs) and Final Agency Action on 26 Determinations That TMDLs Are Not Needed

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: This notice announces final agency action on 11 TMDLs prepared by EPA Region 6 for waters listed in

Louisiana's Mermentau and Vermilion/Teche river basins, under section 303(d) of the Clean Water Act (CWA). This notice also announces final agency action removing 26 waterbody/pollutant combinations from the Louisiana 303(d) list because new data/information shows that water quality standards are being met. EPA evaluated these waters and prepared the 11 TMDLs in response to a Court Order dated October 1, 1999, in the lawsuit *Sierra Club, et al.* v. *Clifford et al.,* No. 96–0527, (E.D. La.). Under this court order, EPA is required to prepare TMDLs when needed for waters on the Louisiana 1998 section 303(d) list by December 31, 2007. EPA is also required to add or delete waters to the schedule as new data confirms that waters are or are not meeting water quality standards. Documents from the administrative record files for the 26 determinations that TMDLs are not needed and for the final 11 TMDLs, including TMDL calculations and responses to comments, may be viewed at *www.epa.gov/region6/water/tmdl.htm.* The administrative record files may be obtained by calling or writing Ms. Caldwell at the above address. Please contact Ms. Caldwell to schedule an inspection.

FOR FURTHER INFORMATION CONTACT: Ellen Caldwell at (214) 665–7513.

SUPPLEMENTARY INFORMATION: In 1996, two Louisiana environmental groups, the Sierra Club and Louisiana Environmental Action Network (plaintiffs), filed a lawsuit in Federal Court against the United States Environmental Protection Agency (EPA), styled *Sierra Club, et al.* v. *Clifford et al.,* No. 96–0527, (E.D. La.). Among other claims, plaintiffs alleged that EPA failed to establish Louisiana TMDLs in a timely manner. Discussion of the court order may be found at 65 FR 54032 (September 6, 2000).

EPA Takes Final Agency Action on 11 TMDLs

By this notice EPA is taking a final agency action on the following 2 fecal coliform TMDLs for waters located within the Mermentau and Vermilion/Teche basins:

A TMDL for subsegment 060205 (Bayou Teche) was written and included in the same TMDL written for subsegments 060301 (of Bayou Teche) and 060401 (also of Bayou Teche) as referenced at 65 FR 19762–19764 of the **Federal Register** published on April 12, 2000 as well as 66 FR 18087–18089 of the **Federal Register** published on April 5, 2001. However, as no explicit reference was given to subsegment 060205 in either of the aforementioned notices, this notice is to serve as notice that the TMDL is inclusive of subsegment 060205. As cited in the **Federal Register** notices described above, the TMDL written for subsegment 060205, as well as subsegments 060301 and 060401, may be viewed at *www.epa.gov/region6/water/tmdl.htm* (click on ''Finalized TMDL Reports * * *'').

A TMDL for subsegment 050303 (Bayou Castor) was written and included in the same TMDL written for subsegment 050301 (Bayou Nezpique) as referenced at 65 FR 19762–19764 of the **Federal Register** published April 12, 2000 as well as 65 FR 18087–18089 of the **Federal Register** published April 5, 2001. However, as no explicit reference was given to subsegment 050303 in either of the aforementioned notices, this notice is to serve as notice that the TMDL is inclusive of subsegment 050303. As cited in the **Federal Register** notices described above, the TMDL written for subsegment 050303, as well as subsegment 050301, may be viewed at *www.epa.gov/region6/water/tmdl.htm* (click on ''Finalized TMDL Reports * * *).

As comment on these TMDLs has already been requested previously, no further comment is requested.

Also by this notice EPA is taking a final agency action on the following 9 TMDLs for waters located within the Mermentau and Vermilion/Teche basins:

Subsegment	Waterbody name	Pollutant
050703	White Lake	Total Dissolved Solids.
050703	White Lake	Chloride.
060801	Vermilion River—Headwaters To Bayou Fusilier Bourbeaux Junction to New Flanders.	Sulfate.
060802	Vermilion River—From New Flanders to Intracoastal Waterway	Sulfate.
060205	Bayou Teche—Headwaters at Bayou Courtableau to I–10	Sulfate.
060205	Bayou Teche—Headwaters at Bayou Courtableau to I–10	Chloride.
060201	Bayou Cocodrie-from U.S. Hwy 167 to the Bayou Boeuf-Cocodrie Diversion Canal (Scenic).	Total Dissolved Solids.
060206	Indian Creek Reservoir	Temperature.
060202	Bayou Cocodrie-Cocodrie Diversion Canal to its intersection with Bayou Boeuf.	Total Dissolved Solids.

EPA requested the public to provide EPA with any significant data or information that may impact the 9 TMDLs at 65 FR 67742 (November 13, 2000). The comments received and EPA's response to comments may be found at *www.epa.gov/region6/water/tmdl.htm.*

FINAL AGENCY ACTION REMOVING 26 WATERBODY/POLLUTANTS FROM THE LOUISIANA 303(D) LIST BECAUSE TMDLS ARE NOT NECESSARY

Subsegment	Waterbody description	Pollutant	Reason for delisting
050101	Bayou Des Cannes—Headwaters to Mermentau River.	Oil & Grease	Assessment of new data and information shows it is meeting WQS.
050103	Bayou Mallet	Oil & Grease	Assessment of new data and information shows it is meeting WQS.
050201	Bayou Plaquemine Brule-Headwaters to Bayou Des Cannes.	Oil & Grease	Assessment of new data and information shows it is meeting WQS.
050901	Mermentau River Basin Coastal	Oil & Grease	Assessment of new data and information shows it is meeting WQS.

FINAL AGENCY ACTION REMOVING 26 WATERBODY/POLLUTANTS FROM THE LOUISIANA 303(D) LIST BECAUSE TMDLS ARE NOT NECESSARY—Continued

Subsegment	Waterbody description	Pollutant	Reason for delisting
060802	Vermilion River—from New Flanders (Ambassador Caffery) Bridge at Hwy 3073 to Intracoastal Waterway.	Oil & Grease	Assessment of new data and information shows it is meeting WQS.
060904	Vermilion River—B890 Basin New Iberia Southern Drainage Canal.	Oil & Grease	Assessment of new data and information shows it is meeting WQS.
060907	Franklin Canal	Oil & Grease	Assessment of new data and information shows it is meeting WQS.
061101	Bayou Petite Anse	Oil & Grease	Assessment of new data and information shows it is meeting WQS.
060804	Intracoastal Waterway	Oil & Grease	Assessment of new data and information shows it is meeting WQS.
060901	Bayou Petite Anse	Oil & Grease	Assessment of new data and information shows it is meeting WQS.
050402	Lake Arthur and Lower Mermentau	Oil & Grease	Assessment of new data and information shows it is meeting WQS.
050602	Intracoastal Waterway	Oil & Grease	Assessment of new data and information shows it is meeting WQS.
050701	Grand Lake	Oil & Grease	Assessment of new data and information shows it is meeting WQS.
050702	Intracoastal Waterway	Oil & Grease	Assessment of new data and information shows it is meeting WQS.
050703	White Lake	Oil & Grease	Assessment of new data and information shows it is meeting WQS.
060205	Bayou Teche—Headwaters at Bayou Courtableau to I–10.	Oil & Grease	Assessment of new data and information shows it is meeting WQS.
060212	Chatlin Lake Canal and Bayou DuLac	Oil & Grease	Assessment of new data and information shows it is meeting WQS.
060701	Tete Bayou	Oil & Grease	Assessment of new data and information shows it is meeting WQS.
060702	Lake Fausse Point and Dauterive Lake	Oil & Grease	Assessment of new data and information shows it is meeting WQS.
060906	Intracoastal Waterway	Oil & Grease	Assessment of new data and information shows it is meeting WQS.
060910	Boston Canal and Associated Canals (Estuarine).	Oil & Grease	Assessment of new data and information shows it is meeting WQS.
061103	Freshwater Bayou Canal	Oil & Grease	Assessment of new data and information shows it is meeting WQS.
050501	Bayou Queue de Tortue—Headwaters to Mermentau River.	Oil & Grease	Assessment of new data and information shows it is meeting WQS.
060902	Bayou Carlin (Delcambre Canal)—Lake Peigneur To Bayou Petite Anse (Estuarine).	Oil & Grease	Assessment of new data and information shows it is meeting WQS.
060803	Vermilion River Cutoff	Oil & Grease	Assessment of new data and information shows it is meeting WQS.
061102	Intracoastal Waterway	Oil & Grease	Assessment of new data and information shows it is meeting WQS.

EPA requested the public to provide to EPA any significant data or information that may impact the determination that 26 TMDLs are not necessary at 66 FR 15472 (March 19, 2001). No comments were received.

Dated: May 3, 2001.

Sam Becker,

Acting Director, Water Quality Protection Division, Region 6.

[FR Doc. 01–12886 Filed 5–22–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6982–9]

Clean Water Act Section 303(d): Availability of Total Maximum Daily Loads (TMDLs)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: This notice announces the availability for comment of the administrative record file for one TMDL prepared by EPA Region 6 for waters listed in Louisiana's Mermentau and Vermilion/Teche river basins, under section 303(d) of the Clean Water Act (CWA). EPA prepared this TMDL in response to a Court Order dated October 1, 1999, in the lawsuit *Sierra Club, et al.* v. *Clifford et al.,* No. 96–0527, (E.D. La.). Under this court order, EPA is required to prepare TMDLs when needed for waters on the Louisiana 1998 section 303(d) list by December 31, 2007.

DATES: Comments on this TMDL must be submitted in writing to EPA on or before June 22, 2001.

ADDRESSES: Comments on this TMDL should be sent to Ellen Caldwell, Environmental Protection Specialist, Water Quality Protection Division, U.S. Environmental Protection Agency Region 6, 1445 Ross Ave., Dallas, TX 75202–2733. For further information, contact Ellen Caldwell at (214) 665–7513. The administrative record file for this TMDL is available for public inspection at this address as well.

Copies of the TMDL and its respective calculations may be viewed at *www.epa.gov/region6/water/tmdl.htm* or obtained by calling or writing Ms. Caldwell at the above address. Please contact Ms. Caldwell to schedule an inspection.

FOR FURTHER INFORMATION CONTACT: Ellen Caldwell at (214) 665–7513.

SUPPLEMENTARY INFORMATION: In 1996, two Louisiana environmental groups, the Sierra Club and Louisiana Environmental Action Network (plaintiffs), filed a lawsuit in Federal Court against the EPA, styled *Sierra Club, et al.* v. *Clifford et al.,* No. 96–0527, (E.D. La.). Among other claims, plaintiffs alleged that EPA failed to establish Louisiana TMDLs in a timely manner. Discussion of the court order may be found at 65 FR 54032 (September 6, 2000).

EPA Seeks Comments on One TMDL

By this notice EPA is seeking comment on the following TMDL for waters located within the Mermentau and Vermilion/Teche basins:

Subsegment	Waterbody name	Pollutant
060204	Bayou Courtableau—Origin to West Atchafalaya Borrow Pit Canal	Oil and Grease.

EPA requests that the public provide to EPA any water quality related data and information that may be relevant to the calculations for this TMDL, or any other comments relevant to this TMDL. EPA will review all data and information submitted during the public comment period and revise the TMDL where appropriate. EPA will then forward the TMDL to the Court and the Louisiana Department of Environmental Quality (LDEQ). LDEQ will incorporate the TMDL into its current water quality management plan.

Dated: May 3, 2001.

Sam Becker,

Acting Director, Water Quality Protection Division, Region 6.

[FR Doc. 01–12887 Filed 5–22–01; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission

May 14, 2001.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before June 22, 2001. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Judy Boley, Federal Communications Commission, Room 1–C804, 445 12th Street, SW., DC 20554 or via the Internet to jboley@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Judy Boley at 202–418–0214 or via the Internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–XXXX.

Title: Standards for Co-channel and Adjacent Channel Interference in the Land Mobile Radio Services.

Form No.: N/A.

Type of Review: New collection.

Respondents: Business or other for-profit.

Number of Respondents: 19 respondents.

Estimated Time Per Response: 40 hours.

Frequency of Response: One time reporting requirement.

Total Annual Burden: 760 hours.

Total Annual Cost: N/A.

Needs and Uses: The collection requires frequency coordinators in the Land Mobile radio services to arrive at a consensus standard to be used to determine co-channel and adjacent channel interference and to make a one time report of these standards to the Commission.

OMB Control No.: 3060–XXXX.

Title: Sections 90.35(b)(2) and 90.175(b)(1).

Form No.: N/A.

Type of Review: New collection.

Respondents: Business or other for-profit; state, local or tribal government.

Number of Respondents: 3,800.

Estimated Time Per Response: 1 hour.

Frequency of Response: One time reporting requirement, third party disclosure requirement.

Total Annual Burden: 120 hours.

Total Annual Cost: N/A.

Needs and Uses: The rules require applicants proposing to operate a land mobile radio station that have service contours that overlap an existing land mobile station to obtain written concurrence of the frequency coordinator associated with the industry for which the existing station license was issued, or the written concurrence of the licensee of the existing station.

OMB Control No.: 3060–XXXX.

Title: Public Safety—State Interoperability Channels.

Form No.: N/A.

Type of Review: New collection.

Respondents: State, local or tribal government.

Number of Respondents: 50.

Estimated Time Per Response: .5 hour.

Frequency of Response: One time reporting requirement.

Total Annual Burden: 25 hours.

Total Annual Cost: N/A.

Needs and Uses: This collection requires states to notify the FCC regarding their intentions concerning administration of the interoperability public safety channels. The requirement will be used by Commission personnel in determining which states will be responsible for the administrative and technical oversight of operations on the interoperability spectrum.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 01–12993 Filed 5–22–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Commission hereby gives notice of the filing of the following agreement(s) under the Shipping Act of 1984. Interested parties can review or obtain copies of agreements at the Washington, DC offices of the Commission, 800 North Capitol Street, N.W., Room 940. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date this notice appears in the **Federal Register**.

Agreement No.: 201098–001.
Title: New Orleans/Carnival Terminal Agreement.
Parties: The Board of Commissioners of the Port of New Orleans Carnival Corporation.
Synopsis: The proposed amendment increases the improvements to the facilities, increases Carnival's obligation for use of the facilities and changes the term of the agreement. The agreement will run until December 31, 2005.

Agreement No.: 201121.
Title: New Orleans/Pacorini Terminal Agreement.
Parties: The Board of Commissioners of the Port of New Orleans Pacorini USA, Inc.
Synopsis: The proposed agreement is for a lease of the Alabo Street Wharf Terminal Complex. The agreement runs through April 14, 2006.

Agreement No.: 201122.
Title: Pacific Maritime Services Cooperative Working Agreement.
Parties: SSA Ventures, Inc., SSA Pacific Terminals, Inc., COSCO Terminals America, Inc.
Synopsis: The proposed agreement provides for the joint ownership of Pacific Maritime Services, LLC, a firm providing container stevedoring, terminal and related services in Long Beach , California. The agreement runs through June 30, 2011.

Dated: May 18, 2001.

By Order of the Federal Maritime Commission.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 01–13062 Filed 5–22–01; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License; Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission an application for licenses as Non-Vessel Operating Common Carrier and Ocean Freight Forwarder—Ocean Transportation Intermediary pursuant to section 19 of the Shipping Act of 1984 as amended (46 U.S.C. app. 1718 and 46 CFR 515).

Persons knowing of any reason why the following applicants should not receive a license are requested to contact the Office of Transportation Intermediaries, Federal Maritime Commission, Washington, DC 20573.

Non-Vessel-Operating Common Carrier Ocean Transportation Intermediary Applicants

AIF Services, Inc., 8500 NW 30th Terrace, Miami, FL 33122, *Officer:* Roberto Lores, Jr. President (Qualifying Individual).

Ocean Freight Forwarder—Ocean Transportation Intermediary Applicants

Agency International Forwarding, Inc., 8500 NW., 30th Terrace, Miami, FL 33122, *Officer:* Roberto Lores, Jr. President (Qualifying Individual).

Dated: May 18, 2001.

Bryant L. VanBrakle, Jr.,

Secretary.

[FR Doc. 01–13061 Filed 5–22–01; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License; Revocations

The Federal Maritime Commission hereby gives notice that the following Ocean Transportation Intermediary licenses have been revoked pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of Ocean Transportation Intermediaries, effective on the corresponding dates shown below:

License Number: 4048F.
Name: General Construction and Industrial Equipment, Inc. d/b/a Gencie.
Address: 4800 East 79th Ave., Suite 106, Miami, FL 33166.
Date Revoked: November 8, 2000.
Reason: Failed to maintain a valid bond.

License Number: 14323F.
Name: Hefco International, Inc. d/b/a Hefco International d/b/a Sea Viper Shipping.
Address: 16725 Aldine Westfield, Houston, TX 77032.
Date Revoked: March 29, 2001.
Reason: Failed to maintain a valid bond.

License Number: 12707N.
Name: Maritrans Inc.
Address: 275 N. Central Avenue, Valley Stream, NY 11580.
Date Revoked: April 11, 2001.
Reason: Surrendered License voluntarily.

License Number: 2634.
Name: PLI, Inc. dba Procurement Logistics International.
Address: 6101 Dixie Drive, Houston, TX 77087.
Date Revoked: February 28, 2001.
Reason: Failed to maintain a valid bond.

License Number: 4470.
Name: Tri-Pmex, Inc.
Address: P.O. Box 891888, Temecula, CA 92589–1888.
Date Revoked: May 31, 1999.
Reason: Failed to maintain a valid bond.

Sandra L. Kusumoto,

Director, Bureau of Consumer Complaints and Licensing.

[FR Doc. 01–13060 Filed 5–22–01; 8:45 am]

BILLING CODE 6730–01–P

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 6, 2001.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166–2034:

1. Robert Shaw Owen, Alan Craig Owen, and Eric Lyle Owen, all of Gleason, Tennessee; to acquire additional voting shares of Bancshares of Gleason, Inc., Gleason, Tennessee, and thereby indirectly acquire additional voting shares of Bank of Gleason, Gleason, Tennessee.

Board of Governors of the Federal Reserve System, May 17, 2001.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 01–12970 Filed 5–22–01; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Board of Governors of the Federal Reserve System.

SUMMARY:

Background

On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board of Governors of the Federal Reserve System (Board) its approval authority under the Paperwork Reduction Act, as per 5 CFR 1320.16, to approve of and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board under conditions set forth in 5 CFR 1320 Appendix A.1. Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the OMB 83–Is and supporting statements and approved collection of information instruments are placed into OMB's public docket files. The Federal Reserve may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

Request for Comment on Information Collection Proposal

The following information collections, which are being handled under this delegated authority, have received initial Board approval and are hereby published for comment. At the end of the comment period, the proposed information collections, along with an analysis of comments and recommendations received, will be submitted to the Board for final approval under OMB delegated authority. Comments are invited on the following:

a. Whether the proposed collection of information is necessary for the proper performance of the Federal Reserve's functions; including whether the information has practical utility;

b. The accuracy of the Federal Reserve's estimate of the burden of the proposed information collection, 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 information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Comments must be submitted on or before July 23, 2001.

ADDRESSES: Comments, which should refer to the OMB control number or agency form number, should be addressed to Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington, DC 20551, or mailed electronically to regs.comments@federalreserve.gov. Comments addressed to Ms. Johnson may be delivered to the Board's mailroom between 8:45 a.m. and 5:15 p.m., and to the security control room outside of those hours. Both the mailroom and the security control room are accessible from the courtyard entrance on 20th Street between Constitution Avenue and C Street, NW. Comments received may be inspected in room M–P–500 between 9 a.m. and 5 p.m., except as provided in section 261.14 of the Board's Rules Regarding Availability of Information, 12 CFR 261.14(a).

A copy of the comments may also be submitted to the OMB desk officer for the Board: Alexander T. Hunt, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: A copy of the proposed form and instructions, the Paperwork Reduction Act Submission (OMB 83–I), supporting statement, and other documents that will be placed into OMB's public docket files once approved may be requested from the agency clearance officer, whose name appears below. Mary M. West, Federal Reserve Board Clearance Officer (202–452–3829), Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551. Telecommunications Device for the Deaf (TDD) users may contact Capria Mitchell (202) 872–4984, Board of Governors of the Federal Reserve System, Washington, DC 20551.

Proposal To Approve Under OMB Delegated Authority the Extension for Three Years, Without Revision, of the Following Reports

1. *Report title:* Report of Selected Balance Sheet Items for Discount Window Borrowers.

Agency form number: FR 2046.

OMB control number: 7100–0289.

Frequency: On occasion.

Reporters: Depository institutions.

Annual reporting hours: 2,654 hours.

Estimated average hours per response: 0.75 hours for adjustment or extended credit borrower; 0.25 hours for seasonal credit borrowers.

Number of respondents: 684.

Small businesses are affected.

General description of report: This information collection is required by sections 10B, 11(a)(2), and 11(i) of the Federal Reserve Act (12 U.S.C. 347b and 248(a)(2) and (i)) and individual respondent data are regarded as confidential (5 U.S.C. 552(b)(4)).

Abstract: The Federal Reserve's Regulation A, ''Extensions of Credit by Federal Reserve Banks,'' requires that Reserve Banks review balance sheet data in order to guard against inappropriate discount window borrowing situations. Borrowers report certain balance sheet data for a period that encompasses the dates of borrowing.

2. *Report title:* Report of Terms of Credit Card Plans.

Agency form number: FR 2572.

OMB control number: 7100–0239.

Frequency: Semiannual.

Reporters: Commercial banks, savings and loans, savings banks, and finance companies.

Annual reporting hours: 75 hours.

Estimated average hours per response: 0.25 hours.

Number of respondents: 150.

Small businesses are not affected.

General description of report: The Board is authorized to collect this voluntary information collection (15 U.S.C. 1646(b)). The data are not considered confidential.

Abstract: This report was collected for the last time as of January 31, 2000; it was discontinued prior to the July 2000 reporting date pursuant to the Federal Reports Elimination and Sunset Act of 1995 (Sunset Act) (Pub. L. 104–66). In December 2000, the Congress approved the American Homeownership and Economic Opportunity Act of 2000 (Act) that restored the reporting of this information collection, along with forty others. Title XI of the Act states that Section 3003(a)(1) of the Sunset Act ''shall not apply to any report required to be submitted under any of the following provisions of law: * * *

Section 8 of the Fair Credit and Charge Card Disclosure Act of 1998 (15 U.S.C. 1637 note); * * *''. Upon reinstatement, this report will collect data on credit card pricing and availability from a sample of at least 150 financial institutions that offer credit cards. The information will be reported to the Congress and made available to the public in order to promote competition within the industry.

3. *Report title:* Annual Report on Status of Disposition of Assets Acquired in Satisfaction of Debts Previously Contracted.

Agency form number: FR 4006.

OMB control number: 7100–0129.

Frequency: Annual.

Reporters: Banking holding companies.

Annual reporting hours: 3,000 hours.

Estimated average hours per response: 5 hours.

Number of respondents: 600.

Small businesses are affected.

General description of report: This information collection is required (12 U.S.C. 1842(a) and 1843(c)(2)) and may be given confidential treatment upon request (5 U.S.C. 552(b)(4)).

Abstract: Bank holding companies that have acquired assets or shares through foreclosure in the ordinary course of collecting a debt previously contracted (DPC) are required to submit the report annually for assets or shares that have been held beyond two years from the acquisition date. The report does not have a required format; bank holding companies submit the information in a letter. The letter contains information on the progress made to dispose of such assets or shares and also requests permission for a one-year extension to hold them, as applicable. The Federal Reserve may grant requests for up to three one-year extensions. This report is required pursuant to the Board's authority under the Bank Holding Company Act and Regulation Y. The Federal Reserve uses the information to fulfill its statutory obligation to supervise bank holding companies.

4. *Report title:* Notice of Branch Closure.

Agency form number: FR 4031.

OMB control number: 7100–0264.

Frequency: on occasion.

Reporters: state member banks.

Annual reporting hours: 783 hours.

Estimated average hours per response: 2 hours for reporting requirements; 1 hour for disclosure requirements; 8 hours for recordkeeping requirements.

Number of respondents: 226.

Small businesses are affected.

General description of report: This information collection is mandatory (12 U.S.C. 1831r–1(a)(1)) and may be given confidential treatment upon request (5 U.S.C. 552(b)(4)).

Abstract: These reporting, recordkeeping, and disclosure requirements regarding the closing of any branch of an insured depository institution are imposed by section 228 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (FDICIA). There is no reporting form associated with the reporting portion of this information collection; state member banks notify the Federal Reserve by letter prior to closing a branch. The Federal Reserve uses the information to fulfill its statutory obligation to supervise state member banks.

Board of Governors of the Federal Reserve System, May 17, 2001.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 01–12971 Filed 5–22–01; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 15, 2001.

A. Federal Reserve Bank of Chicago (Phillip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. Bank of Montreal, Toronto, Ontario, Canada, and Bankmont Financial Corp., Chicago, Illinois; to merge with First National Bancorp, Inc., Joliet, Illinois, and thereby indirectly acquire voting shares of First National Bank of Joliet, Joliet, Illinois.

2. Harris Joliet Bankcorp, Inc., Chicago, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of First National Bancorp, Inc., Joliet, Illinois, and thereby indirectly acquire voting shares of First National Bank of Joliet, Joliet, Illinois.

B. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. Bank of DeSoto, N.A., Employee Stock Ownership Trust, DeSoto, Texas; to acquire 38.43 percent of the voting shares of D Bancorp, Inc., DeSoto, Texas, and thereby indirectly acquire voting shares of Bank of DeSoto, N.A., DeSoto, Texas.

Board of Governors of the Federal Reserve System, May 17, 2001.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 01–12969 Filed 5–22–01; 8:45 am]

BILLING CODE 6210–01–S

GENERAL ACCOUNTING OFFICE

Commercial Activities Panel

AGENCY: General Accounting Office.

ACTION: Notice of public hearing.

SUMMARY: Section 832 of the National Defense Authorization Act for Fiscal Year 2001 requires the Comptroller General of the United States to convene a panel of experts to study the transfer of commercial activities currently performed by government employees to federal contractors, a procedure commonly known as ''contracting out'' or ''outsourcing.'' This notice announces the first of three public hearings to be held by the Commercial Activities Panel (''the Panel''). For the first hearing, the Panel is interested in hearing views on the principles and policies that should govern decisions concerning whether particular functions should be performed by the public sector or the private sector.

DATES: The Commercial Activities Panel will hold a public hearing on June 11, 2001, beginning at 9:00 a.m. in the Walsh-Reckord Hall of States at One Massachusetts Avenue, Washington, DC. Individuals or groups that wish to attend or participate in the hearing should notify the Panel and submit written summaries of their statements by June 4, 2001.

ADDRESSES: Submit requests to attend or participate in the hearing, written summaries of oral statements, and any other relevant materials via E-mail to *A76panel@gao.gov* or to the General Accounting Office, Office of the General Counsel, Room 7476, 441 G St., NW, Washington, DC 20548. See **SUPPLEMENTARY INFORMATION** for other information about electronic filing.

FOR FURTHER INFORMATION CONTACT: William T. Woods, Project Director, (202) 512–8214; E-mail: *woodsw@gao.gov*

SUPPLEMENTARY INFORMATION: Section 832 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001, Public Law 106–398, Oct. 30, 2000, directs the Comptroller General of the United States to convene a panel of experts to study the policies and procedures governing the transfer of commercial activities for the federal government from government personnel to a federal contractor. The Panel's study is to include a review of: (1) procedures for determining whether functions should continue to be performed by government personnel; (2) procedures for comparing the costs of performing functions by government personnel with the costs of performing those functions by federal contractors; (3) implementation by the Department of Defense of the Federal Activities Inventory Reform (FAIR) Act of 1998 (Pub. L. 105–270, 112 Stat. 2382, 31 U.S.C. 501 note); and (4) procedures of the Department of Defense for public-private competitions under Office of Management and Budget (OMB) Circular A–76. Formation of the Panel was announced in the **Federal Register** on April 17, 2001 (66 FR 19786). By May 1, 2002, the Comptroller General must submit to Congress a report of the Panel on the results of the study, including recommended changes with regard to implementing policies and enactment of legislation.

During the course of its work, the Panel will hold several public hearings. Interested parties are invited to attend these hearings to provide their perspectives on sourcing issues. The first public hearing will be held on June 11, 2001, in the Walsh-Reckord Hall of States at One Massachusetts Avenue, NW, Washington, DC. The hearing will begin at 9:00 a.m. The focus of this first hearing will be the principles and policies underlying outsourcing. Specifically, the Panel is interested in hearing views on the principles and policies that should govern decisions concerning whether particular functions should be performed by the public sector or by the private sector. Future hearings will focus on other aspects of outsourcing.

Any party who would like to attend the hearing or make a presentation should contact William T. Woods at (202) 512–8214 or *woodsw@gao.gov*. Those who wish to make presentations at the hearing should submit written summaries of their oral statements via E-mail or regular mail as indicated in the **ADDRESSES** section by 5:30 p.m. on June 4, 2001. The Panel will attempt to accommodate all interested parties who respond before the deadline. Each presenter will have 3 to 5 minutes to make an oral statement at the hearing. Interested parties who would like to make electronic presentations during the hearing must indicate their desire to do so by the June 4 deadline. More detailed guidance on hearing procedures will be provided to presenters by E-mail in advance of the hearing. Any interested party may submit full statements for inclusion in the hearing record by 5:30 p.m. on June 15. The hearing will be transcribed.

Two additional hearings currently are planned outside of Washington, DC. A public hearing will be held in Indianapolis, Indiana, on August 8, 2001, which will focus on alternatives to the public/private competitions conducted pursuant to OMB Circular A–76. Another public hearing will be held in San Antonio, Texas, on August 15, 2001, and will address current processes under OMB Circular A–76 and the FAIR Act. Further information, including the exact locations and times of these hearings, will be announced in a later **Federal Register** notice. In addition, a notice was issued on March 23, 2001 (66 FR 16245), seeking submission of public comments identifying significant sourcing issues, as well as references to or copies of written materials related to these issues. The Panel will continue to consider all such information received at any time.

Electronic Access and Filing

This notice is available on GAO's website at *http://www.gao.gov* under ''Commercial Activities Panel.'' Requests to participate in the hearing, electronic presentations, written summaries of oral statements, full statements, and other submissions regarding outsourcing issues may be sent via E-mail to *A76panel@gao.gov.*

Dated: May 18, 2001.

Jack L. Brock, Jr.,

Managing Director, Acquisition and Sourcing Management, General Accounting Office.

[FR Doc. 01–13051 Filed 5–22–01; 8:45 am]

BILLING CODE 1610–02–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

GENERAL SERVICES ADMINISTRATION

Guidelines for Public Access Defibrillation Programs in Federal Facilities

AGENCY: Office of Public Health and Science, Office of the Secretary, HHS and Office of Governmentwide Policy, GSA.

ACTION: Notice of availability of guidelines.

SUMMARY: The Department of Health and Human Services (HHS) and the General Services Administration (GSA) have worked collaboratively to develop the following guidelines, entitled ''Guidelines for Public Access Defibrillation Programs in Federal Facilities.'' Theses guidelines were prepared, in part, in response to a May 19, 2000, Presidential Memorandum pertaining to the establishment of guidelines for the placement of automated external defibrillators (AEDs) in Federal buildings.

In addition, the Department of Health and Human Services is publishing this notice pursuant to section 7 of the Healthcare Research and Quality Act of 1999, Public Law 106–129, 42 U.S.C. 241 note, and section 247 of the Public Health Service Act, 42 U.S.C. 238p (as added by section 403 of the Public Health Improvement Act, Public Law 106–505).

The guidelines provide a general framework for initiating a design process for public access defibrillation (PAD) programs in Federal facilities and provide basic information to familiarize facilities leadership with the essential elements of a PAD program. The guidelines are not intended to exhaustively address or cover all aspects of AED or PAD programs. They are aimed at outlining the key elements of a PAD program so that facility-specific, detailed plans and programs can be developed in an informed manner.

FOR FURTHER INFORMATION CONTACT: Stanley C. Langfeld, Director, Real Property Policy Division (MPR), Room 6210, General Services Administration,

1800 F Street, NW., Washington, DC 20405, telephone 202–501–1737. Arrangements to receive the policy guidelines in alternative format may be made by contacting the named individual.

Dated: May 15, 2001.

G. Martin Wagner,

Associate Administrator for Governmentwide Policy, General Services Administration.

Arthur J. Lawrence,

Assistant Surgeon General, Acting Principal Deputy Assistant Secretary for Health, Department of Health and Human Services.

Attachment—Guidelines for Public Access Defibrillation Programs in Federal Facilities, January 18, 2001

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1.0 Purpose

The primary purpose of these guidelines is to provide a general framework for initiating a design process for a public access defibrillation (PAD) program in Federal facilities. A secondary purpose is to familiarize Federal agencies with the essential elements of such a program. The design of a PAD program in any Federal facility will be unique, and depend on many factors, including the population demographics of the facility/Federal area, and size and location of the facility/Federal area. The design process and key elements of a PAD program cited in these guidelines are intended to provide a foundation upon which individually tailored programs are developed and implemented.

This document is not intended to be a comprehensive summary of all aspects of automated external defibrillator (AED) use or PAD programs. Rather, it is aimed at providing sufficient information to understand the basic key elements of a program and to launch an effective planning and implementation process. There are numerous sources for training and education programs as well as model protocols that can be used at various stages in the planning. The required medical consultation can be obtained from Federal sources or private contractors.

2.0 General

Over the past several years, advances in technology have provided several innovative opportunities to prevent unnecessary disability and death. One of the most important of these advances is the AED. The ease of use of AEDs by the trained lay public has led to the increasing development of PAD programs. The decreased cost of acquisition and upkeep of AEDs now makes it possible to increase further the availability and access to these life-saving devices.

Ventricular fibrillation (VF) is a common arrhythmia leading to cardiac arrest and death. VF is unorganized electrical activity of the heart, resulting in producing no blood flow or pulse and which will lead to death. Defibrillation is the only technique that is effective in returning a heart in VF to its normal rhythm. Although defibrillation has been shown to be effective in correcting this abnormality in most cases, up until the advent of AEDs defibrillation has been a medical intervention only available to be performed by credentialed health professionals and trained emergency medical service personnel. While it is difficult to use an AED improperly, AEDs are not without risks if used improperly. AEDs are prescription devices that are intended to be operated only by individuals who have received proper training and within a system that integrates all aspects from first responder care to hospital care. Hence, a significant emphasis on proper training and linkage (notification or transfer) to emergency medical services (EMS) systems is critical. The value of the AED technology is that an AED will not energize unless an appropriate shockable cardiac rhythm is detected.

The efficacy of defibrillation is directly tied to how quickly it is administered. Although the outside limit of the ''window of opportunity'' in which to respond to a victim and take rescue actions is approximately 10 minutes, the sooner the AED is utilized within that time period, the more likely it is that it will be effective and that a patient will have a normal heart beat restored and fully recover. As the length of time between the onset of sudden cardiac arrest and defibrillation increases, the less the chance of restoration of heart beat and full recovery. In general, for every minute that passes between the event and defibrillation, the probability of survival decreases by 7 to 10 percent. After 10 minutes, the probability of survival is extremely low. The importance of rapid and positive intervention is reflected in the American Heart Association's (AHA)''Chain of Survival'' concept.

Today's AEDs are relatively inexpensive and usable by persons with limited training. The advantage of well structured PAD programs is that they provide better trained individuals and increase accessibility, and, as a result, increase the potential to reduce response times and markedly increase the probability of survival and full recovery.

The ''Chain of Survival'' is designed to optimize a patient's chance for survival of sudden cardiac arrest. There are four links in the chain: early access, early cardiopulmonary resuscitation (CPR), early defibrillation, and early advanced cardiac life support (ACLS).

Early access means that members of the community have been trained to quickly recognize possible cardiac arrest and that a mechanism for immediate communication of the event and activation of an EMS response is in place to assure that fully trained EMS personnel and equipment can arrive quickly at the scene. Early CPR by bystanders provides ventilation and circulation, ''buying'' precious minutes for EMS teams to arrive with a full set of ACLS equipment. The core concept of the PAD strategy is to initiate CPR promptly and bring the defibrillator and a trained LayResponder/Rescuer (LRR) into the incident sooner than a fully equipped EMS unit can be on location.

The material in these guidelines is based upon the recommendations, programs, and literature on AEDs from the AHA and the American Red Cross (ARC), leaders in the encouragement of AED installation, training, and usage. The AHA and ARC cooperate with other organizations in developing and improving standards for AEDs. Users of this guidance should check the latest AHA, ARC, and National Safety Council (NSC) information for updates and/or changes in recommendations.

Special Note: As is the case in most clinical developments, the science-supporting efficacy in controlled settings usually precedes evidence of effectiveness when implemented large scale in real world settings. The science surrounding the effectiveness of AEDs,

as well as the technology of AEDs themselves, is evolving.

For Federal agencies in GSA controlled space, the Designated Official should take reasonable steps to assure that a program's supervising physician reviews the facility's program on a regular basis in light of the most current scientific literature. The Designated Official is the highest-ranking official of the primary occupant agency of a Federal facility; or, alternatively, a designee selected by mutual agreement of occupant agency officials (see 41 CFR 101–20.003(g)). AED programs should evolve based on the best available science to assure the most efficient use of resources and the best outcomes possible. Federal sites implementing AED programs should strongly consider coordinating with, and becoming a component of, organized research or evaluation efforts in their communities. Assistance in determining if a facility is eligible to participate in such an effort can be obtained through the National Heart, Lung, and Blood Institute, AHA, American College of Emergency Medicine (ACEM) or the nearest research university/academic health center.

3.0 The Concept of Public Access Defibrillation (PAD)

Traditionally, EMS systems employ paramedic and emergency medical technician (EMT)—level personnel in conjunction with some level of involvement by community members, predominantly bystanders who are CPR trained. Most communities provide CPR training opportunities either through a local institution or via programs sponsored by units of a local or State/Territorial government. Until recently, AEDs and other defibrillation devices have been brought to locations by the local EMS system. The size, cost, and complexity of these devices, as well as other factors, have constrained their use. With recent advances in technology, many of the previous constraints have been reduced or eliminated. Increasingly, AEDs are being deployed in public facilities such as sports arenas, shopping malls, and airports, or in police and fire units, thus potentially decreasing the time between cardiac arrest and access to defibrillation.

However, optimal improvement in survival from sudden cardiac arrest that occurs in a non-medical setting may require a program that utilizes community ''volunteer'' lay responders or rescuers (non-medical LRRs), who have been trained in CPR and in the appropriate use of AEDs. A comprehensive, well integrated community approach to the use of AEDs would serve a large proportion of the community (a facility, a campus, etc.). LRRs could quickly respond to, identify, and treat a cardiac arrest patient and activate the formal EMS system.

''Public access'' to AEDs does not mean that any member of the public who witnesses an event should be able to use an AED. ''Public access'' refers to the accessibility of the device itself. While AEDs are reasonably uncomplicated to use, the AED should be used only by persons who have received proper training and education and who have been certified by a competent authority. Persons without these basic credentials should not use the device.

4.0 Establishing a PAD Program in a Federal Facility

Before establishing a program in a facility, each agency should enlist the assistance of not only the personnel at that location, but also local training, medical, and emergency response resources. These partnerships are fundamental to any successful PAD program. In some instances, a facility may be large enough to have training, medical, and emergency response resources integral to Federal operations. For the most part, this will be the exception rather than the rule, but the same principles apply. The more closely the PAD program is connected to such resources and the more visibility and support given to the program by the facility leadership, the more effective and successful will be the program.

Each PAD program should include the following major elements:

- Support of the Program by Agency Leadership
- Training/Certifying and Retraining Personnel in CardiopulmonaryResuscitation (CPR) and the Use of the AED and Accessories
- Obtaining Medical Direction and Medical Oversight
- Understanding Legal Aspects
- Development and Regular Review of PAD and Operational Protocols
- Development of an Emergency Response Plan and Protocols, Including a Notification System to Activate Responders
- Integration with Facility Security and Emergency Medical Services (EMS) Systems
- Maintaining Hardware and Support Equipment on a Regular Basis and After Each Use
- Development of Quality Assurance and Data/Information Management Plans
- Development of Measurable Performance Criteria, Documentation and Periodic Program Review
- Review of New Technologies

It is important to emphasize that PAD programs are not isolated ''one time events.'' PAD programs should be reviewed on a regular basis and improved where possible. Additionally, after every incident involving use of the PAD system, a thorough post-event review of system performance should be undertaken. The skills of personnel who are potential responders and rescuers should be refreshed and new personnel trained. The program should make an effort to routinely and regularly assess the operating state and condition of AED and support equipment as well.

A key element in assuring that your PAD program will be clearly understood and will function well is the development of standard operating procedures (SOPs) for the major components of the program. SOPs, as well as the program as a whole, should be periodically revisited and revised where appropriate.

5.0 Designing a PAD Program

Given the wide variation in Federal work facilities, there will be significant variation in the complexities associated with program design. Small, physically compact offices will require different levels of planning and design than large, multi-building facilities spread over campus environments. Facility leadership should take steps to assure that all stakeholders, including those who are external to the facility, are afforded the opportunity to participate in planning and design. Although it is possible to have the full range of planning and design activities performed via consultant or contract, it should be kept in mind that the actual responders at a facility typically will be those who work there and that both individual employees'' and unions'' interests, in accordance with union contracts, should be considered in any process. Officials in the facility's management ''chain of command'' must have close involvement at every step, as specified for occupants of facilities under GSA custody and control in 41 CFR 101–20.103–4, entitled ''Occupancy Emergency Program.''

While most Federal agencies' facilities are single tenant buildings or may have several tenants under the clear command/leadership of a ranking official, many GSA facilities contain multiple tenants that are not under the direction of a single agency official. 41 CFR 101–20.103, entitled ''Physical protection and building security,'' provides guidance on coordinating and implementing a comprehensive OccupancyEmergency Program. (The definition of ''emergency'' in this part

(see 41 CFR 101–20.003(i)) includes medical emergencies.) In facilities that are multi-tenant, special attention should be paid to avoid confusion about decision-making processes and authority for the development and operation of a PAD program. It is recommended that the Federal agencies in multi-tenant circumstances follow the guidelines described in 41CFR 101–20.103 to assure clarity of responsibility and accountability.

Because Federal law enforcement officers routinely respond to emergencies within Federal properties and are familiar with all sites within their jurisdiction and are required to be first aid and CPR trained, it is recommended that all Federal Police Officers also receive the necessary training in the use of AEDs. Federal agencies should also consider the security implications of training contract guards in the use of AEDs since these guards have responsibilities to guard entry points and other fixed posts within a facility. The security implications of contract guards abandoning these posts during a medical emergency should be carefully considered in the development and operation of a PAD program.

We recommend that Automated External Defibrillator response orders be included as part of each facility's Occupant Emergency Plan. See ATTACHMENT A, entitled ''SAMPLE AED PROTOCOL AND RESPONSE ORDER ELEMENTS.''

6.0 Selecting Your AEDs

Only commercially available AEDs that have been cleared for marketing by the Food and Drug Administration (FDA) should be considered for use in a PAD program. Prior to purchasing, it is important for facility leadership to seek assistance in the selection of a device for deployment in the facility. Because technology is developing quite rapidly, seeking the advice of an individual or organization with current knowledge about AEDs is essential. Involving a medical oversight provider(s) is crucial.

Additionally, as there are some differences in the devices currently on the market, an expert can help to explain the relative advantages and disadvantages of AEDs for your particular location. Utilizing a single brand of AED within a facility will greatly simplify training, maintenance, and data management. It would be wise to contact local EMS personnel to seek their opinion and to clarify protocols with respect to equipment use.

Currently, there are Federal Supply Service (FSS) Supply contracts for AEDs. A prescription from a physician overseeing the AED placement must accompany the order before the AED manufacturer can accept the order and deliver the AED. Your procurement office can assist in locating current contract information and prices.

In the future, additional products are likely to receive approval for marketing from the FDA. Program designers should take steps to confirm that all devices that are acquired have received FDA marketing approval and that the use of AEDs in their respective facilities fully complies with FDA labeling requirements.

Special Note: AEDs are prescription devices. In a PAD program, plans and protocols that are approved by a supervising physician are considered a prescription. The selection of a particular AED and associated equipment are integral components of a PAD program. Once the physician has approved and signed-off on AED selection and placement, this becomes the authorizing prescription for procurement of the device(s).

Emergency response and AED usage protocols that are signed by a physician are a prescription constituting legal ''permission'' for properly trained and certified individuals to use AEDs in a particular manner as outlined in the protocol. Responders must be familiar with and trained in the context of the approved procedures in the facility and strictly adhere to these procedures when an emergency occurs.

The actual selection and procurement of AEDs should be one of the last steps in the design of a facility's PAD program and should be done under the guidance and written authorization of the PAD program's supervising physician. The protocol for AED usage that is developed as part of a facility's PAD program is an integral part of the physician's prescription and serves as the authorizing document for AED use. Protocols should be periodically reassessed in accordance with a regular schedule of reviews as determined in consultation with the PAD's supervising physician. A current protocol that takes into consideration both new treatment recommendations and any changes in the FDA labeling of the AED should be integrated into the PAD training and education and re-training programs.

Essentially, the protocols that are signed by the supervising physician set the medical standards and criteria for the operation of the PAD program and all of its components. Systems operated within the boundaries and criteria of these signed protocols are considered to be under a physician's supervision, whether or not the physician is physically present in the facility. As noted in this guidance, PAD programs should be reviewed on a regular basis (after each activation and/or on a regular basis) with changes made as needed under the direction of the supervising physician. These revised or re-certified protocols constitute new or renewed prescriptions.

7.0 Medical Oversight of Your PAD Program

AEDs are medical devices that are to be used under the advice and consent of a physician only by individuals with the proper training and certification. Therefore, medical oversight is an essential component of PAD programs. This oversight can be provided either by a facility's own medical staff, such as a Health Unit, or contractor or through an agency-wide designated Federal physician in accordance with state and local laws. It is best to seek medical input from the very beginning of the design of your program. A physician should be involved as a consultant in all aspects of the program, not only as the program's prescribing physician, but also as an active participant in all aspects.

Medical and physician oversight does not mean that a physician is required to be present to manage the PAD program on a day-to-day basis. However, it is prudent for facility leadership to develop management and oversight protocols of lay program overseers to assure that quality is consistently maintained. Physicians can be extremely helpful in assisting facility leadership in linking their PAD program with the community at large and with appropriate EMS and hospital systems. Additionally, a central role for the physician is conducting assessment of the PAD system's performance after the use of an AED, including review of the AED data and the electrocardiograph tracing of a victim.

8.0 Legal Issues

Any PAD program should be reviewed by legal counsel to assure that the program, as designed, comports with all applicable Federal, State and local authorities. PAD programs establish procedures for dealing with emergent medical situations that present an appreciable risk of serious bodily injury and death regardless of the degree of care exercised by those involved in responding to the situation. These situations are often the subject of regulation by various authorities. The risk of liability for failing to comport with applicable regulations, and for acts or omissions that result in harm, are important and ever-present concerns that should be addressed in the PAD program. Though federal facilities

generally are not subject to state and local authority, federal law can incorporate or adopt specific state and local authorities or otherwise make them applicable to federal facilities.

One of the most important legal concerns with any PAD program will be the potential liability of those who respond to the emergent situation, including, potentially, Federal employees. The following principles should be considered in developing a PAD program:

• As a general rule, the Federal Tort Claims Act, 28 U.S.C. sections 1346(b), 2671–80, (FTCA) immunizes Federal employees acting *within the scope of the employment* from personal liability for most tortious conduct. Whether an individual Federal employee was acting within or without of the scope of his/her employ is, under the FTCA, determined by the substantive law of the state where the act or omission occurred. Employees whose use of an AED is outside the scope of their employment may be eligible for federal representation, but could be personally liable for any harm that results from the use of the AED.

• The liability of the Federal government for injuries caused by Federal employees acting within the scope of their employment is determined by the FTCA as well. The FTCA, provides that liability is determined according to the law of the place where the wrongful or negligent act or omission occurred. Under the FTCA, the Federal government is not liable for the wrongful acts of any person who is not a ''Federal employee,'' defined in 28 U.S.C. section 2671.

• Under the FTCA, the United States is not liable for the wrongful acts of government contractors. Thus, a PAD program should consider reposing responsibility for responding to emergency medical situations on a contractor over which we do not exercise day-to-day control. ThePAD program should, however, include criteria to assure that the contractor has the requisite expertise, training and resources.

• Many states have enacted legislation to provide some degree of immunity to lay individuals who provide assistance to people in distress. The laws are called ''Good Samaritan'' laws. Because these laws vary from state to state, management of individual facilities should be aware of the law applicable to them. Attachment B (entitled ''Draft Summary of Legislative Activity by State as of June 1, 2000'') is a recent abstract of state/territorial ''Good Samaritan'' laws.

• Congress recently provided additional protection from civil liability for AED use in the Public Health Improvement Act, Public Law 106–505 (November 13, 2000). Subtitle A of Title IV of the Act, the Cardiac Arrest Survival Act of 2000, provides persons who use or attempt to use an AED, and persons who acquire an AED, immunity from civil liability for harms resulting from the use or attempted use of the AED, subject to a number of important exceptions. The statute provides a default immunity only, however: the federal immunity displaces a State rule of decision only to the extent that State has no statute or regulations that provide users or acquirers with immunity for civil liability arising from emergent use of an AED. The statute explicitly states that its provisions are not intended to waive any protections from liability for Federal officers and employees provided in the FTCA or Westfall Act.

Nothing in these guidelines or in any PAD program established pursuant to these guidelines should be read as creating a duty for Federal employees or contractors not otherwise existing under applicable state or Federal law to provide assistance to persons in medical distress.

9.0 Lay Responder/Rescuer (LRR) Training

Even in the case where large facilities have self-contained emergency medical services systems, it is still advisable to devise a training program for LRRs. The greater the number of well trained LRRs that are available, the more effective a PAD program will be. Overall effectiveness will be improved as the number of personnel who are fully trained and willing to respond increases. As a general matter, in facilities where there are sufficient numbers of personnel to permit in-house training programs, a routine training schedule should be established. An additional benefit of in-house training is that training in groups that correspond closely with work groups tends to build a better sense of team and responsibility than would individual, separate training.

Nationally recognized training organizations such as the AHA, ARC, and NSC, provide materials and guidance through a variety of courses that include combined CPR and AED training. These programs provide comprehensive materials for the training of LRRs and are targeted toward providing lay persons all of the information and training necessary to competently assess the status of a victim, administer CPR if necessary, and to properly operate an AED. It is important for LRRs to be trained on the maintenance and operation of the specific AED model that will be used in their PAD program.

Some locales may wish to take an additional step and organize their responses around a team approach. The recommended training course provides flexible training and will incorporate elements of 2-person rescue techniques that accommodate a ''response team'' approach.

All PAD training programs should include a component that descibes and explains the facility specific program. All retraining or refresher programs should, likewise, include this component to assure that LRRs are aware of the most current information regarding their specific PAD program.

Training is not a one-time event. Leadership should seek to maintain and improve the LRRs' skills and abilities. Formal refresher training should be conducted at least every two years. Computer-based programs and video teaching materials permit more frequent review. Facility leadership should make periodic contact with the AHA to assure that advances in techniques and care are incorporated into their PAD program, and training in them is promptly made available to LRRs. It is recommended that LRR teams engage in periodic ''scenario'' practice sessions to maintain their skills and rehearse protocols.

Facility leadership is urged to develop a vigorous approach to maintaining and improving skills. Thus, aside from formal annual re-certification, mock drills and practice sessions will be important to maintain current knowledge and a reasonable comfort level among LRRs and/or teams. The frequency of such sessions will vary from facility to facility. Organizations currently operating PAD programs routinely complete practice sessions on a monthly to quarterly schedule. The intervals for conducting these exercises should be established in consultation with the physician providing medical oversight.

10.0 Placement of and Access to AEDs

While there is no single ''formula'' to determine the appropriate number, placement, and access system for AEDs, there are several major elements that should be considered. However, all considerations are based upon (1) an optimal response time of 3 minutes or less and (2) assessing the level of risk in a facility's environment. Factors that should be considered include:

• *Response Time:* The optimal response time is 3 minutes or less. This interval begins from the moment a

person is identified as needing emergency care to when the AED is at the side of the victim. Survival rates decrease by 7 to 10 percent for every minute that defibrillation is delayed. Therefore, it is recommended that Federal agencies train as many employees as possible on the use of AEDs.

• *Demographics of the Facility's Workforce:* Leadership should examine the make up of the resident workforce. Because the likelihood of an event occurring increases with age, consideration should be given to the age profile of the workforce.

• *Visitors:* Facilities (including Federal areas, such as Wilderness Areas and National Parks) that host large numbers of visitors are more likely to experience an event, and an appraisal of the demographics of visitors should be included in an assessment.

• *Specialty Areas:* Facilities where strenuous work is conducted are more likely to experience an event. Additionally, specialty areas within facilities such as exercise and work out rooms should be considered to have a higher risk of an event than areas where there is minimal physical activity.

• *Physical Layout of Facility:* Response time should be calculated based upon how long it will take for an LRR with an AED walking at a rapid pace to reach a victim. Large facilities and buildings with unusual designs, elevators, campuses with several separate buildings, and physical impediments all present unique challenges to LRRs. In some larger facilities, it may be necessary to incorporate the use of properly equipped ''golf cart'' style conveyances to accommodate time and distance conditions.

• *Physical Placement of AEDs:* Facilities that have large open areas present unique challenges.

11.0 Characteristics of Proper AED Placement

There are several elements that contribute to proper placement of AEDs. The major elements are:

• An easily accessible position (*e.g.*, placed at a height so those shorter individuals can reach and remove, unobstructed access, etc.)

• A secure location that prevents or minimizes the potential for tampering, theft, and/or misuse, and precludes access by unauthorized users.

Facilities should take additional steps to assure that an AED has not been stolen or improperly removed.

• A location that is well marked, publicized, and known among trained staff. Periodic ''tours'' of locations are recommended.

• A nearby telephone that can be used to call backup, security, EMS, or 911 to be sure that additional help is dispatched.

• Protocols should clearly address procedures for activating local EMS personnel. These protocols should include notification of EMS personnel of the quantity, brands, and locations of AEDs within the facility. This information will enhance dispatch and the EMS responder protocol, enabling proper planning and scene management once EMS personnel arrive at the victim's side. Equipment stored in a manner in which the removal of the AED automatically notifies security, EMS, or a central control center is ideal.

• Where automatic notification of the opening of an AED storage cabinet or removal of an AED from a cabinet is not implemented, emphasis should be placed on notification procedures and equipment placement in close proximity to a telephone.

Equipment To Be Placed With AEDs

It is recommended that additional items that may be necessary to a successful rescue be placed into a bag and be stored and accessible with the AED. Keep in mind that CPR is an essential element of an effective rescue and that as a victim collapses, other physical injury may occur concurrently:

• A set of simplified directions for CPR and the use of the AED

• Non-latex protective gloves (several pairs in small, medium, and large sizes)

• Appropriate sizes of CPR face masks with detachable mouthpieces, plastic or silicone face shields (preferably clear), with one-way valves, or other type of barrier device that can be used in mouth to mouth resuscitation

• Disposable razor to dry shave a victim in chest areas if needed, as well as a supply of 4x4 gauze pads to clear/dry an area, to assure proper electrode-to-skin contact

• A pair of medium size bandage or blunt end scissors

• Spare battery and electrode pads

• Two biohazard or medical waste plastic bags for waste or for transport of the AED should it become contaminated

• Pad of paper and writing tools

• One absorbent towel

In large or complex facilities, access routes should be given careful consideration. Such facilities may demand the use of a designated responder or team approach, in which at least one responder has keys or passes to allow for the use of a more direct or elevator override key to expedite access and transport by appropriate medical or EMS personnel.

12.0 Follow-Up After an AED Is Used

All AEDs are equipped with a credit card size device (*e.g.*, data card) or have the capacity to internally store data for later downloading, that will record and contain information about the patient's heart rhythm, AED assessment functioning, and the characteristics of the shock(s) administered. Depending on the design of a particular PAD, the AED will either accompany the victim to the hospital or will be retained on site for the medical advisor of the PAD's review. The proper disposition of the AED and its electronic recorder module must be addressed in a PAD program's protocols.

After an event, the PAD medical director should be promptly notified, and a review and assessment of performance should be performed. This process is best led by the PAD's physician overseer. A copy of the full report should be provided to and reviewed by the Designated Official and any other authorities, as required by state and local laws.

Incident reports and follow-up should be performed as soon as possible, and restocking of supplies and returning the AED to service should be accomplished. All aspects of the performance of the system, people, device, and protocols should be addressed in a non-judgmental manner with an eye toward verifying or improving effectiveness and to identify problem areas that must be resolved. Responsibility for each step should be clearly articulated in protocols. The results of routinely scheduled and post event reviews should be shared and discussed with facility management and other interested parties as deemed appropriate in a particular facility. Individuals with responsibility for facility oversight are also responsible for the PAD program and should remain informed about their program's performance.

Post event reviews should be arranged and conducted with sensitivity to issues of medical and patient record confidentiality. As such, the physician overseeing the PAD program should conduct a thorough medical documentation review prior to the ''process'' evaluation that will be conducted by or for individuals with responsibility for facility management. The physician should be charged with assuring that privileged or confidential patient information is shielded.

An essential post-event consideration is the psychological effect on LRRs and others. It is not at all uncommon for LRRs, witnesses, and co-workers to have

psychological or stress reactions to an event. These people may have both emotional and physical reactions that need to be tended to, but for which there is a reluctance to come forward to ask for help. Facility leadership has a positive obligation to pro-actively reach out and offer help, affirming that such responses are normal and to a large extent to be expected. Post-event support is especially important in cases where a rescue is unsuccessful. Post-event support should be available and offered promptly after an event, and the invitation to seek assistance should remain open. This type of psychological care is best provided by trained professionals with expertise in the area of critical incident stress management. Provision of these psychological services should be addressed in the PAD program design and protocols.

Attachment A.—Sample AED Protocol and Response Order Elements

Activation of the AED Response Team

1. During Health Unit Duty Hours: 7 a.m. to 12 a.m. Monday through Friday; weekends and Federal holidays, the health center is closed. In any potentially life-threatening cardiac emergency:

(a) The first person on the scene will:

(i) Call the Security Console by dialing ''0000'' and inform them of the location and nature of the emergency.

(ii) Remain with the victim, send a co-worker to meet the emergency team at a visible location and escort to the site.

(b) Security Personnel immediately upon receiving the call will:

(i) Notify the AED response team by dialing the group notification number for the AED team pagers; Enter the code for the location of the emergency.

(ii) Notify local EMS 911.

(iii) Inform the EMS operator of location and nature of emergency and that an AED unit is on site.

(iv) Notify Federal Police Officer(s) to meet the EMS personnel and escort them to the site of the emergency.

(v) Notify Federal Police Officer(s) to respond to the site and offer any assistance needed (if staffing allows).

(c) Health Unit Staff immediately upon receiving the notification will proceed directly to the scene with the Health Unit AED and other emergency equipment (2 nurses will respond if available).

(d) Other AED responders immediately upon receiving the notification will:

(i) (The team member previously designated to transport the AED unit) obtain the AED unit closest to them or to the site of the emergency and proceed with it to the emergency site.

(ii) (All other AED responders) go directly to the site of the emergency.

Emergency Site Protocol

—Whichever AED responder arrives on the scene first will assess the victim. If AED use is indicated, the AED trained personnel will administer the AED and CPR according to established protocols (see Automated External Defibrillation Treatment Algorithm).

—When the Health Unit Nurse is on the scene, he/she shall be in charge of directing the activities until the local EMS arrives and assumes care of the victim.

—Any additional AED responders shall assist with CPR, recording of data and time, notifications, crowd control, escorting of EMS, as needed. Any additional AED units will remain on site as a back-up.

2. Non-Health Unit Hours: 12 a.m. to 7 a.m. Monday through Friday, and All Hours Saturday and Sunday and Federal holidays. In any potentially life-threatening cardiac emergency:

(a) The first person on the scene will:

(i) Call the Security Console by dialing, ''0000'' inform them of the location and nature of the emergency.

(ii) Remain with the victim, send a co-worker to meet the emergency team at a visible location and escort to the site.

(e) Security Personnel immediately upon receiving the call will:

(i) Notify the AED response team by dialing the group notification number for the AED team pagers, enter the code for the location of the emergency.

(ii) Notify local EMS 911.

(iii) Notify Federal Police Officer(s) to meet the EMS personnel and escort them to the site of the emergency.

(iv) Notify Federal Police Officer(s) to respond to the site and offer any assistance needed (if staffing allows).

(c) AED Responders immediately upon receiving the notification will:

(i) (The team member previously designated to transport the AED unit) obtain the AED unit closest to them or to the site of the emergency and proceed with it to the emergency site.

(ii) (All other AED responders) go directly to the site of the emergency.

(iii) (Whichever AED responder arrives on the scene first) assess the victim. If AED use is indicated, the AED trained personnel will administer the AED and CPR according to established protocols (see Automated External Defibrillation Treatment Algorithm) until local EMS professionals arrive and assume care of the victim.

Attachment B

Draft Summary of Legislative Activity by State as of June 1, 2000

47 States Provide Limited Immunity for Lay Responders

1. Alabama—6/99
2. Alaska—4/98
3. Arizona—5/99
4. Arkansas—2/99
5. California—7/99
6. Colorado—3/99
7. Connecticut—10/98
8. Florida—4/97
9. Georgia—3/98
10. Hawaii—5/98
11. Idaho—3/99
12. Illinois—8/99
13. Indiana—2/99
14. Iowa—2/98—*Administrative rules or regulations allow AED use by laymen and provide immunity
15. Kansas—3/98
16. Kentucky—2/2000
17. Louisiana—6/99
18. Maryland—4/99
19. Massachusetts—11/99* strengthened 5/98 law
20. Minnesota—3/98
21. Michigan—11/99
22. Mississippi—3/99
23. Missouri—3/98
24. Montana—4/99
25. Nebraska—4/99
26. Nevada—6/97
27. New Hampshire—7/99
28. New Jersey—3/99
29. New Mexico—4/99
30. New York—8/98
31. North Dakota—3/99
32. Ohio—11/98
33. Oklahoma—4/99
34. Oregon—6/99
35. Pennsylvania—12/98
36. Rhode Island—95
37. South Dakota—2/00
38. South Carolina—6/99
39. Tennessee—5/99* strengthened 5/98 law
40. Texas—6/99
41. Utah—3/99
42. Vermont—5/00
43. Virginia—3/99
44. Washington—6/98
45. Wisconsin—7/99
46. West Virginia—3/99
47. Wyoming—3/99

BILLING CODE 6820–23–P

PUBLIC ACCESS DEFIBRILLATION
DRAFT SUMMARY OF LEGISLATIVE ACTIVITY BY STATE AS OF JUNE 1, 2000

STATE	STATE "GOOD SAMARITAN" STATUTES	IMMUNITY FOR RESCUERS	RESCUERS IMMUNITY FOR ACQUIRERS AND ENABLERS	ENCOURAGES/ REQUIRES CPR & AED TRAINING	ENCOURAGES/ REQUIRES MEDICAL INVOLVEMENT	ENCOURAGES/ REQUIRES EMS NOTIFICATION
ALABAMA	ALA. CODE § 6-5-332 (1999) ALA. CODE § 6-5-332.3 (1999) AED Use	Yes, lay person immunity, but no extended immunity	Yes	Yes – AHA, ARC or other nationally recognized course	Yes	Yes – Notification and activation
ALASKA	ALASKA STAT. § 09.65.090 (Michie 2000) ALASKA STAT. § 18.08.086 (Michie 2000)	Yes	No	Yes-AHA, ARC or other Health Dept approved course	Yes-Physician Approval of AED Purchase	Requires notification of location and activation of EMS at time of use
ARIZONA	ARIZ. REV. STAT. § 2263 (2000) General Stat. ARIZ. REV. STAT. § 2262 (2000) Use & training req. ARIZ. REV. STAT. § 2264 (2000) AED Exemption ARIZ. REV. STAT. § 2261 (2000) AED Def.	Yes	Yes	Yes – Heartsaver AED	Yes	Yes
ARKANSAS	ARK. CODE ANN. § 17-95-101 (Michie 1999) Gen. ARK. CODE ANN. § 17-95-605 (Michie 1999) AED	Yes	Yes	Yes	Yes	Yes
CALIFORNIA	CAL. CIV. § 1714.21 (West 2000) AED ImmunityCAL. HEALTH & SAFETY § 1797.190 (West 2000) Use CAL. HEALTH & SAFETY § 1797.196 (West 2000) Req. for owners; Penalties for violations CAL. BUS. & PROF. CODE § 2395 (West 2000) Gen. Stat.	Yes	Yes	Yes-requires training to AHA or ARC standards	Yes	Yes
COLORADO	COLO. REV. STAT. § 13-21-108 (2000) Lim. Liab. for AED use.	yes	No immunity for trainers	Yes	Yes	Yes
CONNECTICUT	CONN. GEN. STAT. § 52-557b (2000)	Yes	No	Yes-AHA or ARC standards	No	Yes

PUBLIC ACCESS DEFIBRILLATION
DRAFT SUMMARY OF LEGISLATIVE ACTIVITY BY STATE AS OF JUNE 1, 2000

STATE	STATE "GOOD SAMARITAN" STATUTES	IMMUNITY FOR RESCUERS	RESCUERS IMMUNITY FOR ACQUIRERS AND ENABLERS	ENCOURAGES/ REQUIRES CPR & AED TRAINING	ENCOURAGES/ REQUIRES MEDICAL INVOLVEMENT	ENCOURAGES/ REQUIRES EMS NOTIFICATION
DELAWARE		Yes, through existing Good Sam but language is vague	Proposed	Proposed	Not proposed	Proposed – only if purchased with State funds.
FLORIDA	FLA. STAT. ANN. § 401.2915 (West 2000) Training & contact EMS reqs. FLA. STAT. ANN. § 768.13 (West 2000) Gen. Stat.	Yes	No	Yes-Source not Specified	No	Encourages registration; requires activation of EMS
GEORGIA	GA. CODE ANN. § 51-1-29 (1999) Gen. Stat.	Yes	No	Yes-Approved by Dept of Human Resources	Yes-"direct supervision of a physician"	Requires notification of location and Activation of EMS
HAWAII	HAW. REV. STAT. § 663-1.5(e) (1999) AED Immunity HAW. REV. STAT. § 453-2 (1999) License Req. HAW. REV. STAT. § 457-8 (1999) License Req.	Yes	Yes – except trainers	Yes- training under an AED program administered by a physician	Yes-administered by a physician	No
IDAHO	IDAHO CODE § 5-330 (1999) Gen. Stat.	Yes	No specific mention of limited immunity for MD's, trainers companies.	Yes	Yes	Yes; location and after use notification
ILLINOIS	745 ILL. COMP. STAT. 49/12 (West 2000) AED Immunity, License Req.	Yes	Yes	Yes-AHA standards	Yes – under new bill	Yes – under new bill
INDIANA	IND. CODE ANN. § 34-4-12-1 (West 2000)	Yes	Yes – acquirers only No immunity for physician or trainer	Yes-National or state approved course	Yes-"enlist medical direction in use of AED and CPR"	Requires notification of location and activation of EMS
IOWA	IOWA CODE § 613.17 (1999) Gen. Stat.	Yes-Same as provided to other EMS providers	No	Yes-Approved by Dept of Public Health	Yes-Medical Director required	Requires registration with EMS

PUBLIC ACCESS DEFIBRILLATION
DRAFT SUMMARY OF LEGISLATIVE ACTIVITY BY STATE AS OF JUNE 1, 2000

STATE	STATE "GOOD SAMARITAN" STATUTES	IMMUNITY FOR RESCUERS	RESCUERS IMMUNITY FOR ACQUIRERS AND ENABLERS	ENCOURAGES/ REQUIRES CPR & AED TRAINING	ENCOURAGES/ REQUIRES MEDICAL INVOLVEMENT	ENCOURAGES/ REQUIRES EMS NOTIFICATION
KANSAS	KAN. STAT. ANN. § 65-2891 (1999) KAN. STAT. ANN. § 65-6128 (1999) KAN. STAT. ANN. § 65-6129(b) (1999) Cert. Necess.	Yes	No	Some training elements may include first aid and proficiency in AED	NO	Encourages notification, requires EMS activation at use
KENTUCKY	KY. REV. STAT. ANN. § 411.148 (Banks-Baldwin 1999) Gen. Stat.	Yes	Yes	Yes - Expected users receive AHA, ARC or other nationally recognized training course	Yes	Yes - activation and notification
LOUISIANA	LA. REV. STAT. ANN. § 37:1732 (West 1999) LA. REV. STAT. ANN. § 9:2793 (West 2000) Gratuitous Service Imm. LA. REV. STAT. ANN. § 40:1236.14 (West 2000) AED Immunity LA. REV. STAT. ANN. § 40:1236.13 (West 2000) Training req.	Yes includes expected AED users regularly on the premises (covers those that have AED use in their job description)	Yes includes MDs and APRNs, trainers, acquirers, persons responsible for site where AED is located	Yes- AHA or other nationally recognized course	Yes	Yes-activation and notification
MAINE	ME. REV. STAT. ANN. tit. 14 § 164 (West 2000) Gen. Stat.					
MARYLAND	MD. CODE ANN., CTS. & JUD. PRO. § 5-603 (1999) Gen. Stat.	Yes	Yes – except trainers	Yes	Yes	Yes
MASSACHUSETTS	MASS. GEN. LAWS ch. 12 § 112 (2000) AED Stat.	Yes	Yes – MD, acquirer	Yes-AHA or ARC guidelines	Yes	Yes
MICHIGAN	MICH. COMP. LAWS § 333.70965(2) (1999) AED Stat.	Yes	Yes- acquirer, MD, trainer	No	No	No
MINNESOTA	MINN. STAT. § 604A.01 (2000) AED Definition & Immunity	Yes	Yes, as a part of Good Sam	Yes, in appropriations bills but not in Good Sam leg.	No	No

PUBLIC ACCESS DEFIBRILLATION
DRAFT SUMMARY OF LEGISLATIVE ACTIVITY BY STATE AS OF JUNE 1, 2000

STATE	STATE "GOOD SAMARITAN" STATUTES	IMMUNITY FOR RESCUERS	RESCUERS IMMUNITY FOR ACQUIRERS AND ENABLERS	ENCOURAGES/ REQUIRES CPR & AED TRAINING	ENCOURAGES/ REQUIRES MEDICAL INVOLVEMENT	ENCOURAGES/ REQUIRES EMS NOTIFICATION
MISSISSIPPI	MISS. CODE ANN. § 73-25-37(2) (2000) AED Immunity	Yes –trained responders	Yes – Trainers and MD's only	Yes	Yes	Yes
MISSOURI	MO. REV. STAT. § 190.092 (2000) AED Immunity MO. REV. STAT. § 537.037 (2000) Gen. Stat.	Yes	No	Yes	Yes	Requires notification and activation of EMS
MONTANA	MONT. CODE ANN. 50-6-505 (2000) AED Limited Liability MONT. CODE ANN. 50-6-501 (2000) AED Def. MONT. CODE ANN. 50-6-502 (2000) Req. for Use MONT. CODE ANN. 50-6-503 (2000) Training Req.'s MONT. CODE ANN. 27-1-714 (2000) Gen. Stat.	Yes	Yes	Yes	Yes	Yes, location and activation
NEBRASKA	NEB. REV. ST. § 71-5178 (2000) AED Plan NEB. REV. ST. § 71-51,102 (2000) AED Def. NEB. REV. ST. § 25-21,186 (2000) Gen. Stat.	Yes	No	Yes	No	No
NEVADA	NEV. REV. STAT. § 41.500.8 (2000) AED User Limited Liability NEV. REV. STAT. § 41.505 (2000) Gen. Stat.	Yes	Yes – except physician	Yes – AHA or ARC standards	No	Yes - notification

PUBLIC ACCESS DEFIBRILLATION
DRAFT SUMMARY OF LEGISLATIVE ACTIVITY BY STATE AS OF JUNE 1, 2000

STATE	STATE "GOOD SAMARITAN" STATUTES	IMMUNITY FOR RESCUERS	RESCUERS IMMUNITY FOR ACQUIRERS AND ENABLERS	ENCOURAGES/ REQUIRES CPR & AED TRAINING	ENCOURAGES/ REQUIRES MEDICAL INVOLVEMENT	ENCOURAGES/ REQUIRES EMS NOTIFICATION
NEW HAMPSHIRE	N.H. REV. STAT. ANN. § 153-A:11 (2000) AED Exception to Liability N.H. REV. STAT. ANN. § 153-A:28 (2000) Intent N.H. REV. STAT. ANN. § 153-A:29 (2000) AED Def. N.H. REV. STAT. ANN. § 153-A:30 (2000) AED Training N.H. REV. STAT. ANN. § 153-A:31 (2000) AED Limited Liability N.H. REV. STAT. ANN. § 508.12 (2000) N.H. REV. STAT. ANN. § 508.12-a (2000)	Yes	Yes – any person, association, corp. etc., that acquires and maintains an AED. *No specific mention of MD or trainer.*	Yes	No	No
NEW JERSEY	N.J. STAT. ANN. § 2A:62A-23 (West 2000) Legis. Findings on AED's N.J. STAT. ANN. § 2A:62A-24 (West 2000) AED Def. N.J. STAT. ANN. § 2A:62A-25 (West 2000) Req. of Acquisition of AED N.J. STAT. ANN. § 2A:62A-26 (West 2000) Cert. For Use N.J. STAT. ANN. § 2A:62A-27 (West 2000) AED Civil Liability N.J. STAT. ANN. § 2A:62A-1 (West 2000) Gen. Stat.	Yes	Yes – Requires company to have plan in place before Dr. will prescribe AED	Yes	Yes	Yes

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DRAFT SUMMARY OF LEGISLATIVE ACTIVITY BY STATE AS OF JUNE 1, 2000

STATE	STATE "GOOD SAMARITAN" STATUTES	IMMUNITY FOR RESCUERS	RESCUERS IMMUNITY FOR ACQUIRERS AND ENABLERS	ENCOURAGES/ REQUIRES CPR & AED TRAINING	ENCOURAGES/ REQUIRES MEDICAL INVOLVEMENT	ENCOURAGES/ REQUIRES EMS NOTIFICATION
NEW MEXICO	N.M. STAT. ANN. § 24-10B-4M (Michie 2000) AED Plan N.M. STAT. ANN. § 24-10C-2 (Michie 2000) Legis. Findings N.M. STAT. ANN. § 24-10C-3 (Michie 2000) AED Def. N.M. STAT. ANN. § 24-10C-4 (Michie 2000) AED Req.'s for Use N.M. STAT. ANN. § 24-10-3 (Michie 2000) Gen. Stat.	Yes	Yes	Yes – nationally recognized course	Yes	Yes
NEW YORK	N.Y. PUB. HEALTH LAW § 3000-a (McKinney 2000) AED User Immunity N.Y. PUB. HEALTH LAW § 3000-b (McKinney 2000) AED Def. N.Y. PUB. HEALTH LAW § 3013 (McKinney 2000) Gen. Stat.	Yes	Yes	Yes	Yes	Yes
NORTH CAROLINA	N.C. GEN. STAT. § 90-21.14 (1999)	Yes	Yes	Yes	No	Yes
NORTH DAKOTA	N.D. CENT. CODE § 32-03.1-023 (1999) AED Req.'s N.D. CENT. CODE § 32-03-40 (1999) Emer. Treatment Immunity	Yes	Yes, need to strengthen language to include property owner	Yes	Yes	Yes

PUBLIC ACCESS DEFIBRILLATION
DRAFT SUMMARY OF LEGISLATIVE ACTIVITY BY STATE AS OF JUNE 1, 2000

STATE	STATE "GOOD SAMARITAN" STATUTES	IMMUNITY FOR RESCUERS	RESCUERS IMMUNITY FOR ACQUIRERS AND ENABLERS	ENCOURAGES/ REQUIRES CPR & AED TRAINING	ENCOURAGES/ REQUIRES MEDICAL INVOLVEMENT	ENCOURAGES/ REQUIRES EMS NOTIFICATION
OHIO	OHIO REV. CODE ANN. § 2305.235 (Anderson 2000) AED Def. OHIO REV. CODE ANN. § 3701.85 (Anderson 2000) Duty of AED Owners OHIO REV. CODE ANN. § 4765.35 (Anderson 2000) First Responder Def. OHIO REV. CODE ANN. § 4765.37 (Anderson 2000) EMT Def. OHIO REV. CODE ANN. § 4765.49 (Anderson 2000) Immunities	Yes	No immunity for acquirer. Immunity for Physician and trainer	Yes-Allows trained person to use, but does not tie training to immunity	Yes	Requires activation of EMS at time of use
OKLAHOMA	OKLA. STAT. tit. 76 § 5A (2000) AED User Immunity OKLA. STAT. tit. 76 § 5 (2000) Gen. Stat.	Yes	Yes for acquirers No specific immunity mentioned for MD's or trainers.	Yes	Yes	Yes
OREGON	OR. REV. STAT. § 30.801 (1999) AED User Immunity OR. REV. STAT. § 30.800 (1999) Emer. Assistance Immunity OR. REV. STAT. § 682.135 (1999) Req. for License	Yes –	Yes – acquirers, trainers, MD's	Yes – course approved by Health Division of Dept. of Dept. of Human Resources	Yes	Yes – Notification and activation
PENNSYLVANIA	42 PA. CONS. STAT. § 8331.2 (2000) AED User Immunity 42 PA. CONS. STAT. § 8331 (2000) Gen. Stat.	Yes	No	Yes-Not specific	No	No

PUBLIC ACCESS DEFIBRILLATION
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STATE	STATE "GOOD SAMARITAN" STATUTES	IMMUNITY FOR RESCUERS	RESCUERS IMMUNITY FOR ACQUIRERS AND ENABLERS	ENCOURAGES/ REQUIRES CPR & AED TRAINING	ENCOURAGES/ REQUIRES MEDICAL INVOLVEMENT	ENCOURAGES/ REQUIRES EMS NOTIFICATION
RHODE ISLAND	R.I. GEN. LAWS § 9-1-34 (2000) AED User Immunity R.I. GEN. LAWS § 23-6.2-2 (2000) Approving Placement of AED's R.I. GEN. LAWS § 23-6.2-1 (2000) Decl. of R.I. Policy on AED's R.I. GEN. LAWS § 9-1-27.1 (2000) Gen. Stat.	Yes	Yes, trainers and medical directors only	Yes-AHA or ARC standards	No	No
SOUTH CAROLINA	S.C. CODE ANN. § 44-76-10 (Law. Co-op 2000) AED Act S.C. CODE ANN. § 44-76-20 (Law. Co-op 2000) AED Def. S.C. CODE ANN. § 44-76-30 (Law. Co-op 2000) AED Training S.C. CODE ANN. § 44-76-40 (Law. Co-op 2000) AED User Immunity S.C. CODE ANN. § 44-76-50 (Law. Co-op 2000) Applicability of Act ***S.C. CODE ANN. § 15-1-310 (Law. Co-op 1999) Gen. Stat.***	Yes	Yes – acquirers & prescribing physician. No immunity for trainers	Yes – AHA, ARC or National Safety Council standards	Yes – health care professional to serve as program liaison	Yes – activation and notification
SOUTH DAKOTA	S.D. CODIFIED LAWS § 20-9-4.3 (Michie 2000) AED Def. S.D. CODIFIED LAWS § 20-9-4.4 (Michie 2000) AED User Immunity S.D. CODIFIED LAWS § 20-9-4.6 (Michie 2000) AED Trainer Immunity S.D. CODIFIED LAWS § 20-9-4.7 (Michie 2000) Owner Notification Req.'s S.D. CODIFIED LAWS § 20-9-4.1 (Michie 2000) Gen. Stat.	Yes	Yes	Yes	Yes	Yes

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DRAFT SUMMARY OF LEGISLATIVE ACTIVITY BY STATE AS OF JUNE 1, 2000

STATE	STATE "GOOD SAMARITAN" STATUTES	IMMUNITY FOR RESCUERS	RESCUERS IMMUNITY FOR ACQUIRERS AND ENABLERS	ENCOURAGES/ REQUIRES CPR & AED TRAINING	ENCOURAGES/ REQUIRES MEDICAL INVOLVEMENT	ENCOURAGES/ REQUIRES EMS NOTIFICATION
TENNESSEE	TENN. CODE ANN. § 63-6-218 (1999) TENN. CODE ANN. § 68-140-701 – 68-140-710 (1999)	Yes	Yes	Yes – AHA or equivalent	Yes	Yes- Requires notification of EMS service; requires activation of EMS at time of use
TEXAS	TEX. HEALTH & SAFETY CODE ANN. § 779.006 (West 2000) AED Imm. TEX. HEALTH & SAFETY CODE ANN. § 779.001 (West 2000) AED Def. TEX. HEALTH & SAFETY CODE ANN. § 779.002 (West 2000) AED Train. TEX. HEALTH & SAFETY CODE ANN. § 779.003 (West 2000) AED Maint. TEX. HEALTH & SAFETY CODE ANN. § 779.004 (West 2000) AED Use TEX. HEALTH & SAFETY CODE ANN. § 779.005 (West 2000) Not. Req's TEX. HEALTH & SAFETY CODE ANN. § 779.006 (West 2000) Owner Req's TEX. CIV. PRAC. & REM. CODE ANN. § 74.001 (West 2000) Liability Imm. TEX. CIV. PRAC. & REM. CODE ANN. § 74.002 (West 2000) Lic. Req.	Yes –trained users	Yes	Yes – approved by Dept. of Health	Yes	Yes –activation and notification
UTAH	UTAH CODE ANN. § 58-31b-701 (1999) AED User Immunity	Yes	Yes, healthcare providers providing instruction on use	Yes-AHA guidelines	Yes	Yes
VERMONT		Yes	Yes	Yes	Yes	Yes

PUBLIC ACCESS DEFIBRILLATION
DRAFT SUMMARY OF LEGISLATIVE ACTIVITY BY STATE AS OF JUNE 1, 2000

STATE	STATE "GOOD SAMARITAN" STATUTES	IMMUNITY FOR RESCUERS	RESCUERS IMMUNITY FOR ACQUIRERS AND ENABLERS	ENCOURAGES/ REQUIRES CPR & AED TRAINING	ENCOURAGES/ REQUIRES MEDICAL INVOLVEMENT	ENCOURAGES/ REQUIRES EMS NOTIFICATION
VIRGINIA	VA. CODE ANN. § 8.01-225.A.6 (Michie 1999) AED User Immunity	Yes	Yes	Yes	Yes	Yes
WASHINGTON	WASH. REV. CODE § 70.54.310 (1999) Immunity for SED User	Yes	Yes	Yes-AHA guidelines	Yes-Authorizes possession	Requires AED manufacturer to register; requires activation of EMS at time of use
WEST VIRGINIA	W. VA. CODE § 16-4D-4 (1999) AED User Limitation on Liability W. VA. CODE § 16-4D-1 (1999) Legis. Findings W. VA. CODE § 16-4D-2 (1999) AED Def. W. VA. CODE § 16-4D-3 (1999) Early AED Programs W. VA. CODE § 55-7-15 (1999) Gen. Stat.	Yes	Yes	Yes-AHA standards	No	No
WISCONSIN	WIS. STAT. § 895.48 (2000) Limitations on Liability WIS. STAT. § 146.50 (2000) AED Def.	Yes – trained	Yes – provider of device, owner of device, trainer.	Yes - approved by Dept. of Health & Family services	No	Yes – written notification
WYOMING	WYO. STAT. ANN. § 35-26-103 (Michie 2000) AED Limited Liability WYO. STAT. ANN. § 35-26-101 (Michie 2000) AED Def. WYO. STAT. ANN. § 35-26-102 (Michie 2000) AED Use WYO. STAT. ANN. § 1-1-120 (Michie 2000) Gen. Stat. WYO. STAT. ANN. § 33-36-108 (Michie 2000) Gen. Exemptions	Yes	Yes	Yes	Yes	Yes
WASHINGTON, DC						

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substances and Disease Registry

[Program Announcement 01044]

Program To Build Capacity Among American Indian Tribes Impacted by Releases from the Hanford Nuclear Reservation; Notice of Availability of Funds

A. Purpose

The Agency for Toxic Substances and Disease Registry (ATSDR) announces the availability of fiscal year (FY) 2001 funds for a cooperative agreement program to Build Capacity among American Indian Tribal Governments impacted by releases from the Hanford Nuclear Reservation. The program addresses the ''Healthy People 2010'' focus areas of Environmental Health, Health Communication, Mental Health and Mental Disorders, and Public Health Infrastructure.

The purpose of the program is to address the Tribal public health issues that result from hazardous substances in the environment due to the Hanford Nuclear Reservation in the southeastern area of Washington State. The program will focus on: (1) Building Tribal environmental health capacity (2) addressing health issues from releases of hazardous substances into the environment (3) develop culturally appropriate health education materials and/or vehicles to engage Tribal community members in public health activities.

These awards are intended to enhance the Tribes ability to collaborate with ATSDR in conducting public health activities related to potential human exposures from the Hanford Nuclear Reservation. ATSDR understands that the nine Tribes eligible under this program are sovereign nations, and that each Tribe's capacities and capabilities are unique and different. To address the individual nature of Tribal issues, ATSDR is prepared to work collaboratively with each Tribe individually to develop a unique program to address each Tribe's needs.

B. Eligible Applicants

This program is directed only to the following federally recognized American Indian Tribal Governments: Coeur d'Alene Tribe; Coville Confederated Tribes; Confederated Tribes of the Umatilla Indian Reservation; Kalispel Tribe; Kootenai Tribe of Idaho; Nez Perce Tribe; Spokane Tribe; Confederated Tribes of the Warm Springs Reservation of Oregon; and Yakama Indian Nation. This announcement is limited to only these tribes due to their proximity to the site and the pre-determined air pathway emissions affecting their respective reservation.

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 $450,000 is available in FY 2001 to fund approximately 9 awards. It is expected that the average award will be $50,000. 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 5 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.

Use of Funds

Funds may be expended for reasonable program purposes, such as personnel, travel, supplies and services. Funds for contractual service may be requested; the primary recipient of ATSDR funds must perform a substantive role in carrying out project activities and not merely serve as a conduit for an award to another party or provide funds to an ineligible party. Equipment may be purchased with these funds; however, the equipment proposed should be appropriate and reasonable for the activity to be conducted. Equipment may be acquired only when authorized, and the application should provide a justification of need to acquire equipment, the description, and the cost of purchase versus leasing. At the completion of the project, the equipment will be returned to ATSDR.

D. Program Requirements

In order to achieve the purpose of this program, the recipient will be responsible for the activities under 1. (Recipient Activities) and ATSDR will be responsible for the activities listed under 2. (ATSDR Activities).

1. Recipient Activities

a. Review and update the needs assessment to verify knowledge, skills, and capabilities to address the health issues as a result of releases of hazardous substances into the environment from the Hanford Nuclear Reservation.

b. Develop an Environmental Health Plan (EHP) related to public health needs resulting from exposures and potential exposures to releases of hazardous substances into the environment from the Hanford Nuclear Reservation. The EHP will build Tribal capacity to address public health issues, based on the outcomes of the needs assessment. The EHP can be part of or spur the development of a Tribal Comprehensive Environmental Health Plan that addresses more general environmental health needs.

c. Based on activities in the EHP, actively engage with ATSDR in site-specific activities, including public health assessments, health consultations, community involvement, community health education, and health outcome data education.

d. Develop Tribal capacity to assist in the implementation and evaluation of health education activities for Tribal community members.

e. Develop culturally appropriate health education materials for Tribal members, community members, Tribal health and environmental professionals and paraprofessional, and other health care providers working with native communities.

f. Participate in and contribute to the Hanford Health Effects Subcommittee and Inter-Tribal Council on Hanford Health Projects.

g. Develop Tribal capacity to use toxicological databases and other databases to continue to identify toxicological issues.

h. Identify environmental health issues and tools necessary to benchmark Tribal health to be included in the EHP.

i. Review and participate in ATSDR public health assessment and consultation activities.

2. ATSDR Activities

a. Assist the recipient in developing the Environmental Health Plan to build Tribal capacity and address health issues and identified releases of hazardous materials into the environment from the Hanford Nuclear Reservation.

b. Assist in the development, implementation, and evaluation of culturally competent health education materials/activities for Tribal community members.

c. Assist in the development of community profiles using the results of the needs assessment that has been developed by the Tribe.

d. Provide support for Tribal participation in the Hanford Health

Effects Subcommittee and Inter-Tribal Council on Hanford Health Projects.

e. Provide support and training to allow the Tribes to effectively interact and provide information for public health assessments and consultations. ATSDR will identify and make available appropriate training courses as resources permit.

f. Assist in the development and use of toxicological information resources.

g. Provide support for the coordination of activities between Tribal Governments and Federal and State public health agencies.

E. Application Content

Use the information in the Program Requirements, Other Requirements, and Evaluation Criteria sections to develop the application content. The application will be evaluated on the criteria listed, so it is important to follow them in laying out the program plan. The narrative should be no more than 20 double-spaced pages, printed on one side, with one inch margins, and 12 point font.

F. Submission and Deadline

Application

Submit the original and two copies of PHS 5161–1 (OMB Number 0937–0189). Forms are available in the application kit and at the following Internet address: *www.cdc.gov/od/pgo/forminfor.htm.*

On or before July 25, 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:

(a) Received on or before the deadline date; or

(b) Sent on or before the deadline date and received in time for submission to the independent review group. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

Late Applications: Applications which do not meet the criteria in (a) or (b) above are considered late applications, will not be considered, and will be returned to the applicant.

G. Evaluation Criteria

Each application will be evaluated individually against the following criteria by an independent review group appointed by ATSDR.

Evaluations will be based on the extent to which the applicant has:

1. Developed and administered effective culturally competent measures to engage community members in environmental public health activities. Describe the ability to provide environmental health education in a timely manner in response to Tribal issues which are specific to the Hanford Nuclear Reservation. (10 Percent)

2. Described how the environmental health needs assessment that was completed under the previous cooperative agreement announcement will be used for environmental health. (10 Percent)

3. Outlined the activities to develop an Environmental Health Plan (EHP) which includes; statement of the problem, methods of analysis, implementation strategies, implementation and evaluation. Within the plan, described the environmental health needs/issues of the Tribe and explain the strategies in which the Tribe plans to resolve each need/issue. Explained the ability of the Tribe to respond to environmental health needs/issues. Specifically, demonstrated the Tribes' ability to address health issues that occur as a result of actual or potential human exposures to hazardous substances including methods to analyze and evaluate toxicological, community and environmental health data/information. Ensure the Hanford Nuclear Reservation is addressed in the EHP. (40 Percent)

4. Described the Tribes capability (or inability) to carry out the proposed EHP. Describe the technical assistance needed to develop the EHP. Explain what additional items or issues you will have to address when developing the EHP. (20 Percent)

5. Described how the Tribe will resolve current problems of exposures of hazardous substances in the environment related to the Hanford Nuclear Reservation. (20 Percent)

6. Budget Justification (Not Scored)—The budget will be evaluated for the extent to which it is reasonable, clearly justified, and consistent with the intended use of cooperative agreement funds. The applicant should describe and indicate availability of facilities and equipment necessary to carry out this project.

H. Other Requirements

Technical Reporting Requirements

Provide CDC with original plus two copies of:

1. Semi-annual 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–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–18 Cost Recovery
AR–19 Third Party Agreements

I. Authority and Catalog of Federal Domestic Assistance Number

This program is authorized under section 104(i)(14)(15), and (17) of the Comprehensive Environmental Response, Compensation and Liability Act [42 U.S.C. sections 9604(i)(14)(15), and (17)], as amended. The Catalog of Federal Domestic Assistance number is 93.236.

J. Where To Obtain Additional Information

This and other ATSDR announcements can be found on the CDC home page Internet address—*http://www.cdc.gov.* Click on ''Funding'' then ''Grants and Cooperative Agreements.''

To obtain business management technical assistance, contact: Nelda Godfrey, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention, Room 3000, 2920 Brandywine Road, Atlanta, GA 30341–4146, Telephone number: 770–488–2722, Email address: NAG9@cdc.gov.

For program technical assistance, contact: Dean Seneca, MPH, MCURP, Coordinator, Office of Tribal Affairs, Agency for Toxic Substances and Disease Registry, 1600 Clifton Road, NE (E–32), Atlanta, GA 30333, Telephone number: 404–639–4507, Email address: zkg8@cdc.gov.

Dated: May 16, 2001.

Georgi Jones,

Director, Office of Policy and External Affairs, Agency for Toxic Substances and Disease Registry.

[FR Doc. 01–12940 Filed 5–22–01; 8:45 am]

BILLING CODE 4163–70–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substances and Disease Registry

[Program Announcement 01108]

Soil-Pica, Soil-Ingestion and Health Outcome Investigation Site-Specific Health Activities; Notice of Availability of Funds

A. Purpose

The Agency for Toxic Substances and Disease Registry (ATSDR) announces the availability of fiscal year (FY) 2001 funds for a cooperative agreement program to conduct a site-specific activity health outcome investigation for the Vasquez Boulevard and I–70 (VBI70 site) in the Denver, Colorado metro area. This program addresses the ''Healthy People 2010'' priority area of Environmental Health.

The purpose of this program is: (1) To determine if soil-pica and soil-ingestion are potential sources of arsenic and lead exposure in preschool children in a community where arsenic and lead levels were found elevated in soil samples from residential yards and (2) to identify cases of acute arsenic or lead poisoning in households with a high contaminate level.

B. Eligible Applicants

Assistance will be provided only to The Colorado Department of Public Health and Environment (CDPHE). No other applications are solicited.

CDPHE is the most appropriate and qualified recipient to conduct the activities specified under this cooperative agreement because:

1. CDPHE, as the lead public health agency in Colorado, has conducted prior activities of this type (Globeville) in the Denver area.
2. CDPHE has experience working with community based research in the Denver area and has an ongoing relationship with the VBI70 community
3. The community and the Environmental Protection Agency (EPA) have requested that the study be conducted this summer to capture peak exposure from outdoor activities. Prior soil arsenic levels ranged from 12–133 mg/kg. The EPA's removal action level is 400 mg/kg. Prior soil lead levels ranged as high as 1,131. The EPA's removal action level for lead is 200 mg/kg.

C. Availability of Funds

Approximately $250,000 is available in FY 2001 to fund one award. It is expected that the award will begin on or about July 15, 2001, and will be made for a 12-month budget within a project period of up to 2 years. Funding estimates are subject to change.

D. Where To Obtain Additional Information

Business management technical assistance may be obtained from: Nelda Y. Godfrey, Grants Management Specialist, Grants Management Branch, Procurement & Grants Office, Centers for Disease Control and Prevention, Room 3000, 2920 Brandywine Road, Atlanta, GA 30341–4146, Telephone Number: (770) 488–2722, E-mail Address: *nag9@cdc.gov.*

Program technical assistance may be obtained from:

Dave Campagna, Ph.D., Epidemiologist, Division of Health Studies, Agency for Toxic Substances and Disease Registry, Executive Park, Building 4, Suite 1300, Atlanta, GA 30305, Telephone Number: (404) 639–5144, E-mail Address: *Dcampagna@cdc.gov.*

Or

Maggie Warren, Funding Resource Specialist, Division of Health Studies, Agency for Toxic Substances and Disease Registry, 1600 Clifton Rd., NE., Mail Stop E–31, Atlanta, GA 30333, Telephone Number: (404) 639–5114, E-mail Address: *mcs9@cdc.gov.*

Dated: May 16, 2001.

Georgi Jones,

Director, Office of Policy and External Affairs, Agency for Toxic Substances and Disease Registry.

[FR Doc. 01–12941 Filed 5–22–01; 8:45 am]

BILLING CODE 4163–70–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration on Aging

[Program Announcement No. AoA–01–05]

Fiscal Year 2001 Program Announcement; Availability of Funds and Notice Regarding Applications

AGENCY: Administration on Aging, HHS.

ACTION: Request for applications for National Legal Assistance and Elder Rights Projects to provide state and area agencies on aging and/or their legal assistance providers with one or more of the following services: (1) Case consultations; (2) training; (3) provision of substantive legal advice and assistance; and (4) assistance in the design, implementation, and administration of legal assistance delivery and elder rights advocacy systems.

SUMMARY: The Administration on Aging announces that under this program announcement it will hold a competition for grant awards for *three* (3) to *five* (5) projects. The federal share of project costs is expected to range from $150,000 to $250,000 per year for a project period of three years. The purpose of these projects is to enhance the leadership capacity of state and area agencies on aging to support elder rights activities and to improve the quality and accessibility of the legal assistance provided to older people.

The deadline date for the submission of applications is July 9, 2001. Public and/or nonprofit agencies, organizations, or institutions are eligible to apply. To be considered for funding, however, applicants must be experienced in providing support and technical assistance on a nationwide basis to states, area agencies on aging, legal assistance providers, ombudsmen, elder abuse prevention programs, and other organizations interested in the legal rights of older individuals.

Application kits are available by writing to the U.S. Department of Health and Human Services, Administration on Aging, Office of State and Community Programs, 330 Independence Avenue, S.W., Room 4751, Washington, DC 20201, by calling 202/619–0067 or on the web at *http://www.aoa.gov/t4/fy2001.*

Dated: May 18, 2001.

Norman L. Thompson,

Acting Principal Deputy Assistant Secretary for Aging.

[FR Doc. 01–13010 Filed 5–22–01; 8:45 am]

BILLING CODE 4154–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 01042]

The Development and Implementation of the Directly-Observed Treatment, Short-Course Strategy by the Private Sector in the Philippines;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 the development and implementation of the directly observed treatment, short-course (DOTS) strategy by the private sector in the Philippines. This program addresses the ''Healthy People 2010'' focus area of Immunization and Infectious Diseases. For a copy of ''Healthy People 2010'',

visit the internet site: http://www.health.gov/healthypeople.

The purpose of this program is two-fold: (1) To develop several directly-observed treatment, short-course (DOTS) models designed for the private health-care system in years one and two; and (2) to implement and evaluate these pilot approaches in years two and three in a major urban area in the Philippines.

Since there are no existing private-sector models for DOTS, this program will support the development, implementation and evaluation pilot DOTS models designed for the private health-care system in a major urban area in the Philippines.

The elimination of tuberculosis (TB) in the United States (U.S.) is directly linked to the control of TB in immigrants' countries of origin. In 1999, 43 percent of all TB cases were identified in persons who were born in a foreign country; the Republic of the Philippines was the second ranking country of origin.

In a recent report, TB rates in the Philippines were determined to be some of the highest in the world. Given current U.S. immigration patterns, direct technical assistance to the Philippines for improving TB control is justified and considered essential by the Division of Tuberculosis Elimination (DTBE), Centers for Disease Control and Prevention (CDC) to meet medium and long-term domestic mission targets. This support and assistance directly involves the Philippines Department of Health (PDOH). The PDOH is rapidly instituting the World Health Organization's national case management strategy to improve TB control. Directly observed treatment, short-course (DOTS), strategy calls for (i) national political commitment, (ii) passive case detection by smear microscopy, (iii) a standardized free-of-charge, short-course (six months) chemotherapy administered by direct observation (DOTS), (iv) a regular supply of antituberculosis drugs, and (v) an integrated reporting and evaluation system.

DOTS has been demonstrated to be effective when a significant proportion of the population has access. Currently, most people in the Philippines seek TB care from the private sector health-care system and continue to receive care in this system. The incidence of TB is greater in urban areas than it is in rural areas. Recent informal surveys suggest that little of the private sector health care delivery system utilizes the critical components of DOTS. This leads to inadequate treatment, increased death and morbidity, increased transmission, and increasingly the generation of drug resistant strains of TB. In addition, despite success in the public sector health-care system, it is highly unrealistic in the Philippines to expect that the majority of persons seeking care in the private sector health-care system will seek care in the public sector health-care system or be referred to the public sector health-care system by their private physicians if TB is suspected. Although not a part of the World Health Organization (WHO) DOTS strategy, the PDOH recognizes that the private-sector must be included in TB control for DOTS to improve TB control in the Philippines.

B. Eligible Applicants

Applications may be submitted by public and private nonprofit organizations, universities, colleges, research institutions and hospitals currently located in the Philippines. These entities should be distinct legal organizations that are registered with the Philippines Security and Exchange Commission.

C. Availability of funds

Approximately $68,000 is available for FY 2001 to fund this award. The award is anticipated to begin on or about June 30, 2001 for a 12-month budget period within a three-year project period. It is anticipated that $100,000 will be available in FY 2002. (This second year funding will be available after October 1, 2001.) However, this and funding for subsequent years will be dependent on satisfactory progress, independent evaluation by DTBE and the United States Agency for International Development, and the availability of funds. (Funding amounts for subsequent years have not been finalized.) 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. Develop several private-sector DOTS models and the related administrative infrastructure for TB control in a large metropolitan area of the Philippines.

b. Collaborate with the PDOH, WHO, USAID and other public and private-sector entities in the Philippines.

c. At the end of one year of funding, identify and propose project activities to implement and evaluate private-sector DOTS models to the CDC.

d. Implement and evaluate private-sector DOTS models in subsequent years.

Continuation awards within the project period will be made on the basis of the following criteria:

(1) Satisfactory progress in meeting project objectives;

(2) Objectives for the new budget period are realistic, specific, and measurable;

(3) Proposed changes in described methods of operation, need for financial support, and/or evaluation procedures will lead to achievement of project objectives; and

(4) The budget request is clearly justified and consistent with the intended use of cooperative agreement funds.

2. CDC Activities

a. CDC will provide assistance in the development and implementation of the private-sector DOTS models. These might include:

(1) participation in meetings and review of proposals to develop DOTS models.

(2) site visits before, during, and after pilot implementation to provide training and assistance with the analysis and dissemination of lessons learned.

(3) collaborative assistance in all aspects of the evaluation phase.

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 written in English, follow the outline below and be no longer than twelve double-spaced pages(excluding appendices and attachments) printed on one side, with 2.5 cm margins and 12 CPI font.

1. *General Objective:* one sentence that describes the project.

2. *Background and Rationale:* A brief section of several paragraphs that describe activities for the first two years. Describe the organization carrying out the proposal. Listing a plan for year three is not necessary.

3. *Proposed Models/Methods:* Describe each of several models and the plans to develop these models (one paragraph each). Describe the necessary relationship with other key organizations or industries required for the implementation of each model. Include a time line in table format with a separate brief timetable description for the first 12 months.

4. *Evaluation Plan:* Briefly, discuss the plan for monitoring progress toward each of the objectives.

5. *Project Leaders:* List project leaders and their affiliations. Outside of the page limit, include letters of support.

6. *Budget:* Submit a brief line item budget breakdown and narrative justification that is consistent with program purpose and proposed activities for year one. Include an estimate of second year requirements.

F. Submission and Deadline

Submit the original and two copies of the application PHS form 5161–1 (OMB Number 0937–0189). Forms are available at the following Internet address: www.cdc.gov/...Forms, or in the application kit. On or before July 1, 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:

(a) Received on or before the deadline date, or

(b) Sent on or before the deadline date and received in time for submission to the objective review committee. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

Late Applications: Applications which do not meet the criteria in (a) or (b) above are considered late applications, will not be considered, and will be returned to the applicant.

G. Evaluation Criteria

Each application will be evaluated individually against the following criteria by an independent review group appointed by CDC:

1. Extent to which the applicant demonstrates an understanding of the requirements, problems, objectives, complexities, and interactions required of this project. (20 Points)

2. Degree to which the proposed objectives are clearly stated, realistic, time phased, and related to the purpose of this project. (20 points)

3. Appropriateness and thoroughness of the workplan and time-line for administering this project. (30 points)

This cooperative agreement enables the development and pilot implementation of TB control programs in the private-sector in the Philippines. The report and dissemination of information and lessons learned are considered program evaluation (and not a research activity) as determined by NCHSTP/CDC. It is not anticipated that a research activity will be funded from the support from this cooperative agreement.

4. Appropriate qualifications, experience, leadership ability, and percentage of time project director will commit to the project. (15 points)

5. Appropriate qualifications, experience and description of how staff will be utilized in relation to the activities to be performed to accomplish the work and their percentage of time to be spent on the project; curriculum vitaes should be provided. (15 points)

6. Budget: The extent to which the budget relates directly to project activities, is clearly justified, and is consistent with intended use of funds. The budget should include funds for (to be included). (Not Scored)

H. Other Requirements

Technical Reporting Requirements

Provide the CDC with original and two copies of:

1. Annual progress reports. Progress reports must include the following for each program, function, or activity involved:

a. a comparison of actual accomplishments to the goals established for the period;

b. the reasons for slippage if the established goals are not met; and

c. other pertinent information including, when appropriate, analysis and explanation of unexpected high costs of performance.

2. Financial Status Report no more than 90 days after the end of first year 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 and Management Specialist identified in the ''Where to Obtain Additional Information'' section of this announcement.

The following additional requirements are applicable to this announcement.

AR–4 HIV/AIDS Confidentiality Provisions
AR–5 HIV Program Review Panel Requirements
AR–9 Paperwork Reduction Act Requirements
AR–10 Smoke-Free Workplace Requirements
AR–11 Healthy People 2010
AR–12 Lobbying

I. Authority and catalog of federal Domestic Assistance

This program is authorized under sections 301 and 307 of the Public Health Service Act. The Catalog of Federal Domestic Assistance Number is 93.947, TB Demonstration, Research, Public and Professional Education Projects.

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: Mattie B. Jackson, 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) 488–2696, Email address: mij3@cdc.gov.

For program technical assistance, contact: Michael F. Iademarco, MD, MPH or Michael L. Qualls, MPH, Division of Tuberculosis Elimination, Centers for Disease Control and Prevention, 1600 Clifton Road, Mailstop E–10, Atlanta, GA 30333, Telephone number:(404)639–8120, Email addresses: miademarco@cdc.gov mqualls@cdc.gov.

Dated: May 17, 2001.

John L. Williams,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 01–12985 Filed 5–22–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 01134]

Initiatives To Develop and Implement Programs To Enhance Epilepsy Public Awareness and Partnership, Education, and Communication; 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 ''Initiatives to Develop and Implement Programs to Enhance Epilepsy Public Awareness and Partnership, Education, and Communication.'' This program addresses the ''Healthy People 2010'' focus areas of Disability and Secondary Conditions.

The purpose of this program is to conduct epilepsy programs to promote public awareness and partnerships; to provide epilepsy education for the general public and for health care providers; and to develop and enhance communication channels to allow for improved interaction and information sharing among those with epilepsy and their families, as well as those who advocate for persons with epilepsy and those who provide care and services for persons with epilepsy, researchers, public health specialists, and the general public.

B. Eligible Applicants

Assistance will be provided only to private, non-profit 501(c)(3) organization that is a national voluntary health organization dedicated to assisting persons with epilepsy. Specifically, CDC was directed to expand epilepsy surveillance, public awareness activities, public and provider education, prevention research, and activities to combat stigma.

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 $1,300,000 is available in FY 2001 to fund one award. It is expected that the award 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 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. 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

The applicant shall conduct activities in one or more of the following three priority areas listed in the application instructions.

a. Partnership Building

(1) Provide financial and personnel support to epilepsy affiliates/chapters to facilitate building collaborative public health partnerships with state and local health departments.

(2) Provide financial and personnel support to health related organizations (other than epilepsy affiliates/chapters) to facilitate building collaborative partnerships.

(3) Expand ongoing communication vehicles (i.e., listservs, web sites, newsletters, conference calls, meetings) to facilitate problem solving and idea sharing among organizations involved in collaborative activities to strengthen programs to promote public awareness of epilepsy, provide education for those with epilepsy, the general public, and for health care providers, and enhance communication channels.

b. Create Awareness/Improve Health Communications

(1) Expand a sustained multifaceted media relations outreach program.

(2) Expand, implement and evaluate strategies to disseminate existing educational materials, particularly those that focus on teens with epilepsy, to those with epilepsy who are under served.

c. Consumer and Provider Education

(1) Expand the development or adaption, evaluation, and dissemination of low-literacy epilepsy education materials and/or educational materials for large minority groups (e.g., Hispanic, Asian, American Natives, African American).

(2) Develop, evaluate, and disseminate epilepsy self-management materials delivered through traditional and/or alternative delivery mechanisms (i.e., Internet-based, CD ROM, other).

(3) Develop appropriate training on selected epilepsy interventions with demonstrated cost-effectiveness with appropriate experts including international organizations.

(4) Develop, evaluate, and disseminate continuing medical education (CME) or CME and continuing education units (CEU) granting self study professional education through alternative delivery mechanisms (i.e., Internet based, CD–ROM).

2. CDC Activities

a. Collaborate in planning, implementing, and evaluating strategies and programs.

b. Assist in the analysis and interpretation of the evaluation phase of projects or programs.

c. Provide programmatic consultation and guidance in support of the program.

d. Assist in the planning and implementation of linkages with local, national, or international epilepsy organizations or agencies.

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 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. Document your organization's national network by providing a list of your affiliate locations. Also, include proof of your non-profit status.

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 activity, 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 0920–0428). Forms are available in the application kit and at the following Internet address: http://forms.pcs.gov

On or before July 7, 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 (100 Points)

Each application will be evaluated individually against the following criteria by an independent review group appointed by CDC.

1. Resources and Needs Assessment: (25 points)

The relevance of the needs assessment and extent to which the applicant demonstrates that current activities provide experience and expertise for the proposed projects.

2. Collaboration: (15 points)

The extent to which the applicant provides evidence of collaborative relationships with other agencies and organizations relevant to successful completion of the proposed projects. The extent to which the applicant documents their nationwide affiliate network.

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 activities, and the major steps required to meet the objectives; provides a realistic plan for involving others in the project; 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. This includes:

A. The proposed justification when representation is limited or absent.

B. A statement as to whether the design of the study is adequate to measure differences when warranted.

C. A statement as to whether the plans for recruitment and outreach for study participants include the process of establishing partnerships with community(ies) and recognition of mutual benefits.

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

Technical Reporting Requirements

Provide CDC with an original plus two copies of:

1. semiannual 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–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 the sections 301(a) and 317(k)(2) the Public Health Service Act, [42 U.S.C. 241(a) and 247b(k)(2)], as amended. The Catalogue 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 assistance may be obtained from: Michelle Copeland, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Announcement 01134, Centers for Disease Control and Prevention, 2920 Brandywine Road, Room 3000, Atlanta, GA 30341–4146, Telephone: (770) 488–2686, E-mail: stc8@cdc.gov.

For program technical assistance, contact: Mike Waller, Centers for Disease Control and Prevention, Division of Adult and Community Health, National Center for Chronic Disease Prevention and Health Promotion, 4770 Buford Highway NE, Atlanta, GA, 30341–3717, Telephone: (770) 488–5264,E-mail: mnw1@cdc.gov.

Dated: May 17, 2001.

John L. Williams,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 01–12983 Filed 5–22–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 01030]

National Programs To Promote Physical Activity Among Youth; 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 cooperative agreement programs for ''National Programs to Promote Physical Activity Among Youth''. This program addresses the ''Healthy People 2010'' focus area of ''Physical Activity and Fitness.''

The purpose of the program is for national organizations to become an integral part of a broad national strategy to support projects that help schools and communities nationwide implement activities and reinforce national youth media campaign messages that promote healthy activity, especially physical activity, among youth. These activities should target youths ages 9 to 13 years old, their parents and other primary care-givers, and others who can influence pre-teens (e.g., teachers, coaches, school personnel, community leaders, teenagers). Additional background information on CDC's National Youth Media Campaign and physical activity resources can be found in Appendix I and Appendix II.

B. Eligible Applicants

Assistance will be provided to national organizations that are private health, education, or social services agencies (professional or voluntary); qualify as a non-profit 501(c) (3) entity; have affiliate offices or local, state, or regional membership constituencies in a minimum of 10 states and territories; and have the capacity and experience to assist their affiliates offices and membership constituencies. Affiliate offices and local, state, or regional membership constituencies may not apply in lieu of, or on behalf of, their parent national office.

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 $625,000 is available in FY 2001 to fund approximately five awards. It is expected that the average award will be $125,000, ranging from $100,000 to $175,000. It is expected that the awards will begin on or about September 15, 2001, and will be for a 12-month budget period within a 24-month project period. Funding estimates may change.

Continuation awards within an approved project period will be made on the basis of satisfactory progress as evidenced by required reports and the availability of funds.

Funding Priority

Priority will be given to national organizations that have constituencies that can have an influence on pre-teens and those who influence pre-teens including parents, teachers, coaches, school personnel, community leaders and teenagers. Public comments on the proposed Funding Priority are not being solicited due to insufficient time prior to the funding date.

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. Link proposed activities with established national youth media campaign messages, and activities that promote healthy activity, especially physical activity, among youth. Whenever possible, conduct proposed activities in communities hosting grassroots events to promote physical activity as part of national youth media campaigns.

b. Work with the media to promote school-and community-based youth physical activity programs and activities.

c. Use existing media tools, including national youth media campaign tools and resources (as they become available) to achieve program objectives.

d. Develop partnerships with media; businesses; national health, education, and social services organizations; federal agencies; and state and local education, health, and social services agencies to reinforce national youth media campaign messages (as they become available).

e. Participate in an expert panel meeting on school-and community-based strategies for reinforcing and supporting media messages including national youth media campaign messages, tools, and resources.

f. Support, develop, and implement one or more of the following activities:

(1) Develop, pilot-test, finalize, and distribute tools to educate parents about the importance of physical activity to the health and well-being of youth, their role in promoting and supporting their child(ren) and other youth in being physically active, and engaging parent-teacher organizations in assessing and improving the quality of a school's physical activity program (i.e., quality, daily physical education; extracurricular physical activity programs consisting of intramural activities and/or physical activity clubs, and interscholastic sports; daily recess periods for elementary school students; and classroom health education that complements physical education). Examples of such tools include written materials and presentation materials (e.g., slides and other audiovisual aids, answers to frequently asked questions), and a Web site.

(2) Develop, pilot-test, finalize, and distribute tools that educate school administrators and other decision-makers about the importance and key comments of a school physical activity program (i.e., quality, daily physical education; extracurricular physical activity programs consisting of intramural activities and/or physical activity clubs, and interscholastic sports; daily recess periods for elementary school students; and classroom health education that complements physical education) and specific actions that they can take to support school physical activity programs. Examples of such tools include written materials and presentation materials (e.g., slides and other audiovisual aids, answers to frequently asked questions).

(3) Develop, pilot-test, finalize, and distribute tools for assessing and evaluating student performance in school physical education based on student achievement of the National Standards for Physical Education. Examples of such tools include performance indicators, assessment options, and scoring rubrics.

(4) Develop, pilot-test, finalize, and distribute tools to educate decision-makers about the importance of implementing state- and school district-level systems to hold schools accountable for student achievement in school physical education based on district, state, or national standards and actions they can take to support and establish physical education accountability systems. Examples of such tools include written materials and presentation materials (e.g., slides and other audiovisual aids, answers to frequently asked questions) that provide background on school reform (e.g., standards-based education, school accountability), strengths and weaknesses of various models of accountability for school physical education (e.g., state graduation exit exams, state report cards) and specific examples of physical education accountability models that currently exist in states and school districts.

(5) Develop, pilot-test, finalize, and distribute model professional staff development sessions for physical education teachers and other teachers

assigned to teach physical education on cutting-edge topics such as assessment of student performance in school physical education, development and monitoring of personal physical activity plans for students, and use of technology in physical education. For each staff development topic, the model could include items such as goals/objectives and a ''lesson plan'' for the staff development session; audiovisual aids; list of resources on the topic (e.g., national experts, books/materials, web sites); talking points on key issues; answers to frequently asked questions; and sample instructional materials, techniques, lesson plans, and assessments to support instruction in physical education classes.

(6) Develop, pilot-test, finalize, and distribute a model for offering intramural physical activities and/or physical activity clubs that appeal to all students, particularly those who are not athletically gifted, with an emphasis on addressing the needs and interests of pre-teen girls. The model could include varied and innovative activities, student input into what activities are offered, and strategies to overcome barriers to participation (e.g., lack of incentives for adult supervisors, transportation home after the activity, cost to students).

(7) Support walk to school initiatives (e.g., National Walk Our Children to School Day, CDC's KidsWalk-to-School program) in various communities in different regions of the country. Written materials could be developed and distributed to describe the initiatives of the communities such as a description of the activity, amount and type of participation, leaders and partners, barriers and how they were overcome, lessons learned, and future plans.

(8) Develop, pilot-test, finalize, and distribute a model for keeping school physical activity facilities open outside of school hours for use by community members (particularly pre-teens, 9–13 years old) for physical activity participation/programs.

(9) Develop, pilot-test, finalize, and distribute a model for making community-based youth physical activity programs accessible to all youth (particularly pre-teens, 9–13 years old). The model could include innovative approaches to overcoming barriers to youth participation in community physical activity programs such as lack of incentives for adult supervisors, transportation between home and school and the programs, and cost to participants.

(10) Support and provide technical assistance to state physical activity coalitions to develop diverse partnerships to promote physical activity among youth through increased public awareness/education (e.g., media) and development and implementation of policies and programs. Partners could include individuals, organizations, and agencies that represent health, education, social services, parks and recreation, transportation, and community design; parents; youth; community members; business partners; media; and others who can promote policy changes that can affect physical activity participation. Written materials could be developed and distributed to summarize the status of each coalition such as a description of their policy and programmatic activities, members and partnerships, barriers and how they were overcome, lessons learned, and future plans.

2. CDC Activities

a. Provide programmatic consultation and guidance related to program planning, implementation, and evaluation; assessment of program objectives; and dissemination of successful strategies, experiences, and evaluation reports.

b. Coordinate with national organizations and state and local education agencies, as well as other relevant organizations and agencies, in planning and conducting national strategies designed to encourage healthy activity, especially physical activity, to promote healthy lifestyles and displace unhealthy, risky behaviors.

c. Assist with planning and conducting an expert panel meeting of national organizations and state and local education agencies and other appropriate organizations, agencies, and individuals on school-and community-based strategies.

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 the criteria as you construct your program plan. The narrative should be no more than 20 double-spaced pages, printed on one side, with one-inch margins, and unreduced font.

1. Background and Need (No More Than 2 Pages)

a. Describe the problem(s) being addressed by the national organization's proposed activities.

b. Describe the need for the proposed activities nationally.

2. Capacity (No More Than 4 Pages)

a. Describe the national organization's efforts and relevant experience that support the promotion of healthy activity, especially physical activity, for youth, including such factors as:

(1) Current and previous experience related to the described problem and need and the proposed activities;

(2) Current and previous experience related to publicizing, marketing, and garnering media attention for programs and activities, particularly efforts related to the promotion of healthy activity, especially physical activity, for youth;

(3) Current and previous experience related to communicating to/with decision-makers and others who can influence youth such as their parents or other primary care-givers, teachers, coaches, school personnel, community leaders, and peers, particularly efforts related to discussing the benefits of healthy activity, especially physical activity, for youth;

(4) Current and previous experience related to coordinating/collaborating with federal, state, and local government agencies, and non-governmental organizations that work in the areas of health, education, social services, and other relevant areas, particularly efforts related to the promotion of healthy activity, especially physical activity, for youth;

(5) Current and previous experience related to building and/or participating in alliances, networks, or coalitions, particularly efforts related to the promotion of healthy activity, especially physical activity, for youth.

b. Describe the national organization's constituents and affiliates as follows:

(1) Type of constituency;

(2) Number of constituents and affiliates;

(3) Location of constituents and affiliates;

(4) How the constituents and affiliates work with or influence youths ages 9 to 13, their parents or other primary care-givers, and other key influential adults in promoting healthy activity, especially physical activity;

(5) How the constituents and affiliates work with decision-makers in discussing the benefits of healthy activity, especially physical activity.

3. Operational Plan (No More Than 6 Pages)

a. *Goals*. List goals that specifically relate to completion of program requirements at the end of the one year project period.

b. *Objectives:* List objectives that are specific, measurable, and feasible to be

accomplished during the 12-month budget period. The objectives should relate directly to the project goals and recipient activities.

c. Describe in narrative form, and display on a timetable, specific activities that are related to each objective. Indicate when each activity will occur as well as when preparations for activities will occur. Also, indicate who will be responsible for each activity and identify staff who will work on each activity.

4. Administration and Management (No More Than 2 Pages)

a. Provide in the application appendices job descriptions for key staff who will work on the proposed activities.

b. Demonstrate that key personnel have the necessary background and qualifications for the proposed responsibilities; ensure for each position the appropriate education and experience; and include curriculum vitae and letters of support from already-identified contractors (if applicable) who will work on the proposed activities.

c. Provide an organizational chart that illustrates the national organization's structure in regard to member/staff roles and positions. Describe lines of communication, accountability, reporting, authority, and management and control systems.

5. Collaboration (No More Than 2 Pages)

Describe the types of proposed collaboration and the agencies and organizations with whom collaboration will be conducted. Examples of such activities include, but are not limited to:

a. Coordinating or collaborating with relevant agencies and organizations on the development, dissemination, and implementation of the national organization's proposed activities.

b. Linking with national youth media campaign messages and activities that promote healthy activity, especially physical activity, among youth, and conducting pilot-testing of projects in communities hosting grassroots events to promote youth physical activity as part of national youth media campaign events.

c. Participating in teleconferences, workshops, and meetings with other agencies and organizations to conduct national youth media campaign activities.

d. Participating in an expert panel meeting on school and community-based strategies for reinforcing and supporting National Youth Media Campaign messages, tools, and resources.

6. Evaluation Plan (No More Than 2 Pages)

Describe plans to evaluate progress in meeting objectives and conducting activities during the budget period. Specify what data will be obtained and present a plan that includes how the data will be obtained, prepared in a specific report(s), and used to improve the program. Indicate in the plan who will do what and when.

7. Budget and Justification (No More Than 2 Pages)

Provide detailed budget and line-item justification for all operating expenses that are consistent with proposed objectives and planned activities, including funds to travel at least one staff person to a two-day expert panel meeting in Atlanta, Georgia on school- and community-based strategies for reinforcing and supporting National Youth Media Campaign messages, tools, and resources.

F. Submission and Deadline

Letter of Intent (LOI)

A LOI is requested for this program. On or before June 1, 2001, fax the LOI to the Grants Management Specialist identified in the ''Where to Obtain Additional Information'' section of this announcement. The narrative should be no more than one double-spaced page, printed on one side, with one inch margins, and unreduced font. Your letter of intent will be used to enable the program to better estimate the number of reviewers that will be required to review applications. The LOI should consist of a simple statement of the organization's intention to apply. The information contained within the letter of intent will not be reviewed or used as part of the application review process.

Application

Submit the original and two copies of PHS 5161–1 (OMB Number 0920–0428). Forms are available in the application kit and at the following Internet address: http://forms.psc.gov.

On or before July 15, 2001, submit the application to the Grants Management Specialist identified in the ''Where to Obtain Additional Information'' section of this announcement.

Deadline: Applications will 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 (100 Points)

Each application will be evaluated individually against the following evaluation criteria by an independent review group appointed by CDC.

1. Background and Need (10 points)

The extent to which the applicant describes the problem(s) being addressed by their proposed activities and the need for their proposed activities nationally.

2. Capacity (35 points)

The extent to which the applicant demonstrates the capacity and ability of their organization and constituency to influence pre-teens, their care-givers and promote healthy activity for youth, especially physical activity. The care-givers, and others who can influence pre-teens (e.g, teachers, coaches, school personnel, community leaders, teenagers).

3. Operational Plan (30 points)

The extent to which the applicant:

a. *Identifies Goals.* The extent to which the applicant has submitted goals that are specific and feasible for the projected one year project period and are consistent with program requirements.

b. *Identifies Objectives.* The extent to which the applicant has submitted objectives for the one year budget period that are specific, measurable, and feasible and are related directly to the program's goals.

c. Describes in narrative form, and on a timetable, specific activities related to each objective.

4. Administration and Management (10 Points)

The extent to which the applicant identifies staff that have the responsibility, capability, and authority to carry out each activity, as evidenced by job descriptions, curriculum vitae, organizational charts, and letters of support from already-identified contractors (if applicable).

5. Collaboration (10 Points)

The extent to which the applicant provides letters of commitment from

proposed collaborators and partners, and describes how they will coordinate or collaborate with relevant agencies and organizations to conduct their proposed activities and integrate their proposed activities with national youth media campaign messages and activities that promote healthy activity, especially physical activity, among youth.

6. Evaluation Plan (5 Points)

The extent and method to which the applicant proposes to measure progress in meeting objectives and program effectiveness, and presents a reasonable plan for obtaining data, reporting the results, and using the results for programmatic decisions.

7. Budget and Justification (Reviewed, But Not Scored)

The extent to which the budget is reasonable and consistent with the purposes and activities of the program.

H. Other Requirements

Technical Reporting Requirement

Provide CDC with the 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.
3. Final financial report and performance report, 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 application kit.

AR–7 Executive Order 12372 Review
AR–8 Public Health System Reporting Requirement
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 sections 301(a), 311(b) and (c), and 317 (k)(2) [42 U.S.C. 241(a), 243 (b) and (c), and 247b(K)(2)] of the Public Health Service Act, as amended. The Catalog of Federal Domestic Assistance number is 93.938.

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.''

Cynthia Collins, Grants Management Specialist, Grants Management Branch, Centers for Disease Control and Prevention (CDC), Program Announcement 01031, 2920 Brandywine Rd., Room 3000, MS E–18, Atlanta, GA 30341–4146, Telephone number: 770–488–2757, Fax: 770–488–2820, Email: coc9@cdc.gov.

For program technical assistance, contact:

Mary Vernon-Smiley, Chief, Special Populations Program Section, Division of Adolescent and School Health, National Center for Chronic Disease Prevention and Health Promotion, Centers for Disease Control and Prevention (CDC), 4770 Buford Highway, NE MS K–31, Atlanta, GA 30341, Telephone number: 770–488–6199, Email: mev0@cdc.gov.

Dated: May 17, 2001.

John L. Williams,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 01–12984 Filed 5–22–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 01110]

Applied Research in Emerging Infections Investigations of West Nile Virus; 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 Applied Research in Emerging Infections Investigations of West Nile Virus. This program addresses the ''Healthy People 2010'' focus area Immunization and Infectious Diseases.

The purpose of the program is to provide assistance to organizations in developing applied research efforts pertaining to West Nile (WN) virus and other arboviruses that occur in the United States (U.S.).

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, federally recognized Indian tribal governments, Indian tribes, or Indian tribal organizations.

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 $2,000,000 is available in FY 2001 to fund approximately ten to twelve awards. It is expected that the average award will be $150,000, ranging from $100,000 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.

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

Develop and implement applied research investigations on one or more of the following topics:

a. Determine the current and future geographic distribution of WN virus. Utilize longitudinal laboratory-based surveillance systems for WN virus in humans, birds, other selected animals, and mosquitoes to determine the geographic distribution of WN virus in the Western Hemisphere.

b. Determine the contribution of bird migration to WN virus dispersal. Develop laboratory and field-based systems to better understand avian

dissemination of WN virus. Studies could include determining the frequency and duration of chronic avian infections that would allow the long range transport and recrudescence of viremias necessary to infect mosquitoes.

c. Characterize WN virus mosquito vector and vertebrate host relationships. Analyze the vertebrate host and mosquito vector relationships of WN virus in the U.S. and the Western Hemisphere. Target selected species involved in maintenance, epidemic/epizootic transmission cycles, or both to determine what effective prevention and control strategies will be required. It is critical that the principal species and the range of these species be determined.

d. Characterize mosquito biology, behavior, and vector competence for WN virus in the U.S. Investigate the different vector species important in WN virus transmission in each geographic or ecologic region to understand better their biology and behavior. Investigate the principal mosquito vectors involved in maintenance, bridge (from enzootic to peridomestic), and epidemic/epizootic transmission to understand and design more effective methods for prevention and control.

e. Develop and evaluate prevention strategies. These strategies can include but are not limited to better defining target areas for mosquito control in response to documented WN virus activity, derivation and implementation of new, natural compounds to repel and control mosquito-vectors of disease and determining the efficacy of public outreach materials and campaigns in reducing risk from WN virus infection.

f. Develop laboratory diagnostic tests that are more sensitive, specific and reproducible than current laboratory methods used to detect West Nile virus. Test methods may include, but are not limited to serology, culture, nucleic acid amplification or antigen detection.

g. Identify the clinical spectrum of North American WN virus disease and its long-term prognosis in humans. Determine the spectrum of illness caused by WN virus infection in humans, including the long-term consequences of acute infection of the central nervous system. In addition to the severe end of the clinical spectrum (viral encephalitis), determine the degree to which mild viral syndromes occur, whether these patients have any unique clinical presentations that may be characteristic or even pathognomonic, whether they have viremia and, if so, its magnitude and duration. Determine if effective clinical management of severe disease will require detailed clinical studies of confirmed human cases of WN virus infection.

h. Identify risk factors for WN virus exposure and disease. Data on the risk factors associated with human and animal infection with WN virus are required to develop more effective prevention strategies, particularly when educating the public to take specific prevention measures to reduce exposure to infection.

i. Characterize the genetics, pathogenesis, virulence and possible direct transmission and persistence of the North American strain of WN virus as it compares to other WN viruses in animal models and wildlife. Little is known about the pathogenesis of WN virus in humans or other animals. Investigate, to better understand, whether genetic changes in WN viruses influence their phenotypic expression (e.g., host and vector range); the possibility of persistent infections including the duration of chronic infection and reactivation in birds or other animals; the possibility and importance of direct transmission without the help of mosquitoes; and the identification of overwintering mechanisms in Culex and Aedes species mosquitoes.

2. CDC Activities

a. Provide technical assistance, as requested, in the design or evaluation of experimentation.

b. Assist in the analysis of laboratory test data, as appropriate, depending on the needs of the recipient.

c. Assist in the acquisition of appropriate samples for study, as requested.

d. Assist in the coordination of research activities among different recipient sites.

e. Assist in the development of a research protocol for Institutional Review Board (IRB) review by all cooperating institutions participating in the research project. The CDC IRB will review and approve the protocol initially and on at least an annual basis until the research project is completed.

E. Content

Letter of Intent (LOI)

An LOI is optional for this program. The narrative should be no more than 3 single-spaced pages, printed on one side, with one inch margins, and unreduced font. Your letter of intent will be used to enable CDC to plan for the review, and should include the following information (1) the program announcement number 01110, (2) name and address of institution, (3) name, address, and telephone number of contact person and (4) the applied research investigation topic(s) selected for submission. Notification can be provided by facsimile, postal mail, or electronic mail (E-mail).

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. The narrative should be no more than 25 double-spaced pages, printed on one side, with one inch margins, and unreduced font.

1. Abstract

Provide a brief (two pages maximum) abstract of the project and specify the applied research investigation topic(s) selected for submission. Clearly identify the project period proposed.

2. Background and Need

Discuss the background and need for the proposed project. Demonstrate a clear understanding of the purpose and objectives of this program announcement. Discuss and demonstrate how the proposed project addresses an important gap which is of public health importance.

3. Capacity and Personnel

Describe applicant's past experience in conducting activities similar to that being proposed. Describe applicant's resources, facilities, and professional personnel that will be involved in conducting the project. Include in an appendix curriculum vitae for all professional personnel involved with the project. Describe plans for administration of the project and identify administrative resources/personnel that will be assigned to the project. Clearly identify specific assigned responsibilities for all key professional personnel. Provide in an appendix letters of support from all key participating non-applicant organizations, individuals, etc. (if any), which clearly indicate their commitment to participate as described in the operational plan.

4. Objectives and Technical Approach

Present specific objectives for the proposed research which are measurable and time-phased and are consistent with the Purpose and Recipient Activities of this announcement. Present a detailed operational plan for initiating and conducting the research which clearly

and appropriately addresses these objectives (if proposing a multi-year project, provide a detailed description of first-year activities and a brief overview of subsequent-year activities). Include a clear description of applicant's technical approach/methods which are directly relevant to the above objectives. Describe specific study protocols or plans for the development of study protocols. Describe the nature and extent of collaboration with CDC and/or others during various phases of the research. Describe in detail a plan for evaluating progress toward achieving process and outcome project objectives. If the project will employ a particular research subject population, describe characteristics of the patient population and how research in this subject group will yield generalizable information. Describe contingency plans which acknowledge how the research will address likely obstacles and assure that the proposed task(s) can still be completed. Include sample size calculations where appropriate to assure that measurable objectives can be evaluated.

5. Budget

Provide a detailed budget as outlined in the application Errata Instruction Sheet for PHS 398.

F. Submission and Deadline

Letter of Intent (LOI)

On or before June 15, 2001, submit the LOI to the Grants Management Specialist identified in the ''Where to Obtain Additional Information'' section of this announcement.

Application

Submit the original and five copies of PHS–398 (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: www.cdc.gov/od/pgo/forminfo.htm

On or before July 15, 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

Each application will be evaluated individually against the following criteria by an independent review group appointed by CDC.

1. Plan (20 Points)

The extent the proposed research plan shows scientific validity and whether the plan addresses a stated purpose of this program.

2. Capacity (40 Points)

a. The extent the applicant documents and describes their general expertise in the areas relevant to their submitted application (e.g., diagnostic test development, field studies with zoonotic diseases, working with small animal models of disease).

b. The extent the applicant describes and documents their experience in research on mosquito-borne viral diseases and flaviviruses in particular.

c. The extent to which the applicant has the appropriate project personnel, organizational structure, and administrative support to assure meeting proposed objectives.

d. The extent to which the applicant has access to necessary biological materials or study populations.

3. Objectives and Prospects (15 points)

The extent the objectives along with the prospects for successfully achieving them and the likelihood that the product(s) of the investigation will result in the development of better prevention or intervention measures.

4. Evaluation (20 points)

a. The feasibility of completing the proposed studies and meeting measurable objectives within the project period.

b. The extent to which the applicant proposes appropriate methods for evaluating the projects and/or design methods that are adequate to measure differences, when warranted.

5. Inclusion of Women, Ethnic, and Racial Groups (5 points)

Applicants should meet CDC Policy requirements regarding the inclusion of women, ethnic, and racial groups in the proposed research. This includes: (1) The proposed plan for the inclusion of both sexes and racial and ethnic populations for appropriate representation, (2) the proposed justification when representation is limited or absent, (3) a statement as to whether the design of the study is adequate to measure differences when warranted, and (4) a statement as to whether the plans for recruitment and outreach for study participants include the process of establishing partnerships with community(ies) and recognition of mutual benefits.

6. Budget (Not scored)

The extent to which the budget is reasonable, clearly justified, and consistent with the intended use of cooperative agreement funds.

7. Human Subjects (Not scored)

Does the application adequately address the requirements of Title 45 CFR part 46 for the protection of human subjects? (Not scored; however, an application can be disapproved if the research risks are sufficiently serious and protection against risks is so inadequate as to make the entire application unacceptable.)

8. Animal Subjects (Not scored)

Does the application adequately address the requirements of the PHS Policy on Humane Care and Use of Laboratory animals by Awardee Institutions?

H. Other Requirements

Technical Reporting Requirements

Provide CDC with the original plus two copies of:

1. semiannual 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 of the announcement.

AR–1 Human Subjects Requirements
AR–2 Requirements for Inclusion of Women and Racial and Ethnic Minorities in Research
AR–3 Animal Subjects Requirements
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

AR–22 Research Integrity

I. Authority and Catalog of Federal Domestic Assistance Number

This program is authorized under section 301(a) [42 U.S.C. 241(a)] and 317(k)(2) [42 U.S.C. 247b(k)(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.''

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 Program Announcement number of interest.

If you have questions after reviewing the contents of all the documents, business management technical assistance may be obtained from: Gladys Gissentanna, 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: 770–488–2753, E-mail address: gcg4@cdc.gov.

For program technical assistance, contact: Dr. John Roehrig, Division of Vector-Borne Infectious Diseases, National Center for Infectious Diseases, Centers for Disease Control and Prevention, P. O. Box 2087 (Foothills Campus), Fort Collins, CO 80522, Telephone number: 970–221–6442, E-mail address: jtr1@cdc.gov.

Dated: May 17, 2001.

John L. Williams,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 01–12982 Filed 5–22–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Program Announcement No. ACF/ACYF/CB FY 2001–01A; Announcement of the Availability of Financial Assistance and Request for Applications to Support Adoption Opportunities Demonstration Projects, Child Abuse and Neglect Discretionary Activities, Abandoned Infants Assistance Awards, and Project To Build the Analytical Capacity of State Child Welfare Programs

AGENCY: Administration on Children, Youth and Families (ACYF), ACF.

ACTION: Correction.

SUMMARY: This document contains a correction to the Notice that was published in the **Federal Register** on Tuesday, May 1, 2001 (66 FR 21760). On page 21761, Column three, the information in the ''Project Duration'' section of priority area 2001B.1 National Resource Center on Child Maltreatment is in error. The correct information is as follows: The cooperative agreement will be awarded for a project period not to exceed 36 months. The initial grant award will be awarded for a 12-month budget period. The award of continuation funding beyond the 12-month budget period will be subject to the availability of funds, satisfactory progress on the part of the grantee, and a determination that continued funding would be in the best interest of the government.

FOR FURTHER INFORMATION CONTACT: The ACYF Operations Center at 1–800–351–2293 or send an email to *cb@cgnet.com.* You may also contact Sally Flanzer, Children's Bureau, at 202–215–8914.

Dated: May 18, 2001.

James A. Harrell,

Acting Commissioner, Administration on Children, Youth and Families.

[FR Doc. 01–13044 Filed 5–22–01; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 01F–0233]

Alcide Corp.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Alcide Corp. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of acidified sodium chlorite solutions as an antimicrobial agent in processing waters applied to processed fruits and vegetables.

DATES: Submit written comments on the petitioner's environmental assessment by June 22, 2001.

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

FOR FURTHER INFORMATION CONTACT: Robert L. Martin, Center for Food Safety and Applied Nutrition (HFS–215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204–0001, 202–418–3074.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a food additive petition (FAP 1A4729) has been filed by Alcide Corp., 8561 154th Ave. NE., Redmond, WA 98052. The petition proposes to amend the food additive regulations in § 173.325 *Acidified sodium chlorite solutions* (21 CFR 173.325) to provide for the safe use of acidified sodium chlorite solutions as an antimicrobial agent in processing waters applied to processed fruits and vegetables.

The potential environmental impact of this action is being reviewed. To encourage public participation consistent with regulations issued under the National Environmental Policy Act (40 CFR 1501.4(b)), the agency is placing the environmental assessment submitted with the petition that is the subject of this notice on public display at the Dockets Management Branch (address above) for public review and comment. Interested persons may submit to the Dockets Management Branch written comments by June 22, 2001. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday. FDA will also place on public display any amendments to, or comments on, the petitioner's environmental assessment without further announcement in the **Federal Register**. If, based on its review, the agency finds that an environmental impact statement is not required and

this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Dated: May 4, 2001.

Alan M. Rulis,

Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.

[FR Doc. 01–13068 Filed 5–22–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Vaccines and Related Biological Products Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). At least one portion of the meeting will be closed to the public.

Name of Committee: Vaccines and Related Biological Products Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on June 11, 2001, 11:30 a.m. to 2:30 p.m.

Location: Food and Drug Administration, 8800 Wisconsin Ave., Bldg. 29–B, conference room 1NN06, Bethesda, MD. This meeting will be held via telephone conference call. A speaker phone will be provided in the conference room to allow public participation in the meeting.

Contact: Nancy T. Cherry or Denise H. Royster, Center for Biologics Evaluation and Research (HFM–71), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852, 301–827–0314, or FDA Advisory Committee Information Line, 1–800–741–8138, (301–443–0572 in the Washington, DC area), code 12391. Please call the Information Line for up-to-date information on this meeting.

Agenda: The committee will discuss the intramural scientific research program of the Laboratory of Pediatric and Respiratory Viral Diseases.

Procedure: On June 11, 2001, from 11:30 a.m. to 1:30 p.m., the meeting is open to the public. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by May 31, 2001. Oral presentations from the public will be scheduled between approximately 12:20 p.m. and 1:25 p.m. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before May 31, 2001, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Closed Committee Deliberations: On June 11, 2001, from 1:30 p.m. to 2:30 p.m., the meeting will be closed to permit discussion where disclosure would constitute a clearly unwarranted invasion of personal privacy (5 U.S.C. 552b(c)(6)). The meeting will be closed to discuss personal information concerning individuals associated with the research program.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: May 17, 2001.

Linda A. Suydam,

Senior Associate Commissioner.

[FR Doc. 01–13070 Filed 5–22–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98D–1195]

Guidance for Industry on Bioanalytical Method Validation; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a guidance for industry entitled ''Bioanalytical Method Validation.'' This guidance provides assistance to sponsors of investigational new drug applications (INDs), new drug applications (NDAs), abbreviated new drug applications (ANDAs), and their supplements in developing validation information on bioanalytical methods for pharmacokinetic (PK) evaluation of human clinical pharmacology, bioavailability (BA), and bioequivalence (BE) studies. The guidance also applies to bioanalytical methods used for nonhuman pharmacology/toxicology studies and preclinical studies. For studies related to the veterinary drug approval process, this guidance applies only to blood and urine BA, BE, and PK studies.

DATES: Submit written comments on agency guidances at any time.

ADDRESSES: Submit written requests for single copies of this guidance to the Division of Drug Information (HFD–240), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. Send one self-addressed adhesive label to assist that office in processing your requests. 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. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

FOR FURTHER INFORMATION CONTACT: Vinod P. Shah, Center for Drug Evaluation and Research (HFD–350), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–5635.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a guidance for industry entitled ''Bioanalytical Method Validation.'' This guidance provides recommendations to sponsors of INDs, NDAs, ANDAs, and their supplements in developing validation information for bioanalytical methods for PK evaluations of human clinical pharmacology, BA studies, and BE studies. The information in this guidance generally applies to bioanalytical procedures such as gas chromatography (GC), high-pressure liquid chromatography (LC), combined GC and LC mass spectrometric (MS) procedures such as LC–MS, LC–MS–MS, GC–MS, GC–MS–MS, and immunological and microbiological procedures performed for quantitative determination of drugs and or metabolites in biological matrices such as serum, plasma, or urine. The guidance also applies to other bioanalytical matrices such as tissue and skin samples.

In the **Federal Register** of January 5, 1999 (64 FR 517), FDA announced the availability of a draft guidance entitled ''Bioanalytical Methods Validation for Human Studies.'' This January 1999 document gave interested persons an opportunity to comment through March 8, 1999. The agency received a total of 36 comments. All comments received

during the comment period have been carefully reviewed and incorporated in this revised guidance where appropriate. In addition, a workshop entitled ''Bioanalytical Method Validation—A Revisit with a Decade of Progress'' was held January 12 to 14, 2000. This guidance also incorporates the recommendations from the January 2000 workshop.

This guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115; 65 FR 56468, September 19, 2000). The guidance represents the agency's current thinking on the validation of methods for the assay of drugs and/or metabolites in human biological matrices. 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 the applicable statutes and regulations.

II. Comments

Interested persons may, at any time, submit written comments on the guidance to the Dockets Management Branch (address above). Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The guidance and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

III. Electronic Access

Persons with access to the Internet may obtain the document at http://www.fda.gov/cder/guidance/index.htm.

Dated: May 11, 2001.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 01–12908 Filed 5–22–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 00D–1497]

The Mammography Quality Standards Act Final Regulations Document #4; Final Guidance for Industry and FDA; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of the guidance entitled ''The Mammography Quality Standards Act Final Regulations Document #4; Final Guidance for Industry and FDA.'' The final regulations implementing the Mammography Quality Standards Act of 1992 (the MQSA) became effective April 28, 1999. The final guidance document is intended to assist facilities and their personnel to meet the MQSA final regulations.

DATES: Submit written comments at any time.

ADDRESSES: Submit written requests for single copies on a 3.5″ diskette of the guidance document entitled ''The Mammography Quality Standards Act Final Regulations Document #4; Final Guidance for Industry and FDA'' to the Division of Small Manufacturers Assistance (HFZ–220), Center for Devices and Radiological Health, Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850. Send two self-addressed adhesive labels to assist that office in processing your request, or fax your request to 301–443–8818. Submit written comments concerning this guidance to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Comments should be identified with the docket number found in brackets in the heading of this document. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance.

FOR FURTHER INFORMATION CONTACT: Charles A. Finder, Center for Devices and Radiological Health (HFZ–240), Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850, 301–594–3332.

SUPPLEMENTARY INFORMATION:

I. Background

The draft guidance document was issued for public comment in the **Federal Register** of September 13, 2000 (65 FR 55265). The comment period ended on December 13, 2000. The draft guidance was discussed with the National Mammography Quality Assurance Advisory Committee at the September 28, 2000, meeting. The final guidance document has been modified from the original draft guidance to address the seven public comments received. There were several clarifying changes made to the document, particularly dealing with the issues of what constitutes a ''major repair'' and when the physicist must perform onsite evaluations. Several decision tree flow diagrams were added to the document to help clarify these issues. Overall, there were no major substantive changes made to the document.

II. Significance of the Guidance

This guidance document represents the agency's current thinking on the MQSA final regulations guidance. 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 applicable statutes and regulations.

The agency has adopted the good guidance practices (GGPs) regulation, which sets forth the agency's regulations for the development, issuance, and use of guidance documents (21 CFR 10.115; 65 FR 56468, September 19, 2000). This guidance document is issued as a level 1 guidance consistent with GGPs.

III. Electronic Access

In order to receive ''The Mammography Quality Standards Act Final Regulations Document #4; Final Guidance for Industry and FDA'' via your fax machine, call the CDRH Facts-On-Demand system at 800–899–0381 or 301–827–0111 from a touch-tone telephone. Press 1 to enter the system. At the second voice prompt press 1 to order a document. Enter the document number (1159) followed by the pound sign (#). Follow the remaining voice prompts to complete your request.

Persons interested in obtaining a copy of the guidance may also do so using the Internet. CDRH maintains an entry on the Internet for easy access to information including text, graphics, and files that may be downloaded to a personal computer with Internet access. Updated on a regular basis, the CDRH home page includes the civil money penalty guidance documents package, device safety alerts, **Federal Register** reprints, information on premarket submissions (including lists of approved applications and manufacturers' addresses), small manufacturers' assistance, information on video conferencing and electronic submissions, Mammography Matters, and other device-oriented information. The CDRH home page may be accessed at http://www.fda.gov/cdrh. ''The Mammography Quality Standards Act Final Regulations Document#4; Final Guidance for Industry and FDA'' will also be available on CDRH's mammography Web site at http://www.fda.gov/cdrh/mammography. Guidance documents are also available on the Dockets Management Branch Web site at http://www.fda.gov.ohrms/dockets/default.htm.

IV. Comments

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

Dated: May 16, 2001.

Linda S. Kahan,

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

[FR Doc. 01–12909 Filed 5–22–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98N–0495]

Prescription Drug User Fee Act (PDUFA) II Five-Year Plan—FY 2001 Update; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of an internal planning document entitled ''PDUFA II Five-Year Plan—FY 2001 Update.'' The updated plan to achieve PDUFA II goals for the drug review process takes into account changes in revenue projections and workload based on actual revenue and application receipts in fiscal year (FY) 1998, FY 1999, and FY 2000 and updated projections for FY 2001 and FY 2002.

DATES: Submit written comments on the plan at any time. Comments will be considered as the agency makes annual adjustments to the plan in the second quarter of each FY.

ADDRESSES: Submit written requests for single copies of this plan to the Office of Management and Systems (HF–300), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, Attn: Frank Claunts. Send a self-addressed adhesive label to assist that office in processing your requests. Submit written comments on the plan to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the plan.

FOR FURTHER INFORMATION CONTACT: Frank Claunts, Office of Management Systems (HF–300), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–4427.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of an internal planning document entitled ''PDUFA II Five-Year Plan—FY 2001 Update.'' The Prescription Drug User Fee Act of 1992 (PDUFA) was amended and extended through the year 2002 by the Food and Drug Administration Modernization Act of 1997. The amended and extended PDUFA is referred to as PDUFA II. PDUFA II authorizes appropriations and fees that will provide FDA with resources to sustain the drug review staff developed through FY 1997 and to achieve the even more stringent new goals.

The updated FY 2001 plan begins with a statement of purpose, provides background information on PDUFA and a summary of the new goals, and updates the 10 major assumptions on which the plan is based. This is the third update of the plan since it was initially published in July 1998. The updated plan summarizes individual plans of agency components with major PDUFA responsibilities and also provides a consolidated agency summary. The updated plan to achieve PDUFA II goals for the drug review process takes into account changes in revenue projections and workload based on actual revenue and application receipts in FY 1998, FY 1999, and FY 2000 and updates projections for FY 2001 and FY 2002. Attachments include the **Federal Register** notice of December 18, 2000 (65 FR 79107), establishing prescription drug user fee rates for FY 2001, updated 5-year estimates of PDUFA fees and revenues, and the revised PDUFA II Information Management Five-Year Plan.

We are making this plan available to all that have an interest. We welcome comments and will consider them in the future as annual adjustments are made to the plan.

II. Comments

Interested persons may submit to the Dockets Management Branch (address above) written comments on the plan at any time. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The FY 2001 update and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

III. Electronic Access

Persons with access to the Internet may obtain the document at http://www.fda.gov/oc/pdufa2/5yrplan.html.

Dated: May 17, 2001.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 01–13069 Filed 5–22–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Advisory Council; Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following National Advisory body scheduled to meet during the month of June 2001.

Name: National Advisory Council on the National Health Service Corps.

Date and Time: June 21, 2001; 3 p.m.–6:30 p.m.; June 22, 2001, 8 a.m.–5 p.m.; June 23, 2001, 9 a.m. to 5:30 p.m.; June 24, 2001, 8 a.m.–10:15 a.m.

Place: Hyatt Regency Hotel, 575 Memorial Drive, Cambridge, MA 02139–4896, Phone: (617) 492–1234.

The meeting is open to the public.

Agenda: The Council will focus its agenda on strategic and operational plans for the current fiscal year. The Council will be attending three community meetings in Raymond, NH, Worcester, MA, and Providence, RI, on Friday, June 22, to discuss integrated primary medical care, the integration of primary care, mental and behavioral health, and oral health. Transportation will not be provided to the general public.

Agenda items and times are subject to change as priorities dictate.

FOR FURTHER INFORMATION CONTACT: Ms. Eve Morrow, Division of National Health Service Corps, at (301) 594–4144.

Dated: May 17, 2001.

Jane M. Harrison,

Director, Division of Policy Review and Coordination.

[FR Doc. 01–12910 Filed 5–22–01; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Submission for OMB Review; Comment Request; Customer/Partner Satisfaction Survey of the NIDCD Minority and Disability Supplement Program

SUMMARY: Under the provisions of Section 3507 (a)(1)(D) of the Paperwork Reduction Act of 1995, the National Institute on Deafness and Other Communication Disorders (NIDCD), the National Institutes of Health (NIH), has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below. The proposed information collection was previously published in the **Federal Register** on January 26, 2001, page 7919–7920, and allowed 60 days for public comment. No public comments were received. The purpose of this notice is to allow an additional 30 days for public comment. The National Institutes of Health may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

Proposed Collection

Title: Customer/Partner Satisfaction Survey of the NIDCD Minority and Disability Supplement Program. *Type of Information Collection Request:* New. *Need and Use of Information Collection:* The NIDCD was established to support biomedical and behavioral research and research training in hearing, smell, balance, taste, voice, speech and language. Although minorities and people with disabilities will soon dominate the work force, these groups are underrepresented in the professional fields of science and health. To encourage members of these groups to pursue careers in these fields, NIDCD provides opportunities for extramural grant recipients to mentor promising candidates. The proposed survey will collect information from participants in the Minority and Disability Supplement Program and will yield information about satisfaction of participants with the program and how participation may have lead to the pursuit of a career in the health field. *Frequency of Response:* One. *Affected Public:* Individuals. *Type of Respondent:* Minority individuals and individuals with disabilities who have previously participated in the Supplement Program. The annual reporting burden is as follows: *Estimated Number of Respondents:* 200. *Estimated Number of Responses per Respondent:* One. *Average Burden Hours Per Response:* 0.5; and *Estimated Total Annual Burden Hours Requested:* 100. The annualized cost to respondents is estimated at: $150. There are no Capital Costs to report. There are no Operating or Maintenance Costs to report.

Type of respondents	Estimated number of respondents	Estimated number of responses per respondent	Average burden hours per response	Estimated total annual burden hours requested
Survey of Participant	200	1	0.5	100
Total	200			100

Request for Comments

Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Direct Comments to OMB

Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Regulatory Affairs, New Executive Office Building, Room 10235, Washington, D.C. 20503, Attention: Desk Officer for NIH. To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact: Judith A. Cooper, Ph.D., Chief, Scientific Programs Branch, NIDCD, NIH, 6120 Executive Blvd., EPS 400–C, MSC 7180, Bethesda, MD 20892, or call non toll-free number (301) 496–5061, or E-mail your request, including your address to: *judith_cooper@nih.gov*

Comments Due Date

Comments regarding this information collection are best assured of having their full effect if received within 30-days of the date of this publication.

Dated: April 26, 2001.

David Kerr,

Executive Officer, NIDCD.

[FR Doc. 01–12912 Filed 5–22–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of the Director, National Institutes of Health; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the Advisory Committee to the Director, NIH.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: Advisory Committee to the Director, NIH.

Date: June 7, 2001.

Time: 9 am to 3:30 pm.

Agenda: Report from the Acting Director, NIH, Update on the Reorganization Activities in the Center for Scientific Review, Report from the Extramural Construction Working Group, Technology Transfer Issues, and an Update on Regulatory Burden and Modular Grants.

Place: 31 Center Drive, Bldg. 31, Conf. Rm. 10, Bethesda, MD 20892.

Contact Person: Janice C. Ramsden, Committee Mgmt. Officer, Office of the Director, NIH, Building 1, Room 333, Bethesda, MD 20892, 301–496–0959.

Information is also available on the Institute's/Center's home page: *http://www.nih.gov/about/director/acd.htm,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.14, Intramural Research Training Award; 93.187, Undergraduate Scholarship Program for individuals from Disadvantaged Backgrounds; 93.22, Clinical Research Loan Repayment Program for Individuals from Disadvantaged Backgrounds; 93.232, Loan Repayment Program for Research Generally; 93.39, Academic Research Enhancement Award; 93.936, NIH Acquired Immunodeficiency Syndrome Research Loan Repayment Program, National Institutes of Health, HHS)

Dated: May 15, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–12914 Filed 5–22–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of the Director, National Institutes of Health; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the Secretary's Advisory Committee on Xenotransplantation.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such assign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: Secretary's Advisory Committee on Xenotransplantation.

Date: July 2–3, 2001.

Time: July 2, 2001, 8:30 a.m. to 5:30 p.m.

Agenda: Infectious disease issues in xenotransplantation.

Place: Holiday Inn Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Time: July 2, 2001, 7:30 p.m. to 9 p.m.

Agenda: Infectious disease issues in xenotransplantation.

Place: Holiday Inn Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Time: July 3, 2001, 8:30 a.m. to 2:00 p.m.

Agenda: Infectious disease issues in xenotransplantation.

Place: Holiday Inn Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Mary Groesch, PhD, Executive Director, Secretary's Advisory Committee on Xenotransplantation, Office of Science Policy, Rockledge I, Room 750, Rockville, MD 20852, 301–496–9838.

Information is also available on the Institute's/Center's home page: www4.od.nih.gov/oba/xenomtg.htm, where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.14, Intramural Research Training Award; 93.187, Undergraduate Scholarship Program for Individuals from Disadvantaged Backgrounds; 93.22, Clinical Research Loan Repayment Program for Individuals from Disadvantaged Backgrounds; 93.232, Loan Repayment Program for Research Generally; 93.39, Academic Research Enhancement Award; 93.936, NIH Acquired Immunodeficiency Syndrome Research Loan Repayment Program, National Institutes of Health, HHS)

Dated: May 16, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–12924 Filed 5–22–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel Development of High-Yield Technologies for Isolating Exfoliated Cells in Body Fluids.

Date: June 11, 2001.

Time: 8 am to 4 pm.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute, 6130 Executive Blvd., Conference Room C, Rockville, MD 20852.

Contact Person: Kenneth L. Bielat, PhD, Scientific Review Administrator, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, 6116 Executive Boulevard, Room 8043, Bethesda, MD 20892, (301) 496–7576.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: May 15, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–12915 Filed 5–22–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel Cancer Prevention Research Small Grants Program.

Date: June 19, 2001.

Time: 8 am to 5 pm.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott Suites, 6711 Democracy Boulevard, Bethesda, MD 20817.

Contact Person: Lalita D. Palekar, PhD, Scientific Review Administrator, Special Review, Referral and Resources Branch, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, 6116 Executive Boulevard, Room 8066, Bethesda, MD 20892–7405, (301) 496–7575.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399,

Cancer Control, National Institutes of Health, HHS)

Dated: May 15, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–12916 Filed 5–22–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Initial Review Group Subcommittee F—Manpower & Training.

Date: June 13–15, 2001.

Time: 8 am to 6 pm.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn—Georgetown, 2101 Wisconsin Avenue, N.W., Washington, DC 20007.

Contact Person: Mary Bell, PhD, Scientific Review Administrator, Grants Review Branch, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, Phs. Dhhs, 6116 Executive Boulevard, Room 8113, Bethesda, Md 20892–8328, 301–496–7978.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: May 15, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–12917 Filed 5–22–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Research Resources; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Center for Research Resources Special Emphasis Panel General Clinical Research Centers.

Date: June 12, 2001.

Time: 7 p.m. to 10 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: John L. Meyer, PhD, Deputy Director, Office of Review, National Center for Research Resources, National Institutes of Health, 6705 Rockledge Drive, MSC 7965, One Rockledge Centre, Room 6018, Bethesda, MD 20892–7965, 301–435–0806, meyerj@ncrr.nih.gov

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333; 93.371, Biomedical Technology; 93.389, Research Infrastructure, National Institutes of Health, HHS)

Dated: May 16, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–12928 Filed 5–22–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel (RFA: HL–01–010) Non-Mouse Models of Diabetes Complications in Cardiovascular and Microvascular Diseases.

Date: June 12, 2001.

Time: 8 a.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: Chevy Chase Holiday Inn, Chevy Chase, MD 20815.

Contact Person: William J. Johnson, PhD, NIH/NHLBI/DEA/Review Branch, 6701 Rockledge Drive, Room 7184, Bethesda, MD 20892–9692, 301–435–0277.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: May 16, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–12926 Filed 5–22–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Arthritis and Musculoskeletal and Skin Diseases; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the National Arthritis and Musculoskeletal and Skin Diseases Advisory Council.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the

provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and/or contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Arthritis and Musculoskeletal and Skin Diseases Advisory Council.

Date: June 21, 2001.

Open: 8:30 am to 12 pm.

Agenda: The meeting will be open to the public to discuss administrative details relating to Council business and special reports.

Place: 9000 Rockville Pike, Building 31C, Conference Room 6, Bethesda, MD 20892.

Closed: 1 pm to 5 pm.

Agenda: To review and evaluate grant applications.

Place: 9000 Rockville Pike, Building 31C, Conference Room 6, Bethesda, MD 20892.

Contact Person: Steven J. Hausman, PhD, Deputy Director, NIAMS/NIH, Bldg. 31, room 4C–32, 31 Center Dr, MSC 2350, Bethesda, MD 20892–2350, (301) 594–2463.

(Catalogue of Federal Domestic Assistance Program Nos. 93.846, Arthritis, Musculoskeletal and Skin Diseases Research, National Institutes of Health, HHS)

Dated: May 11, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–12913 Filed 5–22–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel.

Date: June 15, 2001.

Time: 8 am to 2 pm.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Bethesda, 8120 Wisconsin Ave., Bethesda, MD 20814.

Contact Person: Gary S. Madonna, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, NIAID, NIH, Room 2217, 6700–B Rockledge Drive, MSC 7610, Bethesda, MD 20892–7610, 301–496–2550.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: May 15, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–12918 Filed 5–22–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel.

Date: June 7–8, 2001.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate contract proposals.

Place: Virginian Suites Conference Center, 1500 Arlington Blvd., Arlington, VA 22209.

Contact Person: Anna Ramsey-Ewing, Ph.D., Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, NIAID, NIH, Room 2220, 6700–B Rockledge Drive, MSC 7610, Bethesda, MD 20892–7610, 301 496–2550, ar15o@nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: May 15, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–12919 Filed 5–22–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Microbiology and Infectious Diseases Research Committee.

Date: June 14, 2001.

Open: 9 a.m. to 10 a.m.

Agenda: Reports from various institute staff.

Place: Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Closed: 10 a.m. to 6:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Gary S. Madonna, Ph.D., Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, NIAID, NIH Room 2217, 6700–B Rockledge Drive, MSC 7610, Bethesda, MD 20892–7610, 301–496–2550.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology,

and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS

Dated: May 15, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–12920 Filed 5–22–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Disease Special Emphasis Panel.

Date: June 12, 2001.

Time: 1 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: 6700 B Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Nasrin Nabavi, Ph.D., Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, NIAID, NIH, Room 2156, 6700B Rockledge Drive, MSC 7610, Bethesda, MD 20892–7610, 301 496–2550, nn30t@nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: May 15, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–12921 Filed 5–22–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institutes of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant application and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institutes of Allergy and Infectious Diseases Special Emphasis Panel ''Peripheral Tolerance and Autoimmunity.''

Date: June 13, 2001.

Time: 1 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: 6700 B Rockledge Drive, Room 2223, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Nasrin Nabavi, PhD, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, NIAID, NIH, Room 2156, 6700B Rockledge Drive, MSC 7610, Bethesda, MD 20892–7610, 301 496–2550, nn30t@nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: May 15, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–12922 Filed 5–22–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel

Date: May 23, 2001.

Time: 10 am to 5 pm.

Agenda: To review and evaluate contract proposals.

Place: 6000 Executive Blvd., Suite 400, Rockville, MD 20852.

Contact Person: Sean O'Rourke, Scientific Review Administrator, Extramural Project Review Branch, National Institute on Alcohol Abuse and Alcoholism, National Institutes of Health, Suite 409, 6000 Executive Boulevard, Bethesda, MD 20892–7003, 301–443–2861.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel.

Date: June 18, 2001.

Time: 8:30 am to 4 pm.

Agenda: To review and evaluate contract proposals.

Place: 6000 Executive Boulevard, Suite 409, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Ronald Suddendorf, PhD, Scientific Review Administrator, Extramural Project Review Branch, National Institute on Alcohol Abuse and Alcoholism, National Institutes of Health, Suite 409, 6000 Executive Boulevard, Bethesda, MD 20892–7003, 301–443–2926.

(Catalogue of Federal Domestic Assistance Program Nos. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; 93.891, Alcohol Research Center Grants, National Institutes of Health, HHS)

Dated: May 16, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–12927 Filed 5–22–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel.

Date: June 7, 2001.

Time: 5 pm to 6 pm.

Agenda: To review and evaluate grant applications.

Place: Governor's House, 1615 Rhode Island Avenue, NW., Washington, DC 20036.

Contact Person: David I. Sommers, PHD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6144, MSC 9606, Bethesda, MD 20892–9606, 301–443–6470, *dsommers@mail.nih.gov*

Name of Committee: National Institute of Mental Health Special Emphasis Panel.

Date: June 20, 2001.

Time: 10:30 am to 11:30 am.

Agenda: To review and evaluate grant applications.

Place: Neuroscience Center, National Institutes of Health, 6001 Executive Blvd., Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: David I. Sommers, PHD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6144, MSC 9606, Bethesda, MD 20892–9606, 301–443–6470, *dsommers@mail.nih.gov*

Name of Committee: National Institute of Mental Health Special Emphasis Panel.

Date: July 6, 2001.

Time: 2:00 PM to 4:00 PM.

Agenda: To review and evaluate grant applications.

Place: Neuroscience Center, National Institutes of Health, 6001 Executive Blvd., Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: David I. Sommers, PHD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6144, MSC 9606, Bethesda, MD 20892–9606, 301–443–6470, *dsommers@mail.nih.gov*

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.21, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93,282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: May 16, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–12929 Filed 5–22–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial priority such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel.

Date: June 19–20, 2001.

Time: 8:30 am to 5 pm.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Georgetown, 2101 Wisconsin Avenue, NW., Washington, DC 20007.

Contact Person: Martha Ann Carey, PhD, RN, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6151, MSC 9608, Bethesda, MD 20892–9608, 301–443–1606, *mcarey@mail.nih.gov*

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: May 16, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–12930 Filed 5–22–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: May 25, 2001.

Time: 8:30 a.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Hotel, 30 Whalley Avenue, New Haven, CT 06511.

Contact Person: Michael A Oxman, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4112, MSC 7848, Bethesda, MD 20892, 301/435–3565, oxmanm@mail.nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: May 16, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–12923 Filed 5–22–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: June 1, 2001.
Time: 1 p.m. to 4 p.m.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn Rosslyn, 1900 North Fort Myer Drive, Arlington, VA 22209.
Contact Person: Lee Rosen, Ph.D., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5116, MSC 7854, Bethesda, MD 20892, (301) 435–1171.
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: June 3–5, 2001.
Time: 7 p.m. to 6 p.m.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Elaine Sierra-Rivera, Ph.D., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4136, MSC 7804, Bethesda, MD 20892, (301) 435–1779, riverse@csr.nih.gov.
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Surgery, Radiology and Bioengineering Integrated Review Group, Diagnostic Imaging Study Section.
Date: June 4–5, 2001.
Time: 8 a.m. to 4 p.m.
Agenda: To review and evaluate grant applications.
Place: Georgetown Holiday Inn, 2101 Wisconsin Avenue, NW., Washington, DC 20007.
Contact Person: Lee Rosen, Ph.D., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5116, MSC 7854, Bethesda, MD 20892, (301) 435–1171.
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: June 4, 2001.
Time: 1 p.m. to 3 p.m.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Syed Quadri, Ph.D., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4144, MSC 7804, Bethesda, MD 20892, (301) 435–1211.
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Endocrinology and Reproductive Sciences and Integrated Review Group, Biochemical Endocrinology Study Section.
Date: June 4–5, 2001.
Time: 7 p.m. to 4 p.m.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Debora L. Hamernik, Ph.D., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6152, MSC 7892, Bethesda, MD 20892, (301) 435–4511, hamernid@csr.nih.gov.
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Surgery, Radiology and Bioengineering Integrated Review Group, Diagnostic Radiology Study Section.
Date: June 5–6, 2001.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Georgetown Suites, 1000 29th St., NW., Washington, DC 20007.
Contact Person: Eileen W. Bradley, DSC, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5120, MSC 7854, Bethesda, MD 20892, (301) 435–1179, bradleye@nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: June 5, 2001.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn Old Town Alexandria, 480 King Street, Alexandria, VA 22314.
Contact Person: Jo Pelham, BA, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4106, MSC 7814, Bethesda, MD 20892, (301) 435–1786.

Name of Committee: Center for Scientific Review Panel.
Date: June 5, 2001.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Jurys Washington Hotel, Washington, DC 20036.
Contact Person: Syed Husain, Ph.D., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5216, MSC 7850, Bethesda, MD 20892–7850, (301) 435–1224, husains@csr.nih.gov.

Name of Committee: Integrative, Functional and Cognitive Neuroscience Integrated Review Group, Integrative, Functional and Cognitive Neuroscience 1.
Date: June 5–6, 2001
Time: 8:30 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn, 5520 Wisconsin Ave, Chevy Chase, MD 20815.
Contact Person: Gamil C Debbas, Ph.D., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5170, MSC 7844, Bethesda, MD 20892, (301) 435–1018.

Name of Committee: Center for Scientific Review Panel.
Date: June 5, 2001.
Time: 4 p.m. to 4:20 p.m.
Agenda: To review and evaluate grant applications.
Place: Georgetown Suites, 1000 29th St., NW., Washington, DC 20007.
Contact Person: Lee Rosen, Ph.D., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5116, MSC 7854, Bethesda, MD 20892, (301) 435–1171.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: June 5, 2001.
Time: 4:20 p.m. to 6 p.m.
Agenda: To review and evaluate grant applications.
Place: Georgetown Suites, 1000 29th St., NW., Washington, DC 20007.
Contact Person: Lee Rosen, Ph.D., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5116, MSC 7854, Bethesda, MD 20892, (301) 435–1171.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: June 5, 2001.
Time: 12 p.m. to 1 p.m.
Agenda: To review and evaluate grant applications.
Place: Georgetown Holiday Inn, 2101 Wisconsin Avenue, NW., Washington, DC 20007.
Contact Person: Eileen W. Bradley, DSC, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5120, MSC 7854, Bethesda, MD 20892, (301) 453–1179, bradleye@csr.nib.gov.

Name of Committee: Oncological Sciences Integrated Review Group, Pathology B Study Section.
Date: June 6–8, 2001.

Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Martin L. Padarathsingh, Ph.D., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4146, MSC 7804, Bethesda, MD 20892, (301) 435–1717.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: June 6, 2001.
Time: 12 p.m. to 2 p.m.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Michael Knecht, Ph.D., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6176, MSC 7892, Bethesda, MD 20892, (301) 435–1046.

Name of Committee: Molecular, Cellular and Developmental Neuroscience Integrated Review Group, Visual Sciences C Study Section.
Date: June 7–8, 2001.
Time: 8 a.m. to 6 p.m.
Agenda: To review and evaluate grant applications.
Place: Loews L'Enfant Plaza Hotel, 480 L'Enfant Plaza, SW., MONET IV, Washington, DC 20024–2197.
Contact Person: Carole L. Jelsema, Ph.D., Scientific Review Administrator, MDCN Integrated Review Group, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5210, MSC 7850, Bethesda, MD 20892–7850, (301) 435–1248, jelsemac@csr.nih.gov.

Name of Committee: Cell Development and Function Integrated Review Group, Cell Development and Function 2.
Date: June 7–8, 2001.
Time: 8:30 a.m. to 2:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Georgetown Holiday Inn, 2101 Wisconsin Avenue, NW., Washington, DC 20007.
Contact Person: Ramesh K. Nayak, Ph.D., Scienctific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5146, MSC 7840, Bethesda, MD 20892, (301) 435–1026, nayakr@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: June 7–8, 2001.
Time: 8:30 a.m. to 5:30 p.m.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn, 8777 Georgia Avenue, Silver Spring, MD 20910.
Contact Person: Angela M. Pattatucci-Aragon, Ph.D., Scienctific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5220, MSC 7852, Bethesda, MD 20892, (301) 435–1775.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: June 7–8, 2001.
Time: 9 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Georgetown Suites, 1000 29th St., NW., Washington, DC 20007.
Contact Person: Julian Azorlosa, Ph.D., Scienctific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3190, MSC 7848, Bethesda, MD 20892, (301) 435–1507.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: June 7–8, 2001.
Time: 9 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Governor's House, 1615 Rhode Island Avenue, NW., Washington, DC 20036.
Contact Person: Thomas A. Tatham, Ph.D., Scienctific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3188, MSC 7848, Bethesda, MD 20892, (301) 435–0692, tathamt@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: June 8, 2001.
Time: 8:30 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.
Contact Person: Betty Hayden, Ph.D., Scienctific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4206, MSC 7812, Bethesda, MD 20892, (301) 435–1223, haydenb@csr.nih.gov.

Name of Committee: Biophysical and Chemical Sciences Integrated Review Group, Medicinal Chemistry Study Section.
Date: June 8–9, 2001.
Time: 8:30 a.m. to 7:30 p.m.
Agenda: To review and evaluate grant applications.
Place: Bozeman Comfort Inn, 1370 North 7th Avenue, Bozeman, MT 59715.
Contact Person: Ronald J. Dubois, Ph.D., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, room 4156, MSC 7806, Bethesda, MD 20892, (301) 435–1722, duboisr@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: June 8, 2001.
Time: 9:30 a.m. to 11:30 a.m.
Agenda: To review and evaluate grant applications.
Place: Hyatt Regency Bethesda, One Bethesda Metro Center, Bethesda, MD 20814.
Contact Person: Sandy Warren, DMD, MPH, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, room 5134, MDC 7840, Bethesda, MD 20892, (301) 435–1019.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

LaVerne Y. Stringfield,
Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–12925 Filed 5–22–01; 8:45 am]
BILLING CODE 4140–01–M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Privacy Act of 1974, As Amended; Addition of a New System of Records

AGENCY: Department of the Interior.

ACTION: Proposed addition of a new system of records.

SUMMARY: The Department of Interior is issuing public notice of its intent to add a new Department-wide Privacy Act system of records to its inventory of records systems subject to the Privacy Act of 1974 (5 U.S.C. 552a). This action is necessary to meet the requirements of the Privacy Act to publish in the **Federal Register** notice of the existence and character of records systems maintained by the agency (5 U.S.C. 552a(e)(4)). The new system of records is called the ''DOI–05: The Volunteer Services File.''

DATES: 5 U.S.C. 552a(e)(11) requires that the public be provided a 30-day period in which to comment on the intended use of the information in the system of records. The Office of Management and Budget, in its Circular A–130, requires an additional 10-day period (for a total of 40 days) in which to make these comments. Any persons interested in commenting on this proposed system of records may do so by submitting comments in writing to the Departmental Privacy Act Officer, U.S. Department of the Interior, Office of Information Resources Management, MS 5312 MIB, 1849 C Street, NW., Washington, DC 20240, or by e-mail at *Marilyn_Legnini@doi.gov.* Comments received on or before July 2, 2001 will be considered. The system will be effective as proposed at the end of the comment period unless comments are received which would require a contrary determination. In that case the Department will publish any changes to the routine uses.

FOR FURTHER INFORMATION CONTACT: John Mahoney, Office of Planning and Performance Management, Office of the Secretary, by phone at 202–208–4560, email at: *John_Mahoney@doi.gov*, or mail at MS–5259–MIB, 1849 C St., NW., Washington, DC 20240.

SUPPLEMENTARY INFORMATION: The Interior Volunteer Services File system

will contain information on individuals for the purpose of determining an interest in a volunteer opportunity, suitability for the opportunity, and for administration of the volunteer program.

A copy of the system notice for ''Interior Volunteer Services File System'' DOI–05, follows.

Dated: May 18, 2001.

Marilyn Legnini,

Departmental Privacy Act Officer, Department of Interior.

INTERIOR/DOI–05

SYSTEM NAME:

Interior Volunteer Services File System.

SECURITY CLASSIFICATION:

Not classified.

SYSTEM LOCATION:

The records of this system are located at various field offices of Department of Interior bureaus which currently utilize volunteers. See Interior Bureau headquarter offices listed below or from the Department of Interior web site at www.doi.gov:

(1) U.S. Geological Survey, Volunteer for Science Program, Office of Communications, 12201 Sunrise Valley Drive, Reston, VA 20192.

(2) U.S. Fish and Wildlife Service, Volunteer Program, Headquarters Office, National Wildlife Refuge System, 4401 N. Fairfax Drive, Rm 670, Arlington, VA 22203.

(3) Bureau of Reclamation, Volunteer Program, Office of Policy, Department of the Interior, 1849 C. St. NW., Washington, DC 20240.

(4) Bureau of Land Management, Environmental Education and Volunteers Group, 1849 C. St., LS–406, Washington, DC 20240.

(5) National Park Service, Servicewide Volunteer Coordinator, Rm. 7312, 1849 C Street NW., Washington, DC 20240.

(6) Information from on-line applications from the Volunteer Page web site is managed by the National Business Center, U.S. Department of the Interior, Second Floor, Parker Building, Reston, Virginia 20192.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons performing work for the Department of Interior as volunteers but not as an employee of the agency. It includes interested persons, individuals involved in community, youth organizations, high schools and colleges.

CATEGORIES OF RECORDS IN THE SYSTEM:

The file may contain application forms; name; address; home phone number; facility where the individual is providing volunteer services; name of the supervisor; dates volunteered; date terminated; any physical or medical condition the facility staff needs to be aware of; emergency contact name, address, telephone, and relationship to the volunteer, and (if applicable) specific training the volunteer needs; personal equipment the volunteer needs; and reimbursable expenses provided to the volunteer; agreements to perform the services described; emergency notification data; contact information; time sheets; skills and qualification information; receipt for property; compensation for injuries; performance evaluation; and other information necessary to manage the volunteer program for each DOI bureau or office.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Use by Department of the Interior bureaus and offices to identify persons interested in participating in a government volunteer program, and for all necessary purposes for managing the volunteer program.

Disclosures outside the Department of the Interior may be made under the routine uses listed below without the consent of the individual if the disclosure is compatible with the purposes for which the record was collected.

(1) To an expert, consultant, or contractor (including employees of the contractor) of the Department that performs, on the Department's behalf, services requiring the use of these records.

(2) To another government natural resource agency for the purpose consistent with the purpose identified above;

(3) The Department of Justice, or to a court, adjudicative or other administrative body, or to a party in litigation before a court or adjudicative or administrative body, when:

(a) One of the following is a party to the proceeding or has an interest in the proceeding:

(1) The Department or any component of the Department;

(2) Any Departmental employee acting in his or her official capacity;

(3) Any Departmental employee acting in his or her individual capacity where the Department or the Department of Justice has agreed to represent the employee, or

(4) The United States, when the Department determines that the Department is likely to be affected by the proceeding; and

(b) The Department deems the disclosure to be:

(1) Relevant and necessary to the proceedings; and

(2) Compatible with the purpose for which we compiled the information.

(4) To appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation of or for enforcing or implementing a statute, rule, regulation, order or license, when the Department becomes aware of a violation or potential violation of a statute, rule, regulation, order or license.

(5) To a congressional office in response to an inquiry an individual has made to the congressional office.

(6) To the Office of Personnel Management or the General Accounting Office when the information is required for evaluation of the child care subsidy program.

Disclosure to Consumer Reporting Agencies:

Pursuant to 5 U.S.C. 552a(b)12, records can be disclosed to consumer reporting agencies as they are defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Records are stored both in file folders, and in electronic form, in computer systems.

Retrievability:

Indexed by name of the volunteer, control number assigned the volunteer, or social security number.

Safeguards:

Access to records in the system is limited to authorized personnel whose official duties require such access. Paper records are maintained in locked metal file cabinets and/or in secured rooms. Electronic records conform to Office of Management and Budget and Departmental guidelines reflecting the implementation of the Computer Security Act of 1987 (40 U.S.C. 759). Electronic data will be protected through user identification, passwords, database permissions and software controls. Such security measures will establish different access levels for different types of users.

Retention and Disposal:

Records in this system are covered by each individual Bureau/Office records schedule that has a Volunteer Program.

National Archives and Records Administration guidance on permanent and temporary records disposition is followed.

System Manager(s) and Address:

Officials responsible for the Headquarters and field office system of records specific to that oversight are provided in the listing above under ''System Location.''

Notification Procedures:

Any individual may request information regarding this system of records, or information as to whether the system contains records pertaining to them, from the organizational unit for which he or she performed work. The request must be in writing, signed by the requester, include the requester's full name and Social Security Number, dates when work was performed, program under which enrolled, and location where work was performed. (See 43 CFR 2.60 for procedures on making inquiries).

Record Access Procedures:

For copies of your records write to the pertinent System Managers at the locations above. The request envelope and letter should be clearly marked ''PRIVACY ACT REQUEST FOR ACCESS.'' A request for access must meet the content requirements of 43 CFR 2.63(b)(4)).

Contesting Record Procedures:

Use same procedures as ''Records Access Procedures'' section above. (See 43 CFR 2.71).

Record Source Categories:

Information from this system comes primarily from the individual himself, the sponsoring organization, work supervisors and volunteer program officials.

Exemptions Claimed for the System:

None.

[FR Doc. 01–12989 Filed 5–22–01; 8:45 am]

BILLING CODE 4310–RJ–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Meeting; Klamath River Basin Fisheries Task Force

AGENCY: Fish and Wildlife Service, Interior.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App. I), this notice announces a meeting of the Klamath River Basin Fisheries Task Force, established under the authority of the Klamath River Basin Fishery Resources Restoration Act (16 U.S.C. 460ss *et seq.*). The meeting is open to the public.

DATES: The Klamath River Basin Fisheries Task Force (Task Force) will meet from 8:00 a.m. to 5:00 p.m. on June 21, 2001, and from 8:00 a.m. to 11:30 p.m. on June 22, 2001.

PLACE: The meeting will be held at the Shilo Inn, 2500 Almond Street, Klamath Falls, Oregon.

FOR FURTHER INFORMATION CONTACT: Phil Detrich, Project Leader, U.S. Fish and Wildlife Service, 1829 South Oregon Street, Yreka, California 96097, telephone (530) 842–5763.

SUPPLEMENTARY INFORMATION: For background information on the Task Force, please refer to the notice of their initial meeting that appeared in the **Federal Register** on July 8, 1987 (52 FR 25639).

Jill Parker,

Acting California/Nevada Operations Manager, California/Nevada Office, Fish and Wildlife Service.

[FR Doc. 01–13048 Filed 5–22–01; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–060–2800/1610]

Notice of Availability; Draft Environmental Impact Statement/Draft Resource Management Plan Amendment; Falcon to Gonder Project; Proposed Power Transmission Line Project in Lander, Elko, Eureka, and White Pine Counties, NV

AGENCY: Bureau of Land Management (BLM), Interior.

COOPERATING AGENCIES: Nevada Division of Wildlife, Nevada State Historic Preservation Office.

ACTION: Notice of availability of the Draft Environmental Impact Statement/ Draft Resource Management Plan Amendment (DEIS/DRMPA) for the Falcon to Gonder Project, Lander, Elko, Eureka, and White Pine Counties, Nevada.

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969 (NEPA), 40 Code of Federal Regulations 1500–1508 Council on Environmental Quality Regulations, 43 Code of Federal Regulations 2800, and 43 Code of Federal Regulations 1600, notice is hereby given of the availability of the Draft Environmental Impact Statement/Draft Resource Management Plan Amendments (DEIS/DRMPA), prepared by the Bureau of Land Management (BLM) to analyze a proposed Falcon to Gonder 345 kV transmission line project and associated RMP amendments. The DEIS/DRMPA considers the environmental effects of five transmission line alternatives, along with the No Action Alternative. The project involves the BLM Nevada State Office, as well as BLM's Battle Mountain, Elko, and Ely Field Offices and includes public and private lands in Elko, Eureka, Lander, and White Pine Counties, Nevada.

DATES: Written comments must be postmarked or otherwise delivered by 4:30 p.m. on August 23, 2001. Copies of the DEIS may be obtained at the Nevada State Office or the Battle Mountain, Elko, or Ely BLM Field Offices. Public meetings will be held in the following locations from 7:00 p.m. to 9:00 p.m. on the dates indicated:

June 19, 2001. Carlin City Hall Court Room, 101 South 8th Street, Carlin, NV.

June 20, 2001. Eureka Opera House, 31 South Main Street, Eureka, NV.

June 21, 2001. BLM Ely Field Office, 702 North Industrial Way, Ely, NV.

ADDRESSES: Written comments should be addressed to the Bureau of Land Management, Battle Mountain Field Office, ATTN: Mary Craggett, 50 Bastian Road, Battle Mountain, Nevada 89820. Comments, including names and street addresses of respondents, will be available for public review at the above address during regular business hours (7:30 a.m. to 4:30 p.m.), Monday through Friday, except holidays, and may be published in the Final EIS. Individual respondents may request confidentiality. If you wish to withhold your name or street address from public review or from disclosure under 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. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public inspection in their entirety.

FOR FURTHER INFORMATION CONTACT: Mary Craggett (775) 635–4060.

SUPPLEMENTARY INFORMATION: On December 17, 1998, Sierra Pacific Power Company (SPPC) filed a right-of-way application with the BLM for the construction, operation, and maintenance of an approximately 165–185 mile long 345 kV electric transmission line that would connect the Falcon substation (north of Dunphy,

Nevada) with the Gonder substation (north of Ely, Nevada). The project would improve electricity import and export capabilities to meet anticipated growth in SPPC's system.

The project, as currently proposed, identifies several route alternatives. The northern portion of any route would head south from the Falcon substation to Highway 50 near Eureka along one of several possible alignments. The southern portion of any route alternative would then head east along Highway 50 to follow an existing Sierra 230 kV line to the Gonder substation. The current alternatives are identified as the Crescent Valley (a), Crescent Valley (b), Pine Valley (a), Pine Valley (b), and Buck Mountain alternatives. The No Action alternative is also analyzed. The Pine Valley (a) route is BLM's preferred alternative.

As part of the proposed action, the BLM is also considering amendments to the RMPs for the Shoshone-Eureka Resource Area, Elko Resource Area, and Egan Resource Area to establish rights-of-way utility corridors along the preferred alignment. The Elko RMP also requires modifying the existing ''low visibility'' corridor along Interstate 80. Amendments to the Shoshone-Eureka RMP also include the deletion of a utility planning corridor that runs parallel to State Highway 305.

Robert V. Abbey,

State Director, Nevada, Bureau of Land Management.

[FR Doc. 01–12963 Filed 5–22–01; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ES–030–01–1610–DO]

Extension of Scoping Period for the Lower Potomac River Coordinated Management Plan/Environmental Assessment

AGENCY: Bureau of Land Management, Milwaukee Field Office, Interior.

ACTION: Extension of scoping period.

SUMMARY: On April 30, 2001, the Bureau of Land Management (BLM), Milwaukee Field Office, filed a Notice of Intent to prepare a coordinated management plan (CMP) in the **Federal Register** (66 FR 21412–3) for the Lower Potomac River project area located in Charles County, Maryland. The CMP will be prepared to determine whether and where to acquire land within the project area.

In order to provide the public with a better opportunity to identify issues and concerns, the scoping period will be extended to June 29, 2001. See the April 30, 2001, notice for more information about the project.

DATES: Comments should be postmarked no later than June 29, 2001 to ensure the issues they raise are considered in the plan.

ADDRESSES: Comments may be mailed to the following addresses: James W. Dryden, Field Office Manager, Milwaukee Field Office, P.O. Box 631, Milwaukee, Wisconsin 53201–0631 or Ed Ruda, Project Leader Manager, Eastern States Office, 7450 Boston Boulevard, Springfield, Virginia 22153.

FOR FURTHER INFORMATION CONTACT: Ed Ruda, Project Leader at (703) 440–1663, or by electronic mail at ed—ruda@es.blm.gov, or Howard Levine, Planning and Environmental Coordinator at (414) 297–4463, or by electronic mail at howard_levine@es.blm.gov.

Dated: May 11, 2001.

James W. Dryden,

Milwaukee Field Manager.

[FR Doc. 01–12962 Filed 5–22–01; 8:45 am]

BILLING CODE 4310–PN–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–952–01–1420–BJ]

Filing of Plats of Survey; Nevada

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The purpose of this notice is to inform the public and interested State and local government officials of the filing of Plats of Survey in Nevada.

EFFECTIVE DATES: Filing is effective at 10 a.m. on the dates indicated below.

FOR FURTHER INFORMATION CONTACT: Robert M. Scruggs, Chief, Branch of Geographic Services, Bureau of Land Management (BLM), Nevada State Office, 1340 Financial Blvd., P.O. Box 12000, Reno, Nevada 89520, 775–861–6545.

SUPPLEMENTARY INFORMATION: 1. The Plat of Survey of the following described lands will be officially filed at the Nevada State Office, Reno, Nevada on the first business day after 30 days from the publication of this notice: The plat, representing the dependent resurvey of a portion of the east boundary of Township 11 South, Range 69 East, and an independent resurvey of a portion of the south boundary and a portion of the subdivisional lines, superseding section 36, as shown on the plat approved December 2, 1881, Township 11 South, Range 69 East, of the Mount Diablo Meridian, in the state of Nevada, under Group No. 796, was accepted May 8, 2001.

This survey was executed to meet certain needs of the Bureau of Land Management and Nevada Land and Resource Company.

2. Subject to valid existing rights, the provisions of existing withdrawals and classifications, the requirements of applicable laws, and other segregations of record, these lands are open to application, petition, and disposal, including application under the mineral leasing laws. All such valid applications received on or prior to official filing of the Plat of Survey described in paragraph 1, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in order of filing.

3. The above-listed surveys are now the basic record for describing the lands for all authorized purposes. These surveys have been placed in the open files in the BLM Nevada State Office and are available to the public as a matter of information. Copies of the surveys and related field notes may be furnished to the public upon payment of the appropriate fees.

Dated: May 10, 2001.

Robert M. Scruggs,

Chief Cadastral Surveyor, Nevada.

[FR Doc. 01–12964 Filed 5–22–01; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

National Park Service

Acadia National Park, Bar Harbor, Maine; Acadia National Park Advisory Commission; Notice of Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770, 5 U.S.C. App. 1, Sec. 10), that the Acadia National Park Advisory Commission will hold a meeting on Monday, June 4, 2001.

The Commission was established pursuant to Public Law 99–420, Sec. 103. The purpose of the commission is to consult with the Secretary of the Interior, or his designee, on matters relating to the management and development of the park, including but not limited to the acquisition of lands and interests in lands (including conservation easements on islands) and termination of rights of use and occupancy.

The meeting will convene at U.S. Naval Station, Schoodic Peninsula, Winter Harbor, Maine, at 1:00PM to consider the following agenda:

1. Review and approval of minutes from the meeting held February 5, 2001.
2. Committee reports
   Land Conservation
   Park Use
   Science
3. Old business
4. Chairman's report
5. Superintendent's report
6. Public comments
7. Proposed agenda for next Commission meeting on Monday, September 10, 2001.

The meeting is open to the public. Interested persons may make oral/written presentations to the Commission or file written statements. Such requests should be made to the Superintendent at least seven days prior to the meeting.

Further information concerning this meeting may be obtained from the Superintendent, Acadia National Park, P.O. Box 177, Bar Harbor, Maine 04609, tel: (207) 288–3338.

Dated: May 9, 2001.

Len Bobinchock,

Acting Superintendent, Acadia National Park.

[FR Doc. 01–13067 Filed 5–22–01; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before May 12, 2001. Pursuant to section 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, 1849 C St., NW., NC400, Washington, DC 20240. Written comments should be submitted by June 7, 2001.

Carol D. Shull,

Keeper of the National Register of Historic Places.

GEORGIA

Burke County

McCanaan Missionary Baptist Church and Cemetery, McCanaan Church Rd., Sardis, 01000643

Clarke County

Brightwell Shotgun Row, 366–376 Barber St., Athens, 01000642

Crawford County

Williams—Moore— Hillsman House, West Hopewell Rd., at Colbert Rd., Roberta, 01000645

Fulton County

Building at 161 Spring St., 161 Spring St., NW., Atlanta, 01000644

Means Street Historic District, Bounded by Marietta St., Bankhead and Ponders Aves., and the Southern rail line, Atlanta, 01000648

Hancock County

Sparta Cemetery, N of jct. of Hamilton and Boland Sts., Sparta, 01000647

Troup County

Royal Theater, 301 E. Main St., Hogansville, 01000646

ILLINOIS

Cook County

Chicago Varnish Company Building, 33 W. Kinzie St., Chicago, 01000649

MASSACHUSETTS

Worcester County

Crocker Field Historic District, River St., Fitchburg, 01000651

Warren Town Hall, 1 Main St., Warren, 01000650

MICHIGAN

Calhoun County

Roosevelt Community House, 107 Evergreen Rd., Springfield, 01000653

MINNESOTA

Hennepin County

Christ Church Lutheran, 3244 34th Ave., S, Minneapolis, 01000654

MISSOURI

St. Louis Independent city Saint Louis Provident Association building, 2221 Locust St., St. Louis (Independent City), 01000652

OKLAHOMA

Cleveland County

Ledbetter, H.E., House, (Bruce Goff Designed Resources in Oklahoma MPS) 701 W. Brooks, Norman, 01000655

Garvin County

First National Bank Building, 100 West Main, Stratford, 01000659

Lincoln County

Rock Cafe, (Route 66 in Oklahoma MPS) 114 W. Main St., Stroud, 01000661

McIntosh County

Oklahoma Odd Fellows Home at Checotah, 211 West North St., Checotah, 01000660

Murray County

Historic Downtown Sulphur Commercial District, West Muskogee St., from W 1st St. to W 5th St., and W 5th., Sulphur, 01000662

Oklahoma County

Jones, Charles G., Farmstead, 12061 NE 108th St., Jones, 01000658

The ''Y'' Chapel of Song, 100 N. University; on the campus of the University of Central Oklahoma, Edmond, 01000657

Tulsa County

Riverside Studio, (Bruce Goff Designed Resources in Oklahoma MPS) 1381 Riverside Dr., Tulsa, 01000656

White City Historic District, Roughly bounded by E. 2nd St., S. Fulton Av./Frisco RR Tracks, E. 11th St., and S. Yale Ave., Tulsa, 01000663

SOUTH DAKOTA

Brule County

Dunlap Methodist Episcopal Church, Jct. of 369th Ave., and 264th St., Platte, 01000666

Minnehaha County

Brandon Village, 2.5 mi. SW of Brandon, Brandon, 01000664

TEXAS

Tom Green County

Harris Drug Store, (San Angelo MRA) 114 S. Chadbourne St., San Angelo, 01000665

A request for Removal has been made for the following resource:

OHIO

Erie County

Hotel Breakers, Cedar Point, Sandusky, 82003565

[FR Doc. 01–13066 Filed 5–22–01; 8:45 am]

BILLING CODE 4310–70–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–702 (Review)]

Ferrovanadium and Nitrided Vanadium From Russia

Determination

On the basis of the record [1] developed in the subject five-year review, the United States International Trade Commission determines, pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. § 1675(c)) (the Act), that revocation of the antidumping duty order on ferrovanadium and nitrided vanadium from Russia would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR § 207.2(f)).

Background

The Commission instituted this review on June 5, 2000 (65 FR 35668) and determined on September 1, 2000 that it would conduct a full review (65 FR 55047, September 12, 2000). Notice of the scheduling of the Commission's review and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** on November 29, 2000 (65 FR 71120). The hearing was held in Washington, DC, on March 15, 2001, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination is this investigation to the Secretary of Commerce on May 15, 2001. The views of the Commission are contained in USITC publication 3420 (May 2001), entitled Ferrovanadium and Nitrided Vanadium from Russia (Inv. No. 731–TA–702 (Review)).

By order of the Commission.

Issued: May 16, 2001.

Donna R. Koehnke,

Secretary.

[FR Doc. 01–12883 Filed 5–22–01; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 701–TA–414 and 731–TA–928 (Preliminary)]

Softwood Lumber From Canada

Determinations

On the basis of the record [1] developed in the subject investigations, the United States International Trade Commission determines,[2] pursuant to sections 703(a) and 733(a) of the Tariff Act of 1930 (19 U.S.C. § 1671b(a) and 1673b(a)) (the Act), that there is a reasonable indication that an industry in the United States is threatened with material injury by reason of imports from Canada of softwood lumber, provided for in subheadings 4407.10.00, 4409.10.10, 4409.10.20, and 4409.10.90 of the Harmonized Tariff Schedule of the United States, that are alleged to be subsidized by the Government of Canada and sold in the United States at less than fair value (LTFV).

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR § 207.2(f)).

[2] Commissioner Bragg not participating.

Commencement of Final Phase Investigations

Pursuant to section 207.18 of the Commission's rules, the Commission also gives notice of the commencement of the final phase of its investigations. The Commission will issue a final phase notice of scheduling, which will be published in the **Federal Register** as provided in section 207.21 of the Commission's rules, upon notice from the Department of Commerce of affirmative preliminary determinations in the investigations under sections 703(b) and 733(b) of the Act, or, if the preliminary determinations are negative, upon notice of affirmative final determinations in those investigations under sections 705(a) and 735(a) of the Act. Parties that filed entries of appearance in the preliminary phase of the investigations need not enter a separate appearance for the final phase of the investigations. Industrial users, and, if the merchandise under investigation is sold at the retail level, representative consumer organizations have the right to appear as parties in Commission antidumping and countervailing duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

Background

On April 2, 2001, a petition was filed with the Commission and Commerce by the Coalition for Fair Lumber Imports Executive Committee,[3] Washington, DC; the United Brotherhood of Carpenters and Joiners, Portland, OR; and the Paper, Allied-Industrial, Chemical and Energy Workers International Union, Nashville, TN, alleging that an industry in the United States is materially injured and threatened with material injury by reason of imports of subsidized and LTFV imports of softwood lumber from Canada. Accordingly, effective April 2, 2001, the Commission instituted countervailing and antidumping duty investigations Nos. 701–TA–414 and 731–TA–928 (Preliminary).

Notice of the institution of the Commission's investigations and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of April 9, 2001 (66 FR 18508). The conference was held in Washington, DC, on April 23, 2001, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in this investigation to the Secretary of Commerce on May 17, 2001. The views of the Commission are contained in USITC Publication 3426 (May 2001), entitled Softwood Lumber from Canada: Investigations Nos. 701–TA–414 and 731–TA–928 (Preliminary).

By order of the Commission.

Issued: May 18, 2001.

Donna R. Koehnke,

Secretary.

[FR Doc. 01–13058 Filed 5–22–01; 8:45 am]

BILLING CODE 7020–02–P

[3] The Coalition for Fair Lumber Imports Executive Committee is comprised of Hood Industries, International Paper Co., Moose River Lumber Co., New South, Inc., Plum Creek Timber Co., Potlatch Corp., Seneca Sawmill Co., Shearer Lumber Products, Shuqualak, Lumber Co., Sierra Pacific Industries, Swift Lumber, Inc., Temple-Inland Forest Products, and Tolleson Lumber Co., Inc.

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 731–TA–875, 880, and 882 (Final)]

Certain Steel Concrete Reinforcing Bars From Indonesia, Poland, and Ukraine

Determinations

On the basis of the record [1] developed in the subject investigations, the United States International Trade Commission determines, pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the Act), that an industry in the United States is materially injured by reason of imports from Indonesia, Poland, and Ukraine of certain steel concrete reinforcing bars,[2] provided for in subheading 7214.20.00 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce to be sold

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

[2] Chairman Stephen Koplan, Vice Chairman Deanna Tanner Okun, and Commissioner Lynn M. Bragg determine that a regional industry in the United States is materially injured by reason of imports from Indonesia, Poland, and Ukraine of certain steel concrete reinforcing bars. The defined region consists of all the states east of the Mississippi plus Arkansas, Louisiana, Missouri, and Texas, as well as the District of Columbia and Puerto Rico. Commissioner Marcia E. Miller, Commissioner Jennifer A. Hillman, and Commissioner Dennis M. Devaney determine that an industry in the United States is materially injured by reason of imports from Indonesia, Poland, and Ukraine of certain steel concrete reinforcing bars. The Commission also determined that critical circumstances did not exist with respect to subject imports from Poland and Ukraine.

in the United States at less than fair value (LTFV).

Background

The Commission instituted these investigations effective June 28, 2000, following receipt of petitions filed with the Commission and Commerce by the Rebar Trade Action Coalition (RTAC) (Washington, DC) and its individual members.[3] The final phase of the investigations was scheduled by the Commission following notification of preliminary determinations by Commerce that imports of certain steel concrete reinforcing bars from Indonesia, Poland, and Ukraine were being sold at LTFV within the meaning of section 733(b) of the Act (19 U.S.C. 1673b(b)). Notice of the scheduling of the Commission's investigations and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of February 14, 2001 (66 FR 10317). The hearing was held in Washington, DC, on April 5, 2001, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determinations in these investigations to the Secretary of Commerce on May 25, 2001. The views of the Commission are contained in USITC Publication 3425 (May 2001), entitled Certain Steel Concrete Reinforcing Bars from Indonesia, Poland, and Ukraine: Investigations Nos. 731–TA–875, 880, and 882 (Final).

Issued: May 17, 2001.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 01–12884 Filed 5–22–01; 8:45 am]

BILLING CODE 7020–02–P

[3] The individual members of RTAC on whose behalf the petitions were filed are as follows: AmeriSteel (Tampa, FL); Auburn Steel Co., Inc. (Auburn, NY); Birmingham Steel Corp. (Birmingham, AL); Border Steel, Inc. (El Paso, TX); CMC Steel Group (Seguin, TX); Marion Steel Co. (Marion, OH); Nucor Steel (Darlington, SC); and Riverview Steel (Glassport, PA). Auburn was not a petitioner with respect to Indonesia.

INTERNATIONAL TRADE COMMISSION

Forum on Issues Relating to Electronic Filing and Maintenance of Documents

AGENCY: United States International Trade Commission.

ACTION: Notice announcing public forum.

SUMMARY: The United States International Trade Commission announces a public forum on issues relating to electronic filing and maintenance of documents.

DATES: The forum will be held on Wednesday, June 20, 2001, beginning at 10 a.m.

ADDRESSES: The forum will be held in Room 101, 500 E Street SW., Washington, DC 20436.

The event is open to the public, and registration is not required to attend. Seating will be available on a first-come, first-served basis. Any person wishing to make an initial statement, of no more than five minutes in length, may file a request to do so directed to the Secretary to the Commission. Other attendees will be given an opportunity to make statements, as time permits. A request to make an initial statement should indicate the following information: (1) The name of the person desiring to make a statement; (2) the organization or organizations represented by that person, if any; (3) contact information (address, telephone, and e-mail); and (4) information on the specific focus or interest of the person (or his or her organization) and any questions or issues the person would like to raise. A request may be sent by e-mail to ''dockets@usitc.gov,'' or by mail or hand delivery to the Secretary, United States International Trade Commission, 500 E Street, SW., Washington, DC 20436.

The deadline for receipt of requests is Wednesday, June 13, 2001.

Any person may file written comments about the issues discussed in this notice. Any such comments should be addressed to the Secretary, United States International Trade Commission, 500 E Street, SW., Washington, DC 20436, and must be filed no later than July 6, 2001.

FOR FURTHER INFORMATION CONTACT: Marilyn Abbott (202–205–2799), Deputy Secretary, Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (at URL http://www.usitc.gov).

SUPPLEMENTARY INFORMATION: The Commission is holding a forum to seek the public's views on issues relating to electronic filing and maintenance of documents. In particular, and as discussed more fully below, the Commission would like to obtain views on (1) What features of an electronic system might be helpful to users, (2) what technical difficulties might arise in connection with such a system, and (3) how the agency might implement such a system.

In 1996, the Commission established the Electronic Document Imaging System (EDIS), which stores and provides access to docket records in agency investigations. The Commission now is contemplating replacing EDIS with a new document management system that would provide better functionality. In particular, Commission is seeking as part of the new system the capability to accept documents electronically.

The Commission's Rules of Practice and Procedure currently provide for the filing of documents with the agency in paper form. Consistent with the Government Paperwork Elimination Act (GPEA)(Div. C, Title XVII, Pub. L. 105–277), the Commission is considering permitting parties and other persons to file some documents with the agency electronically. The Commission contemplates obtaining the capability to, *inter alia:* (1) Permit a person to make a filing by uploading it electronically to a Commission Web site; (2) provide security to protect confidential business and business proprietary information from unauthorized disclosure; (3) verify the identity of the submitter through a password, electronic signature, or other security system; (4) acknowledge receipt of the submission by an electronic message to establish when filing occurred; and (5) alert in-house users of new submissions. A new Commission document management system might also permit faster searches for and retrieval of documents in the Commission's docket files than currently permitted by EDIS.

Permitting electronic filing would involve both the acquisition of new information technology and the revision of the agency's procedures, including the Rules of Practice and Procedure. The Commission will provide an opportunity for public comment on any proposed rules amendments, but is seeking the views of the public now on the broader issues raised by the prospect of allowing electronic filing. The Commission encourages party representatives, other document filers, and other interested persons to

participate in the forum and provide their views on the issues discussed below as well as others they wish to raise. Considerations such as technical and funding constraints may limit the Commission's ability to implement some of the features that may be suggested at the forum, but the agency plans to take all such views into account in determining whether and how to permit electronic filing and to provide other facilities for doing docket-related business with the Commission electronically.

The Commission wants any document management system it may implement to benefit users inside and outside the agency. Permitting electronic filing would serve no purpose if document filers did not choose to file electronically. Consistent with the GPEA, the Commission does not intend to require electronic filing. The Commission encourages attendees to provide their views on what system features would be helpful to them. For example, some document formats may be easier to use than others. Moreover, some documents, such as papers drafted by the submitter, may be easier to file electronically than others, such as appendices containing material from reference works in hard copy. Further, how deadlines are set for electronic filing may affect a filer's decision to choose between paper and electronic filing.

A particularly relevant topic for the forum would be the potential technical difficulties that may arise in connection with electronic filing. For example, the software that removes confidential business information from the public versions of paper filings may not suffice for an electronic filing. Also, various circumstances may result in a failure to connect to the agency's website, delaying or preventing filing. To aid in such a discussion, the Commission encourages participants in the forum to bring technical staff familiar with the computer systems of participants' organizations.

The Commission is also interested in attendees' comments on how to change the filing process. Currently, filers generally must submit an original and fourteen paper copies of a document. Electronic filing would present the agency with a number of options for how to proceed with respect to that requirement. The Commission could remove entirely the requirement for submitting paper copies. That would mean that Commission personnel either would forgo the use of paper copies or would incur staff time and printing costs making copies for their use. Alternatively, the agency could continue, over the long or short term, to require a number of paper copies. Moreover, the Commission could permit filers to submit certain documents electronically while other types of document would continue to be filed in paper form. In addition, for those documents that eventually would be fileable electronically, electronic filing could be phased in over time so that initially parties could file some documents electronically, but other documents might continue in paper form.

The Secretary to the Commission will preside at the forum, assisted by agency staff who are members of the agency's Document Imaging Oversight Committee. The forum will be open to the public. However, to seek an opportunity to make an initial statement, no longer than five minutes in length, a person must submit a request to do so by the deadline for requests set out above. A person who attends the forum without having submitted such a request will be given an opportunity to make a statement as time permits. A person may submit written comments on the issues raised in this notice by the deadline for written comments set out above whether or not he or she files a request or attends the forum.

Issued: May 17, 2001.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 01–12885 Filed 5–22–01; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to The Comprehensive Environmental Response Compensation and Liability Act (''CERCLA'')

Notice is hereby given that a proposed consent decree in *United States* v. *Agway Inc., et al.* Civ. No. 3:01cv0637 NAM/GLS, was lodged on May 1, 2001 with the United States District Court for the Northern District of New York. The Consent Decree concerns hazardous waste contamination at the Tr-Cities Barrel Superfund Site (the ''Site''), located in the Town of Fenton, Broome County, New York. The Consent Decree would resolve the liability for reimbursement of response costs incurred by the United States in connection with the Site as to forty-three potentially responsible parties against whom the United States filed a complaint on behalf of the United States Environmental Protection Agency (''EPA''). The Consent Decree also requires the settling defendants to perform the Remedial Design/Remedial Action (''RD/RA'') as set forth in the Record of Decision issued by EPA on March 31, 2000.

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, 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. *Agway Inc., et al.,* DOJ Ref. #90–11–3–1514/1.

The proposed consent decree may be examined at the office of the United States Attorney for the District of New Jersey, 231 Foley U.S. Courthouse, 445 Broadway, Albany, NY 12207 (contact Assistant United States Attorney James Woods); and the Region II Office of the Environmental Protection Agency, 290 Broadway, New York, New York 10007–1866 (contact Assistant Regional Counsel, Michael Mintzer). A copy of the proposed consent decree may be obtained by mail from the Consent Decree Library, P.O. Box 7611, Washington, DC 20044–7611. In requesting a copy please refer to the referenced case and enclose a check in the amount of $29.00 (25 cents per page reproduction costs) for the Consent Decree without Appendices, or in the amount of $61.50 for the Consent Decree with all Appendices, payable to the Consent Decree Library.

Ronald Gluck,

Assistant Section Chief, Environmental Enforcement Section, Environmental and Natural Resources Division.

[FR Doc. 01–13027 Filed 5–22–01; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act

In accordance with the policy of the Department of Justice, notice is hereby given that a proposed consent decree in *The United States of America* v. *The Atlantic Richfield Company, the Atlantic Richfield Company* v. *The United States of America* Civ. Nos. 1:99–CV–1743 and 5:98–CV–2645, was lodged with the United States District Court for the Northern District of Oh8io, on May 4, 2001. The United States brought an action against Defendant, the

Atlantic Richfield Company (''ARCO'') pursuant to Section 107 of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) for, *inter alia*, reimbursement of costs incurred and to be incurred, by the United States in connection with response actions at the Alsco Anaconda Superfund Site (''Site'') in Gnadenhutten, Ohio. ARCO has implemented a remedial action that the United States Environmental Protection Agency selected for the Site and asserted claims pursuant to Section 106(b) of CERCLA to recover certain of its response costs from the Hazardous Substance Superfund.

Under the proposed decree, ARCO will pay $1,135,000 in satisfaction of the United States' claims against it. The proposed decree also provides for dismissal with prejudice of ARCO's claims against the United States for reimbursement of certain costs ARCO incurred in connection with response actions it performed at the Site.

The Department of Justice will receive comments relating to the proposed consent decree for a period of 30 days from the date of this publication. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530. All comments should refer to *United States* v. *The Atlantic Richfield Company*, D.J. Ref. 90–11–3–488B.

The proposed consent decree may be examined at the office of the United States Attorney for the Northern District of Ohio, 1800 Bank One Center, 600 Superior Avenue, Cleveland, Ohio 44114–2600; and at the Region V office of the Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604–3590. A copy of the proposed consent decree may be obtained in person or by mail from the Department of Justice Consent Decree Library, P.O. Box 7611, Washington, DC 20044–7611. In requesting a copy, please enclose a check in the amount of $5.25 (25 cents per page reproduction costs) payable to the Consent Decree Library. When requesting a copy, please refer to *United States* v. *The Atlantic Richfield Company*. D.J. Ref. 90–11–3–488B.

William D. Brighton,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 01–13028 Filed 5–22–01; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Resource Conservation and Recovery Act (''RCRA'')

Pursuant to Departmental policy, 28 CFR 50.7, notice is hereby given that a proposed consent decree (''Decree'') in *United States* v. *Raymond T. James and Rattan Investment Co., Inc.,* Civ. No. 1999/145, was lodged on May 7, 2001 with the United States District Court for the District of the Virgin Islands.

In this action, the United States sought civil penalties and injunctive relief, alleging that the operator of a gas station popularly known as ''Charlie's Gas Station,'' located in Christiansted, St. Croix, U.S. Virgin Islands, violated provisions of the Resource Conservation and Recovery Act (''RCRA''), 42 U.S.C. 6901–6992k. More particularly, the United States alleged that the operators of Charlie's Gas Station failed to employ the release detection methods required for the underground storage tanks (USTs) at the facility under federal regulations applicable to USTs set forth at 40 CFR Part 280, Subpart D, and failed to respond to various information requests sent to them by EPA under the authority of Sections 3007(a) and 9005(a) of RCRA, 42 U.S.C. 6927(a), 6991d(a). The Decree would resolve the liability of the defendants, Raymond T. James and Rattan Investment Co., Inc., for the alleged violations. The Decree requires the defendants to come into compliance with UST regulations by permanently closing the USTs at Charlie's Gas Station (which have been temporarily closed since December 22, 1998) within sixty days after entry of the Decree, which closure will entail cleaning and emptying the USTs, performing a site assessment within five days thereafter to determine whether there is any contamination at the facility, and , if such contamination is found, implementing corrective action. The Decree further requires the defendants to pay a civil penalty of $6,000.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the 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, D.C. 20044–7611, and should refer to *United States* v. *Raymond T. James and Rattan Investment Co., Inc.,* DOJ Ref. #90–7–1–06362.

The Decree may be examined at the office of the United States Attorney for the District of the Virgin Islands, 1108 King St., Suite 201, St. Croix, U.S.V.I. 00820–4951 (contact Assistant United States Attorney Ernest F. Batenga); and the Region II Office of the Environmental Protection Agency, 290 Broadway, New York, New York, 10007–1866 (contact Assistant Regional Counsel Donna DeCostanzo). A copy of the Decree may be obtained by mail from the Consent Decree Library, P.O. Box 7611, Washington, D.C. 20044–7611. In requesting a copy please refer to the referenced case and enclose a check in the amount of $6.25 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Ronald G. Gluck,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 01–13025 Filed 5–22–01; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Clean Air Act

In accordance with Department of Justice policy, 28 CFR 50.7, notice is hereby given that a proposed consent decree in the action entitled *United States of America* v. *Shell Oil Company and Motiva Enterprises LLC,* Civil Action No. 3:01CV00093 RNC (D. Conn.), was lodged on April 27, 2001 with the United States District Court for the District of Connecticut. The proposed consent decree resolves claims of the United States, on behalf of the U.S. Environmental Protection Agency, under Sections 111 and 112 of the Clean Air Act, 42 U.S.C. 7411 and 7412, its implementing federal regulations, and the Connecticut State Implementation Plan, against defendants Shell Oil Company and Motiva Enterprises LLC. These claims are for injunctive relief and civil penalties arising from defendants' alleged violations of the Clean Air Act, its implementing regulations, and the State Implementation Plan in connection with their operation of a bulk gasoline terminal located within the Towns of Bridgeport and Stratford, Connecticut.

Under the terms of the proposed consent decree, the defendants: (1) Will pay a civil penalty of $390,155 to the United States; (2) will purchase and permanently retire twenty-two tons worth of nitrogen oxide emission reduction credits during ozone season, to be purchased in either Connecticut, Massachusetts, New York, or Rhode

Island; (3) have ceased operation of loading bay no. 5 at the gasoline terminal as of December 28, 2000, and are permanently enjoined from resuming any further operation of that loading bay until and unless they obtain the appropriate operating permit from the Connecticut Department of Environmental Protection; and (4) are permanently enjoined from loading gasoline or other volatile organic compounds into barges at the terminal without use of a vapor collection and disposal system.

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, Environment and Natural Resources Division, U.S. Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Shell Oil Company and Motiva Enterprises LLC,* Civil Action No. 3:01V00093 RNC (D. Conn.), DOJ Ref. No. 90–5–2–1–06921.

The proposed consent decree may be examined at the Office of the United States Attorney, 157 Church Street, New Haven, Connecticut 06510, or at the U.S. Environmental Protection Agency, One Congress Street, Suite 1100, Boston, Massachusetts 02114–2023. A copy may be obtained by mail from the Consent Decree Library, U.S. Department of Justice, P.O. Box 7611, Ben Franklin Station, Washington, DC 20044–7611. In requesting a copy by mail, please refer to the referenced case and enclose a check in the amount of $3.75 (25 cents per page reproduction costs for the Decree) made payable to Consent Decree Library.

Ronald Gluck,

Assistant Chief, Environmental Enforcement Section, Environmental and Natural Resources Division, U.S. Department of Justice.

[FR Doc. 01–13026 Filed 5–22–01; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant To the Oil Pollution Act of 1990 (OPA), the Clean Water Act (CWA), and the Resource Conservation and Recovery Act (RCRA)

Notice is hereby given that a proposed Consent Decree (Decree) in *United States* v. *V–1 Oil Company,* Civil Action No. 96–0454–E BLW, was lodged May 2, 2001, with the United States District Court for the District Of Idaho.

The Complaint filed in the above-referenced matter alleges that V–1 Oil Company (the Defendant) is liable under the Oil Pollution Act of 1990 (OPA) and the Clean Water Act (CWA) for costs incurred by the Environmental Protection Agency and the United States Coast Guard as a result of the release or substantial threat of a release of oil at a former gasoline service station in Preston, Idaho (the Facility). In the Complaint, the United States also sought civil penalties for violation of an administrative order issued pursuant to the CWA and the Resource Conservation and Recovery Act (RCRA).

Under the proposed Decree, the Defendant shall pay $722,000 in reimbursement of removal costs. Additionally, the Defendant shall pay $478,000 in civil penalties. In exchange, the United States is granting Defendant a covenant not to sue or take administrative action against Defendant for the claims alleged in the Complaint. This covenant not to sue extends only to Defendant and does not extend to any other persons.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed Decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, P.O. Box 7611, Washington, DC 20044–7611, and should refer to *United States* v. *V–1 Oil Company,* DOJ Ref. #90–5–1–1–4396A.

The proposed Decree may be examined at the office of the United States Environmental Protection Agency, Region 10, 1200 Sixth Avenue, Seattle, Washington 98101. A copy of the proposed Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, Washington, DC 20044. In requesting a copy of the Consent Decree, please refer to the referenced case number and enclose a check in the amount of $4.50, payable to the Consent Decree Library.

Robert Maher,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 01–13029 Filed 5–22–01; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National, Cooperative Research and Production Act of 1993—nLine Corporation

Notice is hereby given that, on August 11, 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''), nLine Corporation has filed written notification simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties are nLine Corporation, Austin, TX; InterScience, Inc., Troy, NY; PixelVision, Inc., Beaverton, OR; and Light Age, Inc., Somerset, NJ. The nature and objectives of the venture are to conduct research on technology for advanced semiconductor device inspection. The activities of this venture will be partially funded by an award from the Advanced Technology Program, National Institute of Standards and Technology, Department of Commerce.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 01–13040 Filed 5–22–01; 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—The Asymmetrical Digital Subscriber Line Forum

Notice is hereby given that, on November 20, 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''), The Asymmetrical Digital Subscriber Line Forum (''ADSL'') 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, Applied Innovation, Dublin, OH; Bel Fuse, San Diego, CA; Sharegate, Reno, NV; XIRCOM, Thousand Oaks, CA; Sedona Networks, Kanata, Ontario, CANADA; RC Networks, San Diego, CA; Accelerated Networks, Richardson, TX; DXO Telecom, Seoul, REPUBLIC OF KOREA; AdEvia Limited, London, England, UNITED KINGDOM; Calix Networks, Petaluma, CA; NHC Communications,

Mount Royal, Quebec, CANADA; Netility, Sunnyvale, CA; Kasenna, Mountain View, CA; Xpeed Networks, San Jose, CA; Interactive Enterprise Ltd., Dublin, IRELAND; QS Communications, Cologne, GERMANY; Spirent Communications, Nepean, Ontario, CANADA; Sonus Networks, Freehold, NJ; Ericsson Aheadcom, Vienna, AUSTRIA; KPNQwest, The Hague, THE NETHERLANDS; Proscend Communication, Hsinchu, TAIWAN; Mariposa Technology, Petaluma, CA; CES Computer Solutions, Chester, NY; Legerity, Austin, TX; and L.E.A., Cesson Sevigne, FRANCE have been added as parties to this venture. Also, GTE/Bell Atlantic, New York, NY has been acquired by Verizon, New York, NY. Also, the following companies have changed their names: Velocity Communications, Fremont, CA is now Ikanos Communications, Fremont, CA is now RIAS Corporation, Fremont, CA; and Siecor, Keller, TX is now Corning Cable Systems, Keller, TX.

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, an ADSL 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 June 23, 200. A notice for this filing has not yet been published in the **Federal Register**.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 01–13035 Filed 5–22–01; 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—The Asymmetrical Digital Subscriber Line Forum

Notice is hereby given that, on January 25, 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''), The Asymmetrical Digital Subscriber Line Forum (''ADSL'') has filed written notification 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, Sheer Networks, Sunnyvale, CA; Navini Networks, Plano, TX; Sapphore Communications, Santa Clara, CA; Garnet Systems Co., Seoul, REPUBLIC OF KOREA; Birch Telecom, Kansas City, MO; BroadJump, Austin, TX; DSLB it Hantro Oy, Oulu, FINLAND; and eAccess Ltd., Tokyo, JAPAN have been added as parties to this venture. Also, the following companies have changed their names: Concentric Networks, San Jose, CA is now XO Communications, San Jose, CA; Digicom Systems, Milpitas, CA is now broadxent, Milpitas, CA; Silicon Automated Systems, Bangalore, INDIA is now Sasken Communication Technologies, Bangalore, INDIA; Telesoft International, Alta Loma, CA is now Broadframe Corp., Alta Loma, CA; Helsinki, Helsinki, FINLAND is now Elisa Communications, Helsinki, FINLAND; Acterna, Salem, VA is not TTC, Germantown, MD; and DSL Testworks, Nepean, Ontario, CANADA is now Spirent, Nepean, Ontario, CANADA.

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 ADSL 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 November 20, 2000. A notice for this filing has not yet been published in the **Federal Register.**

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 01–13039 Filed 5–22–01; 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—Industrial Macromolecular Crystallography Association (''IMCA'')

Notice is hereby given that on July 18, 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''), Industrial Macromolecular Crystallography Association (IMCA) 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, Bayer Corporation has withdrawn as a member and 3-Dimensional Pharmaceuticals, Inc., a corporation of Delaware with its principal place of business in Exton, PA, has become a member. In addition, three members have changed their legal names following mergers: The Upjohn Company has changed its name to Pharmacia and Upjohn Company, Peapack, NJ; G.D. Searle & Co. has changed its name to Pharmacia Corporation, Peapack, NJ; and Parke-Davis Pharmaceutical Research has changed its name to Pfizer Global Research and Development, Ann Arbor Laboratories. Pfizer, Inc., Ann Harbor, MI.

No other changes have been made in either the membership or planned activitity of the group research project. Membership in this group research remains open, and IMCA intends to file additional written notification disclosing all changes in membership.

On October 23, 1990, IMCA 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 3, 1990 (55 FR 49953).

The last notification was filed with the Department on April 8, 1996. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on April 25, 1996 (61 FR 18410).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 01–13034 Filed 5–22–01; 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—Multiservice Switching Forum

Notice is hereby given that, on April 4, 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''), Multiservice Switching Forum (''MSF'') 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, Anda Networks, San Jose, CA; Armillaire Technologies, Bethesda, MD; Nahi Networks, Petaluma, CA; Telica, Marlboro, MA; University of New Hampshire, Durham, NH; and Vocal Data, Richardson, TX have been added as parties to this venture. Also, 2nd Century Communications, Tampa, FL; 3COM, Santa Clara, CA; ADC Telecommunications, Richardson, TX; BellSouth, Atlanta, GA; CopperCom, Santa Clara, CA; Hitachi Telecom, Tokyo, JAPAN; NetPlane, Dedham, MA; PairGain, Tustin, CA; Telefonica de Espana, Madrid, SPAIN; Telia, Stockholm, SWEDEN; Tellabs, Lisle, IL; Vivace Networks, San Jose, CA; and Xbind, New York, NY have been dropped as parties to this venture.

No other changes have been in either the membership or planned activity of the group research project. Membership in this group research project remains open, and MSF intends to file additional written notifications disclosing all changes in membership.

On January 22, 1999, MSF 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 May 26, 1999 (64 FR 28519).

The last notification was filed with the Department on January 8, 2001. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on March 29, 2001 (66 FR 17202).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 01–13037 Filed 5–22–01; 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—National Center for Manufacturing Sciences, Inc.

Notice is hereby given that, on July 19, 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''), National Center For Manufacturing Sciences, Inc. has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, The Cross Company (dba Cross Huller—North America), Sterling Heights, MI; MAPAL, Inc., Piscataway, NJ; Savi Technology, Inc., Sunnyvale, CA; SoftZone Engineering, Inc., Plymouth, MI; Triton Systems, Inc., Chelmsford, MA; Arizona State University, Tempe, AZ; The Federal Technology Center, North Highlands, CA; Michigan Manufacturing Technology Center, Ann Arbor, MI; and Sandia National Laboratories, Albuquerque, NM have been added as parties to this venture. Also, AccuData, Inc, Jackson, MI; Automated Precision , Inc., Gaithersburg, MD; CAMotion, Inc., Atlanta, GA; Cargill Detroit Corporation, Clawson, MI; Cognition Corporation, Bedford, MA; Crystallume, Inc., Santa Clara, CA; Electrosource, Inc., San Marcos, TX; Framework Technologies Corporation, Medina, OH; ICAMP, Inc., Bolton, CT; I.Q. Plus Corporation, Toronto, Ontario, CANADA; Lambda Technologies, Inc., Morrisville, NC; Liburdi Dimetrics Corporation, Dearborn, MI; Liburdi Engineering Limited, Dearborn, MI; Liburdi Pulsweld Corporation, Dearborn, MI; Lockheed Martin Corporation, Idaho Falls, ID; Manufacturing Control Associates, Inc., Palatine, IL; ORSCO, Inc., Shelby Township, MI; SP^3, Mountain View, CA; Spatial Technology, Inc., Boulder, CO; Sprint Communications Corporation, Reston, VA; Timesavers, Inc., Minneapolis, MN; TRW Broadband Communication Network, Carson, CA; UES, Inc., Dayton, OH; WebEnable, Inc., Harvard, MA; Ecole Polytechnique, Montreal, Quebec, CANADA; IIT Research Institute, Chicago, IL; Independent Lubricant Manufacturers Association, Alexandria, VA; Michigan Biotechnology Institute, Lansing, MI; Robert C. Byrd Institute For Advanced Flexible Manufacturing Systems, Huntington, WV; Rensselaer Polytechnic Institute, Troy, NY; State Board of Technical Colleges, St. Paul, MN; University of Texas at Arlington, Fort Worth, TX; and University of Texas at Austin Manufacturing Systems Center, Austin, TX have been dropped as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and the National Center For Manufacturing Sciences, Inc. intends to file additional written notification disclosing all changes in membership.

On February 20, 1987, the National Center for Manufacturing Sciences, 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 March 17, 1987 (52 FR 8375).

The last notification was filed with the Department on March 21, 2000. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on August 9, 2000 (65 FR 48737).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 01–13033 Filed 5–22–01; 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—Petroleum Environmental Research Forum (''PERF'')

Notice is hereby given that, on March 20, 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''), Petroleum Environmental Research Forum (''PERF'') 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, Oryx Energy Company, Dallas, TX has been dropped as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Petroleum Environmental Research Forum (''PERF'') intends to file additional written notification disclosing all changes in membership.

On February 10, 1986, Petroleum Environmental Research Forum (''PERF'') 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 March 14, 1986 (51 FR 8903).

The last notification was filed with the Department on August 18, 2000. A notice was published in the **Federal**

Register pursuant to Section 6(b) of the Act on October 6, 2000 (65 FR 59875).

Constance K. Robinson,

Director of Operations Antitrust Division.

[FR Doc. 01–13030 Filed 5–22–01; 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—Portland Cement Association

Notice is hereby given that, on April 18, 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''), Portland Cement Association (''PCA'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, FMSC Group Inc., Bethlehem, PA has been added as an Associate Member of this venture; and Bulk Materials International Company, Newton, CT is no longer an Associate Member. Also, Southdown, Inc., Owen Sound, Ontario, CANADA was acquired by CEMEX, Monterrey, MEXICO; and Southdown, Inc. and CEMEX USA, Houston, TX are now known as Cemex, Inc.

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 PCA intends to file additional written notification disclosing all changes in membership.

On January 7, 1985, PCA filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act of February 5, 1995 (50 FR 5015).

The last notification was filed with the Department on February 13, 2001. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on March 8, 2001 (66 FR 13971).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 01–13032 Filed 5–22–01; 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—The SNP Consortium Ltd.

Notice is hereby given that, on January 31, 2000 and April 14, 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''), The SNP Consortium (''TSC'') 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, International Business Machines Corporation, Armonk, NY; Motorola, Inc., Schaumburg, IL; and Amersham Pharmacia Biotech Inc., Piscataway, NJ have been added as parties to this venture. In addition, Hoechst Marion Roussel, Inc., Bridgewater, NJ, has been recognized and is now named Aventis Pharmaceuticals Inc.

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 TSC intends to file additional written notification disclosing all changes in membership.

On April 20, 1999, TSC filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on October 7, 1999 (64 FR 54645).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 01–13038 Filed 4–22–01; 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—VSI Alliance

Notice is hereby given that, on April 10,2001, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. § 4301 *et seq.* (''the Act''), VSI Alliance 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, Arasan Chip System, San Jose, CA; Axeon Limited, Aberdeen, Scotland, UNITED KINGDOM; Beach Solutions Ltd., Tavistock, England, UNITED KINGDOM; Annette Bunker (individual member), Salt Lake City, UT; Jeffrey Choi (Jong Kwan) (individual member), San Jose, CA; InTime Software, Inc., Cupertino, CA; Memec Core, Raleigh, NC; Morpho Technologies, Irvine, CA; Nazomi Communications, Inc., Santa Clara, CA; Gang Qu (individual member), College Park, MD; Verplex Systems, Inc., Milpitas, CA; and Xi'An Swip Co., Ltd., Xi'an, Shaangxi, PEOPLE'S REPUBLIC OF CHINA have been added as parties to this venture. Also, 3Com Corporation, Santa Clara, CA; A Priori Microsystems, Inc., Fukuoka, JAPAN; Artest Corp., Phoenix AZ; Avaz Networks (formerly Communications Enabling Technology), Irvine, CA; Prakash Bare (individual member), San Jose, CA; Gatefield Corp., Fremont, CA; Dominique Houzet (individual member), Toulouse, FRANCE; IMMS, Thuringen, GERMANY; Innoveda Ltd., Herzlia, ISRAEL; Massana, Inc., Campbell, CA; Pioneer Corporation, Tokyo, JAPAN; Pivotal Technologies, Pasadena, CA; RocketChips, Inc., Minneapolis, MN; Sierra Research and Technology, Inc., Westlake Village, CA; Mandayam Sriva (individual member), Menlo Park, CA; Synplicity, Inc., Sunnyvale, CA; Texas Instruments, Inc., Dallas, TX; The Silicon Group, Austin, TX; and Frank Vahid (individual member), Riverside, CA 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 VSI Alliance intends to file additional written notification disclosing all changes in membership.

On November 29, 1996, VSI Alliance 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 March 4, 1997 (62 FR 9812).

The last notification was filed with the Department on January 16, 2001. A notice was published in the **Federal**

Register pursuant to Section 6(b) of the Act on March 20, 2001 (66 FR 15760).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 01–13036 Filed 5–22–01; 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—Wireless Application Protocol Forum, Ltd.

Notice is hereby given that, on April 3, 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''), Wireless Application Protocol Forum, Ltd. (''WAP'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, CacheFlow Inc., Tokyo, JAPAN; CASIO SOFT CO., LTD., Tokyo, JAPAN; Cellnext Solutions Limited, New Delhi, INDIA; Cisco Systems, Inc., Research Triangle Park, NC; Finetix Limited, London, England, UNITED KINGDOM; GEO Interactive Media Group Ltd., Givataim, ISRAEL; iConverse, Waltham, MA; Interactive Trust Network, Inc., Atlanta, GA; Jataayu Software Ltd., Bangalore, INDIA; MobiApps, Inc., McLean, VA; Niragongo Inc., Herzliya, ISRAEL; Sila Communications Ltd., London, England, UNTIED KINGDOM; SingleSignOn.Net Inc., Reston, VA; and ValiCert, Inc., Mountain View, CA have been added as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and WAP intends to file additional written notifications disclosing all changes in membership.

On March 18, 1998, WAP filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on December 31, 1998 (63 FR 72333).

The last notification was filed with the Department on January 8, 2001. A notice for this filing has not yet been published in the **Federal Register**.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 01–13031 Filed 5–22–01; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–38,405]

Cabot Performance Materials Boyertown, PA; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18(C) an application for administrative reconsideration was filed with the Director of the Division of Trade Adjustment Assistance for workers at Cabot Performance Materials, Boyertown, Pennsylvania. The application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

TA–W–38,405; Cabot Performance Materials, Boyertown, Pennsylvania (May 2, 2001)

Signed at Washington, D.C. this 3rd day of May, 2001.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 01–13005 Filed 5–22–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–38,732 and TA–W–38,732A]

Haggar Clothing Company Edinburg Manufacturing Edinburg, Texas and Weslaco Operations, Weslaco, Texas; Amended Certification Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Notice of Certification Regarding Eligibility to Apply for Worker Adjustment Assistance on April 12, 2001, applicable to workers of Haggar Clothing Company, Edinburg Manufacturing, Edinburg, Texas and Haggar Clothing Company, Weslaco Operations, Weslaco, Texas. The notice was published in the **Federal Register** on May 2, 2001 (FR 66 22006).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers produce men's pants, shorts and coats. New findings show that there was a previous certification, TA–W–35,858 and TA–W–38,858A, issued on April 30, 1999, for workers of Haggar Clothing Company, Edinburg Manufacturing, Edinburg, Texas and Haggar Clothing Company, Weslaco Operations, Weslaco, Texas who were engaged in employment related to the production of men's pants, shorts and coats. That certification expired April 30, 2001. To avoid an overlap in worker group coverage, the certification is being amended to change the impact date from February 14, 2000 to May 1, 2001, for workers of the subject firm.

The amended notice applicable to TA–W–38,732 and TA–W–38,732A is hereby issued as follows:

All workers of Haggar Clothing Company, Edinburg Manufacturing, Edinburg, Texas (TA–W–38,732) and Haggar Clothing Company, Weslaco Operations, Weslaco, Texas (TA–W–38,732A) who became totally or partially separated from employment on or after May 1, 2001 through April 12, 2003 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC this 7th day of May, 2001.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 01–12998 Filed 5–22–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility to Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Division of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the

subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than June 4, 2001.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than June 4, 2001.

The petitions filed in this case are available for inspection at the Office of the Director, Division of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room C–5311, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC this 23rd day of April, 2001.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

Appendix

PETITIONS INSTITUTED ON 04/23/2001

TA–W	Subject firm (petitioners)	Location	Date of petition	Product(s)
39,067	Thomas Saginaw Ball (UAW)	Saginaw, MI	04/03/2001	Linear actuators.
39,068	Elizabeth Webbing Mills (Co.)	Central Falls, RI	04/09/2001	Polyester and nylon webbing.
39,069	Rosboro Lumber Co. (Wkrs)	Springfield, OR	04/06/2001	Softwood dimensional lumber.
39,070	Eagle Knitting Mills (UNITE)	Shawano, WI	02/16/2001	Cut and sew apparel.
39,071	H.H. Fessler Knitting (Wkrs)	Shoemakersville, PA	04/06/2001	Ladies' apparel.
39,072A	Fayette Enterprises (Co)	Fayette, MS	04/05/2001	Occasional tables.
39,072	Thomasville Furniture Ind (Co.)	Johnson City, TN	04/05/2001	Occasional tables.
39,073	Pen Tab—Stuart Hall (PACE)	Kansas City, MO	03/29/2001	Paper commodities, school supplies.
39,074	Chief Wenatchee, Inc (Co.)	Wenatchee, WA	04/03/2001	Apples.
39,075	Irving Tanning Co. (Co.)	Hartland, ME	04/09/2001	Finished leather.
39,076	Republic Technologies (USWA)	Lorain, OR	03/21/2001	Steel bars.
39,077	Nucor Bearing Products (Wkrs)	Wilson, NC	04/06/2001	Bearing components.
39,078	Agilant Technologies (Wkrs)	Rockaway, NJ	04/05/2001	Power supplies.
39,079	Glenmore Plastic (UNITE)	Brooklyn, NY	03/30/2001	Printing and plastic.
39,080	Aur Resources (Co.)	Sparks, NB	03/24/2001	Mining and metal exploration.
39,081	Bassett Furniture Ind. (Co.)	Basset, VA	04/02/2001	Household wood furniture.
39,082	Birmingham Steel (USWA)	Joliet, IL	04/03/2001	Flats, rounds, and squares.
39,083	Crystal Springs Apparel (Wkrs)	Crystal Springs, MS	03/28/2001	Men's shirts.
39,084	Consolidated Auto Screen (Wkrs)	Woonsocket, RI	04/04/2001	Printed materials.
39,085	Samuel Bent LLC (Wkrs)	Gardner, MA	04/04/2001	Wooden chairs and tables.
39,086	Dunbrooke Industries (Co.)	Lexington, MO	03/06/2001	Outerwear jackets.
39,087	John Roberts, Inc. (Co.)	New York City, NY	04/03/2001	Ladies' dresses.
39,088	WSW of Sharon (Wkrs)	Sharon, TN	03/01/2001	Children's sleepwear.
39,089	Custom Machine (Wkrs)	Great Bend, PA	03/29/2001	Pullies, shafts and machine parts.
39,090	Standflex (IAM)	Oriskany, NY	04/04/2001	Galvanized steel.
39,091	Heraeus Electro Nite (IBT)	Philadelphia, PA	03/28/2001	Thermocouples, heating devices.
39,092	Fountaine International (Co.)	Rocky Mount, NC	04/05/2001	Fifth wheels assemblies.
39,093	Wulfrath Refractories (USWA)	Tarentum, PA	04/10/2001	Dolomitic refractory products.
39,094	Antech (Wkrs)	El Paso, TX	03/28/2001	Generators, power machines.
39,095	Hammond and Associates (Co.)	Lexington, AL	04/02/2001	Tee shirts.
39,096	GMW Logging (Wkrs)	Central Point, OR	04/06/2001	Timber, logs.
39,097	Vastar Resource, Inc. (Wkrs)	Carthage, TX	04/09/2001	Crude oil.
39,098	Seal Glove Manufacturing (Co.)	Millensburg, PA	04/04/2001	Industrial work gloves.
39,099	ABC Rail (USWA)	Calena, AL	04/07/2001	Rail road wheels.
39,100	Paper Converting Machine (UAW)	Green Bay, WI	04/04/2001	Paper converting machinery.
39,101	Eureka Company (The) (Co.)	El Paso, TX	04/03/2001	Upright vacuum cleaners.
39,102	Boy Harness Co. (Co.)	Osceola, IA	04/09/2001	Gun cases and luggage.
39,103	Sierra Pine Ltd (IAM)	Springfield, OR	04/11/2001	Particleboard.
39,104	Alexander Doll Co. (AITNWA)	New York, NY	04/09/2001	Porcelain dolls & doll accessories.
39,105	Exide Technologies (Co.)	Dunmore, PA	04/05/2001	Automotive batters.
39,106	Manpower Employment Serv. (Wkrs)	Fairfield, IA	04/09/2001	Provide temp. employees.

[FR Doc. 01–13003 Filed 5–22–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Workforce Investment Act (WIA) Section 167, the National Farmworker Jobs Program (NFJP)

AGENCY: Employment and Training Administration (ETA), Labor.

ACTION: Notice of formula allocations for the Program Year (PY) 2001 National Farmworker Jobs Program (NFJP), request for comments and waiver of competition for the succeeding 2-year grant period.

SUMMARY: Under section 182(d) of the Workforce Investment Act (WIA) of 1998, ETA is publishing the PY 2001 allocations for the NFJP authorized under section 167 of the WIA. The allocations are distributed to the States by a formula that estimates, by State, the relative demand for NFJP services. The allocations in this Notice apply to the PY beginning July 1, 2001. Under

section 167(c)(4)(B) of WIA, the ETA is waiving the requirement for competition for the 2-year grant period beginning July 1, 2001.

DATES: Comments must be submitted on or before May 31, 2001.

ADDRESSES: Comments should be sent to Ms. Alicia Fernandez-Mott, Chief, Division of Seasonal Farmworker Programs, Room N–4641, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. Her e-mail address is afernandez@doleta.gov.

FOR FURTHER INFORMATION CONTACT: Ms. Alicia Fernandez-Mott, Chief, Division of Seasonal Farmworker Programs, RoomN–4641, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. Her telephone number is (202) 693–3729. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION:

I. Background

On May 19, 1999, we published a Notice of a new formula for allocating funds available for the NFJP (formerly referred to as the section 402 Migrant and Seasonal Farmworker (MSFW Program)) in the **Federal Register** at 64 FR 27390 (May 19, 1999). The Notice explains how the new formula achieves its purpose of distributing funds geographically by State service area on the basis of each area's relative share of farmworkers who are eligible for enrollment in the NFJP. The new formula consists of a rational combination of multiple data sets that were selected to yield the relative share distribution of eligible farmworkers. The combined-data formula is substantially more relevant to the purpose of aligning the allocations with the eligible population than the allotments determined by the prior formula.

The realignments made by new formula gave rise to significant changes in relative funding levels. These changes are primarily attributable to the inherent weaknesses of the data sources used under the prior formula. The changes are also attributable to the fact that the data had gradually become significantly date-stale. The magnitude of the realignments is substantial for some of the States that are scheduled to experience decreases as a result of the transition from the original distributions to the distributions provided by the new formula. To provide a smooth transition to the realigned distributions, Part IV of the May 19, 1999 Notice stated a strategy for phased implementation of the new formula through four incremental ''hold harmless'' stages. The stages provide a graduated implementation of the formula allocations by limiting the rate of reduction in relative funding levels to the four annual increments of 95 percent of the 1998 level in PY 1999, 90 percent in PY 2000, 85 percent in PY 2001, and 80 percent in PY 2002. Full implementation of the new (combined-data) formula will be reached on the 5th year allocation in PY 2003. The May 19, 1999, Notice provides that PY 2001 is the third stage hold-harmless year, under which each State service area will receive no less than 85 percent of its PY 1998 allocation. (See 64 FR 27390, 27399 at section IV(3) (May 19, 1999)). PY 2001 is the operating year that begins on July 1, 2001.

Because it is the best available allocation tool, we continue to implement the new formula by applying the third implementation step of the formula described in the May 19, 1999, Notice to allocate PY 2001 WIA section 167 funds. The rationale for the new allocation formula and the underlying methodology on how the new formula realigns the distribution of NFJP allocations, is fully explained in the May 19, 1999 Notice. Section III of this Notice describes how the PY 2001 formula allocations are adjusted to account for the budget additions provided by Congress.

The Department of Labor invites comments on our decision to continue the phased implementation of this formula in allocating PY 2001 funds for the NFJP.

II. Limitation on Non-NFJP Uses of Section 167 Funds

The Fiscal Year 2001 appropriation for all the MSFW programs under WIA section 167 is $76,770,000. Under 20 CFR 669.240(a), ''[a]t least 94 percent of the funds appropriated each year for the WIA section 167 farmworker activities must be allocated to State service areas, based on the distribution of the eligible MSFW population. * * *'' This means that $72,163,800 is the minimum amount that must be allocated under the formula for PY 2001, and it is the amount allocated for PY 2001 under this Notice.

In appropriating the funds for PY 2001, Congress provided direction for the use of additional funds authorized above the amount requested in the budget. In the Senate Committee on Appropriations Report 106–293, the Committee recommended the additional funding to offset the scheduled adjustment to those State service areas undergoing a reduction in funding, by financing the difference between their PY 1998 level and the PY 2001 hold-harmless adjusted level. The additional funding was approved in the final appropriation legislation.

III. PY 2001 Allocations

In PY 2001, the base amount selected for allocation under the formula using the third step's 85 percent hold harmless allotment, is the PY 1999 allocated amount of $67,596,408. The additional funding provided under congressional direction in PYs 1999, 2000, and 2001 is applied cumulatively to sustain at their 1998 levels those State service areas that receive a declining relative share of funding by the progressive application of the new formula.

The details for the PY 2001 allocations are provided in the table provided at the end of this Notice. The third step (85 percent hold-harmless) allocations are given in column ''E''. For comparison with the figures in Column ''E'', column ''F'' uses the table's software program to provide an arithmetic calculation of 85 percent of the PY 1998 allotments. Column ''G'' provides the additional ''make whole'' amounts allotted under the congressional recommendation to bring to their PY 1998 levels those State service areas where the demographics reflected under the formula show there has been a decline in the relative share of eligible farmworkers. At this stage, the PY 2001 amount allotted is the sum of the third step's formula allotment (column ''E'') of $67,606,916 and the ''make-whole'' amount of $4,242,312 which brings all States to their PY 1998 levels (column G). However, the total amount allocated at this stage is $314,572 short of the minimum 94 percent amount ($72,163,800) that must be allocated to the State areas for operating the NFJP. To allocate this amount, column H carries over from column D the unadjusted formula relative shares for the States experiencing a rising relative share. Column I shows the percentage calculation of the relative distribution among those States. Column J distributes the $314,572 using the percentages determined under column I. Column K which is the sum of columns E, G and J, provides the final NFJP allotments for PY 2001.

IV. Rhode Island and the Minimum Funding Provisions

Part V of the May 19, 1999, **Federal Register** Notice provides that a State service area allocated less than $60,000 could be combined with an adjoining State service area. As in PY 2000, the PY 2001 Rhode Island area allocation is

combined with the Connecticut area allocation.

In PY 2003, which is the next scheduled NFJP competition cycle, we intend to compete the combined two-State geographic area of Connecticut and Rhode Island as a single service area.

V. PY 2001 Allotments

The final (far right-hand) column K of the ''Allocation Table'' provides the allotments for the NFJP in PY 2001. Grantees will use these figures in preparing the PY 2001 NFJP grant plans.

VI. PY 1999 and 2000 Competition

The competition for the current 2-year period, comprising the 1999 and 2000 Program Years, was held in 1999. Under the authority of section 167(c)(4)(B), the Department of Labor is waiving the requirement for competition of the succeeding 2-year period (PYs 2001 and 2002) for each recipient grantee.

Under WIA section 167(c)(4)(B) grantees are required to submit a 2-year plan for the second biennial period that is satisfactory to the Grant Officer. The requirement for competition for the recipient will be considered to be waived upon the Grant Officer's receipt of a satisfactory 2-year plan.

Signed at Washington, D.C., this 11th day of May, 2001.

Shirley M. Smith,

Administrator, Office of Adult Services.

NATIONAL FARMWORKER JOBS PROGRAM STATE ALLOCATIONS FOR PROGRAM YEAR 2001 ($72,163,800)

State	PY 1998 allotments	PY 2001 formula allocation w/o hold-harmless adjustment	PY 2001 formula % share w/o hold-harmless	PY 2001 allocation with hold-harmless adjustment	85% of PY98 allotments (compare)	Adjust. to bring states to PY 1998 levels	States with an increase relative share (percent)	Relative share among Col. H states (percent)	Alloctn. to achieve 94% min.	PY 2001 allots.
A	B	C	D	E	F	G	H	I	J	K
Alabama	$791,835	$437,632	0.67766	$673,060	$673,060	$118,775	.....	.....	.....	$791,835
Arizona	1,519,645	1,719,287	2.66226	1,697,659	1,291,698	0	2.662	3.62	$11,403	1,709,062
Arkansas	1,167,409	724,893	1.12247	992,298	992,298	175,111	.....	.....	0	1,167,409
California	14,591,138	20,067,526	31.07392	16,668,927	12,402,467	0	31.074	42.31	133,107	16,802,034
Colorado	805,523	992,449	1.53678	908,281	684,695	0	1.537	2.09	6,583	914,864
Connecticut	206,024	303,689	0.47025	237,468	175,120	0	0.470	0.64	2,014	239,482
Delaware	118,334	125,899	0.19495	125,899	100,584	0	0.195	0.27	835	126,734
Florida	4,631,415	2,465,700	3.81806	3,936,703	3,936,703	694,712	.....	.....	0	4,631,415
Georgia	1,711,615	876,499	1.35723	1,454,873	1,454,873	256,742	.....	.....	0	1,711,615
Idaho	877,438	1,079,184	1.67108	989,177	745,822	0	1.671	2.28	7,158	996,335
Illinois	1,425,808	1,424,912	2.20643	1,425,808	1,211,937	0	2.206	3.00	9,451	1,435,259
Indiana	781,615	927,202	1.43574	877,617	664,373	0	1.436	1.96	6,150	883,767
Iowa	1,314,394	1,078,955	1.67073	1,117,235	1,117,235	197,159	.....	.....	0	1,314,394
Kansas	697,839	1,078,783	1.67046	809,536	593,163	0	1.670	2.27	7,156	816,692
Kentucky	1,352,613	1,043,179	1.61533	1,149,721	1,149,721	202,892	.....	.....	0	1,352,613
Louisiana	796,032	484,907	0.75086	676,627	676,627	119,405	.....	.....	0	796,032
Maine	327,397	174,702	0.27052	278,287	278,287	49,110	.....	.....	0	327,397
Maryland	306,291	363,789	0.56332	343,957	260,347	0	0.563	0.77	2,413	346,370
Massachusetts	351,027	298,012	0.46146	298,373	298,373	52,654	.....	.....	0	351,027
Michigan	878,641	944,430	1.46242	944,430	746,845	0	1.462	1.99	6,264	950,694
Minnesota	1,274,775	879,095	1.36125	1,083,559	1,083,559	191,216	.....	.....	0	1,274,775
Mississippi	1,449,044	571,321	0.88467	1,231,687	1,231,687	217,357	.....	.....	0	1,449,044
Missouri	1,094,524	976,379	1.51189	976,379	930,345	118,145	.....	.....	0	1,094,524
Montana	667,189	461,861	0.71518	567,111	567,111	100,078	.....	.....	0	667,189
Nebraska	774,884	1,092,397	1.69154	887,991	658,651	0	1.692	2.30	7,246	895,237
Nevada	200,795	159,091	0.24635	170,676	170,676	30,119	.....	.....	0	200,795
New Hampshire	112,600	100,958	0.15633	100,958	95,710	11,642	.....	.....	0	112,600
New Jersey	400,038	698,545	1.08168	472,365	340,032	0	1.082	1.47	4,633	476,998
New Mexico	598,720	934,978	1.44778	695,528	508,912	0	1.448	1.97	6,202	701,730
New York	1,850,667	1,088,774	1.68593	1,573,067	1,573,067	277,600	.....	.....	0	1,850,667
North Carolina	3,006,003	1,897,104	2.93760	2,555,103	2,555,103	450,900	.....	.....	0	3,006,003
North Dakota	468,362	609,496	0.94379	531,469	398,108	0	0.944	1.29	4,043	535,512
Ohio	904,951	1,264,492	1.95803	1,035,876	769,208	0	1.958	2.67	8,387	1,044,263
Oklahoma	608,145	1,276,891	1.97723	740,354	516,923	0	1.977	2.69	8,470	748,824
Oregon	1,087,697	1,452,311	2.24886	1,238,069	924,542	0	2.249	3.06	9,633	1,247,702
Pennsylvania	1,221,441	1,549,985	2.40010	1,381,926	1,038,225	0	2.400	3.27	10,281	1,392,207
Rhode Island	0	38,832	0.06013	4,021	0	0	0.060	0.08	258	4,279
South Carolina	1,080,106	391,046	0.60552	918,090	918,090	162,016	.....	.....	0	1,080,106
South Dakota	692,869	456,831	0.70739	588,939	588,939	103,930	.....	.....	0	692,869
Tennessee	957,799	720,217	1.11523	814,129	814,129	143,670	.....	.....	0	957,799
Texas	5,979,800	6,697,752	10.37126	6,673,284	5,082,830	0	10.371	14.12	44,426	6,717,710
Utah	245,354	288,106	0.44612	275,185	208,551	0	0.446	0.61	1,911	277,096
Vermont	213,134	105,217	0.16293	181,164	181,164	31,970	.....	.....	0	213,134
Virginia	1,036,441	708,789	1.09754	880,975	880,975	155,466	.....	.....	0	1,036,441
Washington	1,705,576	2,262,216	3.50297	1,939,806	1,449,740	0	3.503	4.77	15,005	1,954,811
West Virginia	219,325	100,275	0.15527	186,426	186,426	32,899	.....	.....	0	219,325
Wisconsin	1,229,201	953,157	1.47593	1,044,821	1,044,821	184,380	.....	.....	0	1,229,201
Wyoming	201,911	232,207	0.35956	225,954	171,624	0	0.360	0.49	1,540	227,494
Total Cntr. U.S.	63,933,384	64,579,952	100.00	64,580,848	N/A	4,077,948	73.436	1.00000	314,570	68,973,366
Conterminous U.S.	63,933,384	64,579,952	95.53755	.....	.....	.....	.....	.....	.....	.....
Hawaii	251,607	204,254	0.30217	213,868	213,866	37,739	.....	.....	0	251,607
Puerto Rico	2,938,827	2,812,202	4.16028	2,812,200	2,498,003	126,627	.....	.....	0	2,938,827
Subtot. (HI+PR)	3,190,434	3,016,456	4.46	3,026,068	N/A	164,366	.....	.....	0	3,190,434
Total U.S.	67,123,818	67,596,408	100.00	67,606,916	.....	4,242,314	.....	.....	314,570	72,163,800

NATIONAL FARMWORKER JOBS PROGRAM STATE ALLOCATIONS FOR PROGRAM YEAR 2001 ($72,163,800)—Continued

State	PY 1998 allotments	PY 2001 formula allocation w/o hold-harmless adjustment	PY 2001 formula % share w/o hold-harmless	PY 2001 allocation with hold-harmless adjustment	85% of PY98 allotments (compare)	Adjust. to bring states to PY 1998 levels	States with an increase relative share (percent)	Relative share among Col. H states (percent)	Alloctn. to achieve 94% min.	PY 2001 allots.
A	B	C	D	E	F	G	H	I	J	K
										72,163,800
									314,570	72,163,800

[FR Doc. 01–13019 Filed 5–22–01; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–4435]

Bayer Corporation, Consumer Care Division, Elkhart, IN; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18(C) an application for administrative reconsideration was filed with the Director of the Division of Trade Adjustment Assistance for workers at Bayer Corporation, Consumer Care Division, Elkhart, Indiana. The application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

NAFTA–4435; Bayer Corporation Consumer Care Division Elkhart, Indiana (May 2, 2001)

Signed at Washington, D.C. this 3rd day of May, 2001.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 01–13004 Filed 5–22–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance and NAFTA Transitional Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, as amended, the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA–W) issued during the period of May, 2001.

In order for an affirmative determination to be made and a certification of eligibility to apply for worker adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or sub-division have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations for Worker Adjustment Assistance

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–38,350; Hill Knitting Mills, Richmond Hill, NY

TA–W–38,798; PTC Alliance, Jane Lew, WV

TA–W–39,642; Global Tex LLC, d/b/a Bates of Maine, Lewiston, MI

TA–W–38,866; AGP, LLC, Sherman, TX

TA–W–38,893; The Budd Co., Stamping and Frame Div., Philadelphia, PA

In the following cases, the investigation revealed that the criteria for eligibility have not been met for the reasons specified.

Increased imports did not contribute importantly to worker separations at the firm.

TA–W–38,694; Thrall Car, Thrall Car North American Rail, Chicago Heights, IL

TA–W–38,588; Rhoda, Lee, Inc., New York, NY

TA–W–39,055; Newport Steel Corp., Newport, KY

TA–W–38,469; Gile Orchards, Alfred, ME

TA–W–38,691; Cone Mills Corp., Raytex Plant, Marion, SC

TA–W–38,923; Sunshine Precious Metals, Inc., Kellogg, ID

TA–W–39,188; Rhoda Lee, Inc., New York, NY

The workers firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–39,012, A & B; Commtough, Inc., Mountain View, CA, New York, NY and Miami Beach, FL

TA–W–38,785; Vesuvius USA, Gadsden, AL

TA–W–39,149; Daimler Chrysler AG, Auburn Hills, MI

The investigation revealed that criteria (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

TA–W–38,984; AVX Tantalum Corp., Biddeford, ME

All worker separations occurred prior to the March 31, 2001 expiration of the previous certification. The current petition can only cover workers separated after March 31, 2001. The Melt Shop has not been in operation since that time.

TA–W–38,848; Allvac, Latrobe, PA

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued; the date following the company name and location of each determination references the impact date for all workers of such determination.

TA–W–39,072 & A; Thomasville Furniture Industries, Johnson City, TN & Fayette Enterprises, Fayette, MS: April 5, 2000.

TA–W–39,140; Dunbrooke Industries, Ocean Springs, MS: April 11, 2000.

TA–W–38,960; Spectron Lasers USA, Inc., Warwick, RI: March 12, 2000.

TA–W–38,623; Eaton Aeroquip Corp., Aeroquip Precision Speres Div., Ann Arbar, MI: January 18, 2000.

TA–W–38,524; The Quaker Oats Co., Shiremanstown, PA December 20, 1999.

TA–W–39,153; Salon Manufacturing, Rhinelander, WI: April 9, 2000.

TA–W–39,101; The Eureka Co., El Paso, TX Including Temporary Workers of

Southwest Staffing, Inc., Employed at The Eureka Co, El Paso, TX: April 3, 2000.

TA–W–38,726; Avery Dennison Fassion Roll Div., Quakertown, PA: February 8, 2000.

TA–W–39,154; Jonathan Engineered Solutions, Fullerton, CA: April 6, 2000.

TA–W–38,815; Johnston Industries, Inc., Columbus, GA: February 15, 2000.

TA–W–38,881; Viasystems Technologies Corp., LLC, Richmond, VA March 9, 2000.

TA–W–39,094; Ajay Leisure Products, Inc., Delavan, WI: August 19, 1999

TA–W–38,666; Marco Distributing, Idaho Falls, ID: January 12, 2000.

TA–W–38,634; Spectrum Dyed Yarns, Inc., Belmont, NC: January 23, 2000.

TA–W–38,776; Smith and Nephew, Inc., Casting Div., Charlotte, NC: Febuary 13, 2000.

TA–W–38,540; New York Air Brake Corp., Div. of Knorr Brake Co., Watertown, NY: December 30, 1999.

TA–W–39,083; Crystal Springs Apparel, LLC, Formerly Bernstein & Son Shirt Corp., Crystal Springs, MS: November 10, 2000.

TA–W–39,098; Seal Glove Manufacturing, Inc., Millersburg, PA: April 4, 2000.

TA–W–38,807; Heckett Multiserve, Div. of Harsco Corp., Employed at WCI Steel, Inc., Warren, OH: January 21, 2001

TA–W–38,792 & A; Stitches, Inc., Red Boiling Springs, TN and Gamaliel, KY: Febraury 26, 2000.

TA–W–39,040 & A; Lebanon Apparel, Lebanon, VA and Three Creek Apparel, Castelwood, VA: March 28, 2000.

TA–W–38,440 & A, B, C, D; U.S. Forest Industries, Inc., Medford, OR, Grants Pass, OR, South Fork, CO, Abbeville, AL & Graceville, FL: November 21, 1999.

TA–W–39,178; Annalee Mobilitee Dolls, Inc., Meredith, NH: April 12, 2000.

Also, pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance hereinafter called (NAFTA–TAA) and in accordance with section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act as amended, the Department of Labor presents summaries of determinations regarding eligibility to apply for NAFTA–TAA issued during the month of May, 2001.

In order for an affirmative determination to be made and a certification of eligibility to apply for NAFTA–TAA the following group eligibility requirements of section 250 of the Trade Act must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, (including workers in any agricultural firm or appropriate subdivision thereof) have become totally or partially separated from employment and either—

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely,

(3) That imports from Mexico or Canada of articles like or directly competitive with articles produced by such firm or subdivision have increased, and that the increases imports contributed importantly to such workers' separations or threat of separation and to the decline in sales or production of such firm or subdivision; or

(4) That there has been a shift in production by such workers' firm or subdivision to Mexico or Canada of articles like or directly competitive with articles which are produced by the firm or subdivision.

Negative Determinations NAFTA–TAA

In each of the following cases the investigation revealed that criteria (3) and (4) were not met. Imports from Canada or Mexico did not contribute importantly to workers' separations. There was no shift in production from the subject firm to Canada or Mexico during the relevant period.

NAFTA–TAA–04613; The Budd Co., Stamping and Frame Div., Philadelphia, PA

NAFTA–TAA–04763; CMS Hartzell Manufacturing, St. Paul, MN

NAFTA–TAA–04661; Sunshine Precious Metals, Inc., Kellogg, ID

NAFTA–TAA–04634; AGP LLC, Sherman, TX

The investigation revealed that the criteria for eligibility have not been met for the reasons specified.

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

NAFTA–TAA–04774; Commtouch, Inc., Mountain View, CA

Affirmative Determinations NAFTA–TAA

NAFTA–TAA–04586; O–Z/Gedney, Pittston, PA: February 21, 2000.

NAFTA–TAA–04362 & A, B, C, D; U.S. Forest Industries, Inc., Medford, OR, Grants Pass, OR, South Fork, CO, Abbeville, AL, Graceville, FL: November 21, 1999.

NAFTA–TAA–04425; New York Air Brake Corp., Div. of Knorr Brake Co., Watertown, NY: December 30, 1999.

NAFTA–TAA–04667; Ten Cate Enbi, West Henrietta, NY: March 14, 2000.

NAFTA–TAA–04757; Seal Glove Manufacturing, Inc., Millersburg, PA: April 12, 2000.

NAFTA–TAA–04736; Minnesota Rubber Div., Quadion Corp., Minneapolis, MN: April 5, 2000.

NAFTA–TAA–04765; Techalloy Co., Inc., Fine Wire Div., Including Die Shop, Northampton, MA: April 5, 2000.

NAFTA–TAA–04754; Fontaine International, Fontaine Fifth Wheel, Rocky Mount, NC: April 5, 2000.

NAFTA–TAA–04559; Avery Dennison, Fasson Roll Div., Quakertown, PA February 8, 2000.

NAFTA–TAA–04744; The Eureka Co., El Paso, TX, Including Temporary Workers of Southwest Staffing, Inc., Employed at The Eureka Co., El Paso, TX: April 4, 2000.

NAFTA–TAA–04764; Solon Manufacturing, Rhinelander, WI: April 9, 2000.

NAFTA–TAA–04580; Corning Cable Systems LLC, Champion Products Div., Pensacola, FL: January 26, 2000.

NAFTA–TAA–04820; Tridelta Industries, Inc., Mentor, OH: April 10, 2000.

NAFTA–TAA–04775; Jonathan Engineered Solutions, Fullerton, CA: March 27, 2000.

NAFTA–TAA–04635; Viasystems Technologies Corp., LLC, Richmond, VA: March 9, 2000.

NAFTA–TAA–04413; The Quaker Oats Co., Shiremanstown, PA: December 20, 1999.

I hereby certify that the aforementioned determinations were issued during the month of May, 2001. Copies of these determinations are available for inspection in Room C–5311, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 during normal business hours or will be mailed to persons who write to the above address.

Dated: May 11, 2001.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 01–12997 Filed 5–22–01; 8:45 am]

BILLING CODE 4516–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–38,932]

Johnson & Johnson Medical, Inc., El Paso, TX; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on March 26, 2001, in response to a worker petition which was filed on behalf of workers at Johnson & Johnson Medical, Inc., El Paso, Texas.

The petitioning workers work at a production facility outside of the United States and consequently have no standing to file a petition. Consequently, further investigation in this case would serve no purpose; and the investigation has been terminated.

A petition for NAFTA Transitional Adjustment Assistance has been filed on behalf of workers at the subject firm (NAFTA 4668). A determination on that petition will be made concurrently with this determination.

Signed at Washington, DC this 8th day of May, 2001.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 01–12996 Filed 5–27–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–4668]

Johnson & Johnson Medical, Inc., El Paso, TX; Notice of Termination of Investigation

Pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–1 concerning transitional adjustment assistance, hereinafter called NAFTA–TAA and in accordance with section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 U.S.C. 2331), an investigation was initiated on March 26, 2001, in response to a petition filed on behalf of workers at Johnson & Johnson Medical, Inc., El Paso, Texas. The subject firm produces disposable surgical products (aprons, drapes, packs).

The petitioning workers work at a production facility outside of the United States and consequently have no standing to file a petition. Consequently, further investigation in this case would serve no purpose; and the investigation has been terminated.

A petition for Trade Adjustment Assistance has been filed on behalf of workers at the subject firm (TA–W–38, 932). A determination on that petition will be made concurrently with this determination.

Signed in Washington, DC, this 8th day of May, 2001.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 01–13001 Filed 5–22–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–4336]

Philips Electronics North America Corp., Philips Display Components Co., Ottawa, Ohio; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18(C) and application for administrative reconsideration was filed with the Director of the Division of Trade Adjustment Assistance for workers at Philips Electronics North America Corporation, Philips Display Components Company, Ottawa, Ohio, The application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

NAFTA–4336; Philips Electronics North America Corporation, Philips Display Components Company, Ottawa, Ohio (May 2, 2001)

Signed at Washington, DC this 3rd day of May, 2001.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 01–13000 Filed 5–22–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Investigation Regarding Certifications of Eligibility To Apply for NAFTA Transitional Adjustment Assistance

Petition for transitional adjustment assistance under the North American Free Trade Agreement-Transitional Adjustment Assistance Implementation Act (Pub. L. 103–182), hereinafter called (NAFTA–TAA), have been filed with State Governors under section 250(b)(1) of Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended, are identified in the Appendix to this Notice. Upon notice from a Governor that NAFTA–TAA petition has been received, the Director of the Division of Trade Adjustment Assistance (DTAA), Employment and Training Administration (ETA), Department of Labor (DOL), announces the filing of the petition and takes action pursuant to paragraphs (c) and (e) of section 250 of the Trade Act.

The purpose of the Governor's actions and the Labor Department's investigations are to determine whether the workers separated from employment on or after December 8, 1993 (date of enactment of Pub. L. 103–182) are eligible to apply for NAFTA–TAA under Subchapter D of the Trade Act because of increased imports from or the shift in production to Mexico or Canada.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing with the Director of DTAA at the U.S. Department of Labor (DOL) in Washington, DC provided such request if filed in writing with the Director of DTAA not later than June 4, 2001.

Also, interested persons are invited to submit written comments regarding the subject matter of the petitions to the Director of DTAA at the address shown below not later than June 4, 2001.

Petitions filed with the Governors are available for inspection at the Office of the Director, DTAA, ETA, DOL, Room C–5311, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC this 10th day of May, 2001.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

Appendix

Subject Firm	Location	Date Received at Governor's Office	Petition No.	Articles Produced
Texler (Co.)	Hacedonia, OH	05/04/2001	NAFTA–4, 825	Tooling and plastic components
Krupp Hoesch Suspensions (Co.)	Hamilton, OH	05/02/2000	NAFTA–4, 826	Front and rear suspension springs
MK Acquisition (Wkrs)	Orrville, OR	05/04/2001	NAFTA–4, 827	Car and truck components
Hoskins Manufacturing (Co.)	Charlevoix, MI	05/01/2001	NAFTA–4, 828	Spark plug alloys
SGL Carbon (USWA)	Niagara Falls, NY	04/27/2001	NAFTA–4, 829	Carbon graphite
Centis (Wkrs)	Brea, CA	05/01/2001	NAFTA–4, 830	Page protector
Avery Dennison—Spartan International (Wkrs).	Holt, MI	03/06/2001	NAFTA–4, 831	Spiral tubes for tape
ECK Industries (GMP)	St. Manitowoc, WI	04/20/2001	NAFTA–4, 832	Aluminum castings
Crest Uniform—Aramark (Wkrs)	New York City, NY	04/27/2001	NAFTA–4, 833	Medical and fast food uniforms
Admiral Marine Construction (Co.)	Port Angeles, WA	05/02/2001	NAFTA–4, 834	Yacht components
E.I. DuPont (Co.)	Camden, SC	05/02/2001	NAFTA–4, 835	Nylon synthetic fiber
Honeywell (Co.)	Torrance, CA	05/03/2001	NAFTA–4, 836	Aerospace heat exchangers and components
FCI Electronics (Wkrs)	Hanover, PA	05/03/2001	NAFTA–4, 837	Electrical cennectors
Republic Paperboard (PACE)	Commerce City, CO	05/04/2001	NAFTA–4, 838	Wallboard paper
Emerson (Co.)	St. Louis, MO	05/04/2001	NAFTA–4, 839	Heating, ventilation & cooling products
OSRAM Sylvania Products (AFGW)	Wellsboro, PA	05/04/2001	NAFTA–4, 840	Lamps and light bulbs
Allied Textiles USA (Co.)	Charlotte, NC	05/04/2001	NAFTA–4, 841	Texile recycling
Technimark (Wkrs)	Randleman, NC	05/07/2001	NAFTA–4, 842	Plastic injection molding
D and J Apparel (Co.)	Albemarle, NC	05/07/2001	NAFTA–4, 843	Sweatshirts, sweatpants and t-shirts
Spectrum Control (Wkrs)	Fairview, PA	05/04/2001	NAFTA–4, 844	Filter plates, filtered terminal blocks
M. Fine and Sons (UNITE)	Middlesboro, KY	05/07/2001	NAFTA–4, 845	Jeans
Lear Corporation (UNITE)	Lewistown, PA	05/07/2001	NAFTA–4, 846	Automotive carpeting
Oglevee LTD (Co.)	Fredonia, PA	05/07/2001	NAFTA–4, 847	Geranium impatient cuttings
Newport Steel Corporation (Co.)	Newport, KY	04/12/2001	NAFTA–4, 848	Steel
Thomas and Betts (Wkrs)	Horseheads, NY	05/07/2001	NAFTA–4, 849	Cable connections for TVs
APV Crepaco (Wkrs)	Lake Mills, WI	05/08/2001	NAFTA–4, 850	Food processing
United Plastics Group (Wkrs)	Anaheim, CA	05/07/2001	NAFTA–4, 851	Plastic injection molded parts
Pilkington Libbey Owens Ford (Wkrs)	Sherman, TX	05/08/2001	NAFTA–4, 852	Auto glass

[FR Doc. 01–13002 Filed 5–22–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–4358]

Warn Springs Forest Products Industries, Warm Springs, OR; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18(C) an application for administrative reconsideration was filed with the Director of the Division of Trade Adjustment Assistance for workers at Warm Springs Forest Products Industries, Warm Springs, Oregon. The application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

NAFTA–4358; Warm Springs Forest Products Industries Warm Springs, Oregon (May 2, 2001)

Signed at Washington, DC, this 3rd day of May, 2001.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 01–12999 Filed 5–22–01; 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 extension of the Request for State or Federal Workers' Compensation Information (CM–905).

DATES: Written comments must be submitted to the office listed in the **ADDRESSEE** section below on or before 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 Federal Mine Safety and Health Act of 1977, as amended, and 20 CFR 725.535, direct that DOL Black Lung benefit payments to a beneficiary for any month be reduced by any other payments of State or Federal benefits for workers' compensation due to pneumoconiosis.

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 hte approval for this information collection in order to determine the amounts of black lung benefits paid to beneficiaries. Black Lung amounts are reduced dollar for dollar, for other black lung related workers' compensation awards the beneficiary may be receiving from State or Federal programs.

Type of Review: Extension.

Agency: Employment Standards Administration.

Title: Request for State or Federal Workers' Compensation Information.

OMB Number: 1215–0060.

Affected Public: Federal government; State, Local or Tribal Government.

Frequency: On occasion.

Total Respondents: 3,522.

Time per Response: 15 minutes.

Estimatd Total Burden Hours: 881.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintenance): $11,799.

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 14, 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. 01–13020 Filed 5–22–01; 8:45 am]

BILLING CODE 4510–27–M

DEPARTMENT OF LABOR

Office of Federal Contract Compliance Programs

Giant Merchandising Debarment

AGENCY: Office of Federal Contract Compliance Programs, Labor

ACTION: Notice of debarment: Giant Merchandising, 5655 Union Pacific Avenue, Los Angeles, California 90022.

SUMMARY: This notice advises of the debarment of Giant Merchandising (hereinafter ''Giant''), as an eligible bidder on Government contracts or extensions or modifications of existing contracts. The debarment is effective immediately.

FOR FURTHER INFORMATION CONTACT: Harold M. Busch, Acting Deputy Assistant Secretary for Federal contract Compliance, U.S. Department of labor, 200 Constitution Ave., NW., Room C–3325, Washington, DC 20210 (202–693–1062).

SUPPLEMENTARY INFORMATION: On April 19, 2001, pursuant to 41 CFR 60–30.13(a), Administrative Law Judge Karst issued a Decision and order approving the consent Decree entered into by Giant Merchandising, 5655 Union Pacific Avenue, Los Angeles, CA 90022 (''Giant''), and the United States Department of Labor, Office of Federal Contract Compliance Programs (OFCCP). Under the terms of the Consent Decree, Giant and any and all purchasers, successors, assignees, and/or transferees are declared ineligible for

the award of any future contracts funded in whole or in part with Federal funds and ineligible for extension or other modifications of any existing Government contracts. The Decision and Order is set forth below. The debarment from future Government contracts and subcontracts and the ineligibility for extensions or other modifications is effective immediately and shall be lifted after a fixed term of six months from the date of the Decision and Order approving the Consent Decree, provided Giant complies with the terms of this Consent Decree.

Dated: Signed May 17th, 2001, Washington, DC.

Harold M. Busch,

Acting Deputy Assistant Secretary for Federal Contract Compliance.

Department of Labor, Office of Administrative Law Judges, San Francisco, CA

[Case No. 2001–OFC–2]

Issue date: April 19, 2001.

In the Matter of: Office of Federal Contract Compliance Programs, Department of Labor, Plaintiff, vs. Giant Merchandising, Defendant

Decision and Order Approving Consent Decree

The parties filed an executed Consent Decree, a copy of which is attached on April 17, 2001. Review of the Consent Decree shows that it is in compliance with 41 CFR 60–30.13 and that it fairly and adequately resolves all pending issues for this matter.

Accordingly, the Consent Decree is hereby *Approved.* Such Consent Decree constitutes my findings of fact and conclusions of law and constitutes full, final, and complete adjudication of this matter.

Alexander Karst,

Administrative Law Judge.

A copy of the above named document was sent to the following:

Patricia Winkler, Human Resources Manager, Giant Merchandising, 5655 Union Pacific Avenue, Los Angeles, CA 90022

Matthew Halpern, Esq., Jackson Lewis Schnitzler & Krupman, 1000 Woodbury Road, Suite 402, Woodbury, NY 11797

Gerald M. Levin, Chairman & CEO, Time Warner, Inc., 75 Rockefeller Plaza, New York, NY 10019

Michelle Serrou, Office of the Solicitor-Div. of Civil Rights, U.S. Department of Labor, Room N–2464, 200 Constitution Ave., NW., Washington, DC 20210

Solicitor of Labor, U.S. Department of Labor, Office of the Solicitor, Room S–2002, FPB, 200 Constitution Ave., NW., Washington, DC 20210

Special Counsel to the Assistant Secretary of Labor, U.S. Department of Labor, Employment & Training Administration, 200 Constitution Ave., NW., Rm. N–4671, Washington, DC 20210

Offc of Fed. Contract Compliance Programs, U.S. Department of Labor, Room C–3325, 200 Constitution Ave., NW., Washington, DC 20210

Associate Solicitor-Civil Rights Division, U.S. Department of Labor, Room N–2464, 200 Constitution Ave., NW., Washington, DC 20210

Daniel Teehan, Regional Solicitor, U.S. Department of Labor, 71 Stevenson Street, Suite 1110, San Francisco, CA 94105

Vivian Chan,

Legal Technician.

Office of Administrative Law Judges

Department of Labor, Office of Federal Contract Compliance Programs, Plaintiff, v. Giant Merchandising, Defendant

[Case No. 01–OFC–2]

Consent Decree

This Consent Decree is entered into between the Plaintiff, United States Department of Labor, Office of Federal Contract Compliance Programs (hereinafter ''OFCCP'') and Defendant, Giant Merchandising (hereinafter ''Giant'') in complete resolution of the Administrative Complaint filed in this matter. The Complaint was filed by OFCCP against Giant alleging violations of Executive Order 11246 (30 FR 12319), as amended by Executive Order 11375 (32 FR 14303) and Executive Order 12086 (43 FR 46501) (hereinafter ''Executive Order''); Section 503 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 793 (hereinafter ''Section 503''); and the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, 38 U.S.C. 4212 (hereinafter ''VEVRAA'').

In the Administrative Complaint, OFCCP alleged that Giant violated its contractual obligations under Executive Order 11246, section 503, and VEVRAA by failing to submit to OFCCP information requested in a survey document bearing OMB Control Number 1215–0196 (''the Equal Opportunity Survey'' or ''EO Survey''). The EO Survey requested information relating to personnel activity at Giant's facility located in Commerce, California (hereinafter ''Commerce facility'').

In its Answer, Giant denied that the Company had violated the Executive Order, Section 503 and VEVRAA and asserted that the cited laws and/or regulations did not apply to the Defendant at the time that it was asked to respond to the EO Survey.

Part A—Jurisdiction and Procedural History

1. The Office of Administrative Law Judges has jurisdiction over this action pursuant to sections 208 and 209 of Executive Order 11246, 41 CFR 60–1.26, 41 CFR Part 60–30; section 503, 41 CFR 60–741.65; VEVRAA and 41 CFR 60–250.29.

2. This matter was brought by OFCCP to enforce the contractual obligations imposed by the Executive Order, section 503 and VEVRAA and the regulations issued pursuant thereto. The Administrative Complaint invoked the expedited OFCCP hearing procedures, 41 CFR 60–30.31, *et seq.*

3. In its Complaint, OFCCP alleged that Giant had refused to give OFCCP access to or to supply it with records or other information as required by the equal opportunity clause; specifically, it alleged that Giant had failed and refused to complete the EO Survey mailed to Giant by OFCCP and received by Giant on April 28, 2000. The EO Survey required Defendant to furnish to OFCCP, within 30 days from the date of receipt, certain information relating to personnel activity at the Commerce facility.

4. In its Answer, Giant contended that the Executive Order, section 503 and VEVRAA did not apply at the time that Giant was asked to respond to the EO Survey and, therefore, Giant had no obligation under the applicable laws and regulations to supply OFCCP with the information it had requested. Giant further denied that it was obligated to complete the EO Survey and averred that it submitted the EO Survey on January 31, 2000.

5. Giant denies that it violated Executive Order 11246, section 503 and VEVRAA.

6. Giant does not admit any violation of law or other obligation. The parties agree that this Consent Decree is not, and may not be used, as a admission of any violation by Giant, or as a basis for asserting Giant's noncompliance with any labor and employment laws, rules or regulations.

7. Giant is a joint venture between Warner Bros. Records Inc., and Warner Music GM Merchandising Inc., and is headquartered in Commerce, California. Giant is engaged in the business of manufacturing, printing, and distributing commercial art and graphic design in the form of silk-screened tee-shirts and other wearables.

8. At all times pertinent to this matter, OFCCP has alleged that Giant had a Government contract of $50,000 or more, and had 50 or more employees. Giant denied that it had a Government contract of $50,000 or more at the time OFCCP sought submission of the EO Survey.

9. At all times pertinent to this matter, Giant maintained and operated the Commerce facility located at 5655 Union Pacific Avenue, Commerce, California 90022.

10. Giant has never obtained a waiver of coverage from the Deputy Assistant Secretary for Federal contract Compliance for its Commerce Facility.

11. The EO Survey received by Giant, on April 28, 2000, sought from Giant information relating to its current personnel practices. This information is of the type that Federal contractors are required to maintain. 41 CFR 60–1.12; 41 CFR 60–250.52 41 CFR 60–740.80.

12. OFCCP contended, in this action, that Giant was required to respond to the EO Survey within 30 days from the date of receipt, *i.e.,* on or before May 28, 2000. Giant denied that it was required to do so.

13. Giant did not complete the EO Survey for its Commerce facility by May 28, 2000.

14. By letter dated June 22, 2000, Shirley J. Wilcher, Deputy Assistant Secretary for Federal Contract Compliance, U.S. Department of Labor, sent, by certified mail a Notice to Show Cause within 30 days why Giant's non-submission of the EO Survey should not be deemed a violation of the Executive Order, and why defendant should not be subject to the sanctions provided by law and regulation for such a violation. The Notice to Show Cause was accompanied by a second copy of the EO survey.

15. On August 1, 2000, a letter dated May 22, 2000, was faxed to OFCCP by Patricia Winkler, Human Resources Manager for Giant. In the May 22, 2000 letter, Jesse L. Atilano, President and CEO of Labor Law, requested an exemption for Giant based on the assertion that Giant did not have sales exceeding the ''statutory dollar amount'' of $500,000.00. On August 16, 2000, OFCCP contacted Mr. Atilano to inform him that the threshold dollar amount which creates in Government contractors the duty to prepare and maintain a written Affirmative Action Program is $50,000. Mr. Atilano stated that he did not believe that Giant was a Federal contractor but that he needed to confirm the dollar amount of Giant's contracts.

16. On January 12, 2001, the Administrative Complaint was filed in this matter.

17. On January 31, 2001, Giant provided to OFCCP a complete response to the EO Survey at issue in this case.

Part B—General Provisions

18. The record that is the basis for this Consent Decree consists of the Administrative Complaint, Answer and the Consent Decree including attachments thereto.

19. This Consent Decree shall not become final until it has been signed by the Administrative Law Judge. The Effective Date of the Decree shall be the date on which it is signed by the Administrative Law Judge.

20. This Consent Decree shall be binding upon Giant, and any and all purchasers, successors, assignees, and/or transferees, and shall have the same force and effect as an order made after a full hearing.

21. The parties waive all further procedural steps to contest the binding effect of the Consent Decree, and any right to challenge or contest the obligations entered into pursuant to this Decree. Pursuant to 41 CFR 60–30.13, an Order by the Administrative Law Judge accepting this Consent Decree shall constitute the final administrative order in this matter.

22. Subject to the performance by Giant of all duties and obligations contained in this Consent Decree, all alleged violations identified or which could have been identified in the Administrative Complaint shall be deemed fully resolved. However, nothing herein is intended to relieve Giant form compliance with the requirements of the Executive Order, section 503 and VEVRAA or the regulations promulgated pursuant thereto, or to limit OFCCP's right to review Giant's compliance with such requirements.

23. Giant agrees that there shall be no retaliation of any kind against any person who has provided information or assistance concerning this Decree.

Part C—Specific Provisions

24. Giant agrees to a fixed-term debarment of six months during which Giant will not be eligible to receive future contracts or modifications or extensions of existing contracts. The six month debarment will commence on the Effective Date of this Decree. The Deputy Assistant Secretary will grant reinstatement, pursuant to 41 CFR 60–1.31, if Giant complies with the terms of this Decree. No additional proceedings before the Office of Administrative Law Judges are necessary for Giant to be reinstated.

Part D—Implementation and Enforcement of the Decree

25. Jurisdiction, including the authority to issue any additional orders or decrees necessary to effectuate the implantation of the provisions of this Consent Decree, is retained by the Office of Administrative Law Judges for one year form the Effective Date of this Decree.

26. If at any time after the Effective Date of this Decree, OFCCP believes that Giant has violated any portion of this Consent Decree, Giant will be promptly notified of that fact in writing. This notification will include a statement of the facts and circumstances relied upon in forming that belief. The notification will provide Giant with 15 calendar days to respond in writing except where OFCCP alleges that such a delay would result in irreparable injury.

27. Enforcement proceedings for violation of this Consent Decree may be initiated at any time after the 15 days referred to in paragraph 26 has elapsed (or sooner, if irreparable injury is alleged) upon filing with the Court a motion for an order of enforcement and/or sanctions. The issues in a hearing on the motion shall related solely to the factual and legal claims make in the motion and Giant's defense thereto.

28. Liability for violation of this Consent Decree shall subject Giant to sanctions set forth in the Executive Order, section 503 and VEVRAA and their implementing regulations, including contract cancellation and/or debarment, and the appropriate relief.

29. If an application or motion for an order of enforcement or clarification indicates by signature of counsel that the application or motion is unopposed by OFCCP and Giant, the application or motion may be presented to the Court without hearing and the proposed Order may be implemented immediately. If an application or motion is opposed by any party, the party in opposition shall file a written response within 20 calendar days of receipt. The Office of Administrative Law Judges may, if it deems it appropriate, schedule a hearing on the application or motion.

30. The Agreement herein set forth is hereby approved and shall constitute the Final Administrative Order in this case.

Agreed and Consented To:

On Behalf of the Defendant, Giant Merchandising:

Date: April 13, 2001.

Matthew B. Halpern,

Jackson, Lewis, Schnitzler & Krupman, 1000 Woodbury Road, Suite 402, Woodbury, NY 11797

On Behalf of the Plaintiff, U.S. Department of Labor, Office of Federal Contract Compliance Programs:

Judith E. Kramer,
Acting Solicitor of Labor.
Gary M. Buff, *Associate Solicitor.*
Debra A. Millenson,
Senior Trial Attorney.
Michelle Serrou
Attorney, Department of Labor, Office of the Solicitor, Civil Rights Division.

[FR Doc. 01–12995 Filed 5–22–01; 8:45 am]

BILLING CODE 4510–27–M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Summary of Decisions Granting in Whole or in Part Petitions for Modification

AGENCY: Mine Safety and Health Administration (MSHA), Labor.

ACTION: Notice of affirmative decisions issued by the Administrators for Coal Mine Safety and Health and Metal and Nonmetal Mine Safety and Health on petitions for modification of the application of existing safety standards.

SUMMARY: Under section 101 of the Federal Mine Safety and Health Act of 1977, the Secretary of Labor (Secretary) may allow the modification of the application of an existing safety standard to a mine if the Secretary determines either that an alternate method exists at a specific mine that will guarantee no less protection for the miners affected than that provided by the standard, or that the application of the standard at a specific mine will result in a diminution of safety to the affected miners.

Final decisions on these petitions are based upon the petitioner's statements, comments and information submitted by interested persons, and a field investigation of the conditions at the mine. MSHA, as designee of the Secretary, has granted or partially granted the requests for modification listed below. In some instances, the decisions are conditioned upon compliance with stipulations stated in the decision. The term ''FR Notice'' appears in the list of affirmative decisions below. The term refers to the **Federal Register** volume and page where MSHA published a notice of the filing of the petition for modification.

FOR FURTHER INFORMATION CONTACT: Petitions and copies of the final decisions are available for examination by the public in the Office of Standards, Regulations, and Variances, MSHA, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. Contact Barbara Barron at 703–235–1910.

Dated at Arlington, Virginia this 16th day of May 2001.

David L. Meyer,
Director, Office of Standards, Regulations, and Variances.

Affirmative Decisions on Petitions for Modification

Petitioner: Sidney Coal Company, Inc.

[Docket No.: M–2000–002–C]

FR Notice: 65 FR 10563.
Regulation Affected: 30 CFR 75.1902(d)(1).
Summary of Findings: Petitioner's proposal is to have its underground fuels storage facilities remain at the present location and make the following changes and adjustments for safety concerns: (i) Offset the fuel tank 35 feet from any track or transportation; (ii) maintain the storage facility out of direct line of flatcars, mantrips, and other equipment that is moving up or down the slope; (iii) ventilate the facility directly into the return air course and equip the facility with a fire suppression system and other safety features, and fireproof and inspect the facility on a daily basis, and (iv) add a carbon monoxide sensor. This is considered an acceptable alternative method for the Mine #1. MSHA grants the petition for modification for a permanent underground diesel fuel storage facility installed within 100 feet of a slope in the Mine #1 with conditions.

Petitioner: Europa Coal Company.

[Docket No.: M–2000–013–C]

FR Notice: 65 FR 16966.
Regulation Affected: 30 CFR 75.1002.
Summary of Findings: Petitioner's proposal is to use a 2,400 volt Joy 14CM continuous miner instead of a 1,000 volt continuous miner inby the last open crosscut and within 150 feet from pillar workings. This is considered an acceptable alternative method for the Europa Mine. MSHA grants the petition for modification for the Europa Mine with conditions.

Petitioner: Big Ridge, Inc. (Formerly Sugar Camp Coal, LLC).

[Docket No.: M–2000–021–C]

FR Notice: 65 FR 19928.
Regulation Affected: 30 CFR 75.350.
Summary of Findings: Petitioner's proposal is to use air coursed through belt haulage entries to ventilate active working places. The petitioner proposes to install a low-level carbon monoxide detection system in the supply road with branches extended to the belt line at certain locations as an early warning fire detection system. This is considered an acceptable alternative method for the Willow Lake Portal Mine. MSHA grants the petition for modification for the Willow Lake Portal Mine to allow air coursed through conveyor belt entries to be used to ventilate working places with conditions.

Petitioner: West Ridge Resources, Incorporated.

[Docket No.: M–2000–025–C]

FR Notice: 65 FR 19928.
Regulation Affected: 30 CFR 75.1909(b)(6).
Summary of Findings: Petitioner's proposal is to: (i) Install gear lockout devices on its diesel grader to limit the speed to a maximum of 10 miles per hour when operating the grader in an underground coal mine or on the surface of an underground coal mine; and (ii) provide training to every grader operator on the proper techniques for lowering the blade to restrict the speed and to stop the grader, on the proper gear selection for grading, and on the proper speed for grading. This is considered an acceptable alternative method for the West Ridge Mine. MSHA grants the petition for modification for the West Ridge mine with conditions.

Petitioner: Andalex Resources, Incorporated.

[Docket No.: M–2000–026–C]

FR Notice: 65 FR 19928.
Regulation Affected: 30 CFR 75.1909(b)(6).
Summary of Findings: Petitioner's proposal is to: (i) Install gear lockout devices on its diesel grader to limit the speed to a maximum of 10 miles per hour when operating the grader in an underground coal mine or on the surface of an underground coal mine; and (ii) provide training to every grader operator on the proper techniques for lowering the blade to restrict the speed and to stop the grader, on the proper gear selection for grading, and on the proper speed for grading. This is considered an acceptable alternative method for the Aberdeen Mine and Pinnacle Mine. MSHA grants the petition for modification for the Aberdeen Mine and Pinnacle Mine with conditions.

Petitioner: Elk Run Coal Company, Inc.

[Docket No.: M–2000–028–C]

FR Notice: 65 FR 31611.
Regulation Affected: 30 CFR 75.1002.
Summary of Findings: Petitioner's proposal is to use continuous mining machines with nominal voltage not to exceed 2,300 volts. This is considered an acceptable alternative method for the White Knight Mine. MSHA grants the petition for modification for the White Knight Mine to use 2,400-volt

continuous miner system(s) with conditions.

Petitioner: B & B Anthracite Coal Company.

[Docket No.: M–2000–029–C]

FR Notice: 65 FR 31611.

Regulation Affected: 30 CFR 49.2(b).

Summary of Findings: Petitioner's proposal is to reduce its mine rescue teams to two teams with three members each and one alternate who serves both teams, instead of having two mine rescue teams with five members and one alternate. This is considered an acceptable alternative method for the Rock Ridge Slope Mine. MSHA grants the petition for modification for the Rock Ridge Slope Mine with conditions.

Petitioner: West Ridge Resources, Inc.

[Docket No.: M–2000–030–C]

FR Notice: 65 FR 31611.

Regulation Affected: 30 CFR 75.500(d).

Summary of Findings: Petitioner's proposal is to use non-permissible low voltage or battery powered electronic testing and diagnostic equipment in or inby the last open crosscut. This is considered an acceptable alternative method for the West Ridge Mine. MSHA grants the petition for modification for the West Ridge Mine with conditions.

Petitioner: Freeman United Coal Mining Company.

[Docket No.: M–2000–037–C]

FR Notice: 65 FR 31609.

Regulation Affected: 30 CFR 75.1909(b)(6).

Summary of Findings: Petitioner's proposal is to operate its diesel-powered road grader without front wheel brakes. The petitioner proposes to operate its diesel grader at a maximum speed of 10 miles per hour, lower the grader blade (mold board) to increase stopping capability in emergencies, and provide training for the grader operators on how to recognize appropriate levels of speed for different road and slope conditions. This is considered an acceptable alternative method for the Crown II Mine. MSHA grants the petition for modification for the Crown II Mine with conditions.

Petitioner: Neumeister Coal Company.

[Docket No.: M–2000–038–C]

FR Notice: 65 FR 31610.

Regulation Affected: 30 CFR 49.2(b).

Summary of Findings: Petitioner's proposal is to reduce its mine rescue teams to two teams with three members each and one alternate who serves both teams, instead of having two mine rescue teams with five members and one alternate. This is considered an acceptable alternative method for the No. 2 Slope Mine. MSHA grants the petition for modification for the No. 2 Slope Mine with conditions.

Petitioner: Tito Coal.

[Docket No.: M–2000–039–C]

FR Notice: 65 FR 31610.

Regulation Affected: 30 CFR 49.2(b).

Summary of Findings: Petitioner's proposal is to reduce its mine rescue teams to two teams with three members each and one alternate who serves both teams, instead of having two mine rescue teams with five members and one alternate. This is considered an acceptable alternative method for the Whites Vein Mine. MSHA grants the petition for modification for the Whites Vein Slope Mine with conditions.

FR Notice: 65 FR 40141.

Petitioner: Bowie Resources, Ltd.

[Docket No.: M–2000–048–C]

Regulation Affected: 30 CFR 75.901(a).

Summary of Findings: Petitioner's proposal is to use a 460 KW, 480-volt wye connected diesel-powered generator for utility power and to move and operate electrically powered mobile equipment and stationary equipment throughout the mine. This is considered an acceptable alternative method for the Bowie #2 Mine. MSHA grants the petition for modification for the 480-volt, three-phase, 460KW diesel-powered generator (DPG) set, Serial No. 26630–12/99, supplying power to a 400-KVA three-phase auto-transformer and three-phase 480-, and 995-volt power circuits for the Bowie #2 Mine with conditions.

FR Notice: 65 FR 40141.

Petitioner: Bowie Resources, Ltd.

[Docket No.: M–2000–049–C]

Regulation Affected: 30 CFR 75.500(d).

Summary of Findings: Petitioner's proposal is to use non-permissible low voltage or battery powered electronic testing and diagnostic equipment in or inby the last open crosscut. This is considered an acceptable alternative method for the Bowie #2 Mine. MSHA grants the petition for modification for the Bowie #2 Mine with conditions.

FR Notice: 65 FR 40141.

Petitioner: Bowie Resources, Ltd.

[Docket No.: M–2000–050–C]

Regulation Affected: 30 CFR 75.1002–1(a).

Summary of Findings: Petitioner's proposal is to use non-permissible low voltage or battery powered electronic testing and diagnostic equipment within 150 feet of pillar workings. This is considered an acceptable alternative method for the Bowie #2 Mine. MSHA grants the petition for modification for the Bowie #2 Mine under controlled conditions and upon compliance with the terms and conditions in the Proposed Decision and Order.

FR Notice: 65 FR 40141.

Petitioner: Alex Energy, Inc.

[Docket No.: M–2000–051–C]

Regulation Affected: 30 CFR 75.1002.

Summary of Findings: Petitioner's proposal is to use high-voltage longwall mining equipment, with the nominal voltage of longwall circuits not to exceed 4,160 volts. This is considered an acceptable alternative method for the Jerry Fork Eagle Mine. MSHA grants the petition for modification for the Jerry Fork Eagle Mine with conditions.

FR Notice: 65 FR 40141.

Petitioner: Rustler Coal Company.

[Docket No.: M–2000–053–C]

Regulation Affected: 30 CFR 49.2(b).

Summary of Findings: Petitioner's proposal is to reduce its mine rescue teams to two teams with three members each and one alternate who serves both teams, instead of having two mine rescue teams with five members and one alternate. This is considered an acceptable alternative method for the Orchard Slope Mine. MSHA grants the petition for modification for the Orchard Slope Mine with conditions.

FR Notice: 65 FR 40140.

Petitioner: M & H Coal Company.

[Docket No.: M–2000–057–C]

Regulation Affected: 30 CFR 49.2(b).

Summary of Findings: Petitioner's proposal is to reduce its mine rescue teams to two teams with three members each and one alternate who serves both teams, instead of having two mine rescue teams with five members and one alternate. This is considered an acceptable alternative method for the Mercury Slope Mine. MSHA grants the petition for modification for the Mercury Slope Mine with conditions.

FR Notice: 65 FR 40140.

Petitioner: UAE CoalCorp Associates.

[Docket No.: M–2000–058–C]

Regulation Affected: 30 CFR 49.2(b).

Summary of Findings: Petitioner's proposal is to reduce its mine rescue teams to two teams with three members each and one alternate who serves both teams, instead of having two mine rescue teams with five members and one alternate. This is considered an acceptable alternative method for the Harmony Mine. MSHA grants the petition for modification for the Harmony Mine with conditions.

FR Notice: 65 FR 40140.

Petitioner: M & M Coal Company.

[Docket No.: M–2000–059–C]

Regulation Affected: 30 CFR 49.2(b).

Summary of Findings: Petitioner's proposal is to reduce its mine rescue teams to two teams with three members each and one alternate who serves both teams, instead of having two mine rescue teams with five members and one alternate. This is considered an acceptable alternative method for the LV #3 Vein Slope Mine. MSHA grants the petition for modification for the LV #3 Vein Slope Mine with conditions.

FR Notice: 65 FR 40140.
Petitioner: L Coal Company.

[Docket No.: M–2000–060–C]

Regulation Affected: 30 CFR 49.2(b).
Summary of Findings: Petitioner's proposal is to reduce its mine rescue teams to two teams with three members each and one alternate who serves both teams, instead of having two mine rescue teams with five members and one alternate. This is considered an acceptable alternative method for the Lenig Tunnel Mine. MSHA grants the petition for modification for the Lenig Tunnel Mine with conditions.

FR Notice: 65 FR 40140.
Petitioner: A. L. Coal Company.

[Docket No.: M–2000–061–C]

Regulation Affected: 30 CFR 49.2(b).
Summary of Findings: Petitioner's proposal is to reduce its mine rescue teams to two teams with three members each and one alternate who serves both teams, instead of having two mine rescue teams with five members and one alternate. This is considered an acceptable alternative method for the Robert L. Derck Mine. MSHA grants the petition for modification for the Robert L. Derck Mine with conditions.

FR Notice: 65 FR 40140.
Petitioner: Three W. M. U. G Mine Company.

[Docket No.: M–2000–063–C]

Regulation Affected: 30 CFR 49.2(b).
Summary of Findings: Petitioner's proposal is to reduce its mine rescue teams to two teams with three members each and one alternate who serves both teams, instead of having two mine rescue teams with five members and one alternate. This is considered an acceptable alternative method for the Orchard Slope Mine. MSHA grants the petition for modification for the Orchard Slope Mine with conditions.

FR Notice: 65 FR 40140.
Petitioner: Snyder Coal Company.

[Docket No.: M–2000–065–C]

Regulation Affected: 30 CFR 49.2(b).
Summary of Findings: Petitioner's proposal is to reduce its mine rescue teams to two teams with three members each and one alternate who serve both teams, instead of having two mine rescue teams with five members and one alternate. This is considered an acceptable alternative method for the Rattling Run Mine. MSHA grants the petition for modification for the Rattling Run Mine with conditions.

FR Notice: 65 FR 40140.
Petitioner: Snyder Coal Company.

[Docket No.: M–2000–066–C]

Regulation Affected: 30 CFR 49.2(b).
Summary of Findings: Petitioner's proposal is to reduce its mine rescue teams to two teams with three members each and one alternate who serves both teams, instead of having two mine rescue teams with five members and one alternate. This is considered an acceptable alternative method for the N. & L. Slope Mine. MSHA grants the petition for modification for the N. & L. Slope Mine with conditions.

FR Notice: 65 FR 40140.
Petitioner: S & M Coal Company.

[Docket No.: M–2000–067–C]

Regulation Affected: 30 CFR 49.2(b).
Summary of Findings: Petitioner's proposal is to reduce its mine rescue teams to two teams with three members each and one alternate who serves both teams, instead of having two mine rescue teams with five members and one alternate. This is considered an acceptable alternative method for the Buck Mountain Slope Mine. MSHA grants the petition for modification for the Buck Mountain Slope Mine with conditions.

FR Notice: 65 FR 40140.
Petitioner: R S & W Coal Company, Inc.

[Docket No.: M–2000–068–C]

Regulation Affected: 30 CFR 49.2(b).
Summary of Findings: Petitioner's proposal is to reduce its mine rescue teams to two teams with three members each and one alternate who serves both teams, instead of having two mine rescue teams with five members and one alternate. This is considered an acceptable alternative method for the R. S. & W. Drift Mine. MSHA grants the petition for modification for the R. S. & W. Drift Mine with conditions.

FR Notice: 65 FR 40140.
Petitioner: Rhen Coal Company.

Docket No.: M–2000–069–C]

Regulation Affected: 30 CFR 49.2(b).
Summary of Findings: Petitioner's proposal is to reduce its mine rescue teams to two teams with three members each and one alternate who serves both teams, instead of having two mine rescue teams with five members and one alternate. This is considered an acceptable alternative method for the Skidmore Slope Mine. MSHA grants the petition for modification for the Skidmore Slope Mine with conditions.

FR Notice: 65 FR 40140.
Petitioner: R & D Coal Company.

[Docket No.: M–2000–070–C]

Regulation Affected: 30 CFR 49.2(b).
Summary of Findings: Petitioner's proposal is to reduce its mine rescue teams to two teams with three members each and one alternate who serves both teams, instead of having two mine rescue teams with five members and one alternate. This is considered an acceptable alternative method for the Buck Mt. Slope Mine. MSHA grants the petition for modification for the Buck Mt. Slope Mine with conditions.

FR Notice: 65 FR 40140.
Petitioner: Primrose Coal Company No. 2.

[Docket No.: M–2000–071–C]

Regulation Affected: 30 CFR 49.2(b).
Summary of Findings: Petitioner's proposal is to reduce its mine rescue teams to two teams with three members each and one alternate who serves both teams, instead of having two mine rescue teams with five members and one alternate. This is considered an acceptable alternative method for the Buck Mountain Vein Slope Mine. MSHA grants the petition for modification for the Buck Mountain Vein Slope Mine with conditions.

FR Notice: 65 FR 40140.
Petitioner: Nowacki Coal Company.

[Docket No.: M–2000–072–C]

Regulation Affected: 30 CFR 49.2(b).
Summary of Findings: Petitioner's proposal is to reduce its mine rescue teams to two teams with three members each and one alternate who serves both teams, instead of having two mine rescue teams with five members and one alternate. This is considered an acceptable alternative method for the Nowacki Coal Co. Slope Mine. MSHA grants the petition for modification for the Nowacki Coal Co. Slope Mine with conditions.

FR Notice: 65 FR 40140.
Petitioner: Little Rock Coal Company.

[Docket No.: M–2000–0074–C]

Regulation Affected: 30 CFR 49.2(b).
Summary of Findings: Petitioner's proposal is to reduce its mine rescue teams to two teams with three members each and one alternate who serves both teams, instead of having two mine rescue teams with five members and one alternate. This is considered an acceptable alternative method for the No. 1 Slope Mine. MSHA grants the petition for modification for the No. 1 Slope Mine with conditions.

FR Notice: 65 FR 40140.

Petitioner: Little Buck Coal Company.

[Docket No.: M–2000–075–C]

Regulation Affected: 30 CFR 49.2(b).

Summary of Findings: Petitioner's proposal is to reduce its mine rescue teams to two teams with three members each and one alternate who serves both teams, instead of having two mine rescue teams with five members and one alternate. This is considered an acceptable alternative method for the #3 Slope Buck Mtn. Mine. MSHA grants the petition for modification for the #3 Slope Buck Mtn. Mine with conditions.

FR Notice: 65 FR 40140.

Petitioner: Jordan Coal Company.

[Docket No.: M–2000–076–C]

Regulation Affected: 30 CFR 49.2(b).

Summary of Findings: Petitioner's proposal is to reduce its mine rescue teams to two teams with three members each and one alternate who serves both teams, instead of having two mine rescue teams with five members and one alternate. This is considered an acceptable alternative method for the Jordan #1 Slope Mine. MSHA grants the petition for modification for the Jordan #1 Slope Mine with conditions.

FR Notice: 65 FR 40140.

Petitioner: Joliett Coal Company.

[Docket No.: M–2000–077–C]

Regulation Affected: 30 CFR 49.2(b).

Summary of Findings: Petitioner's proposal is to reduce its mine rescue teams to two teams with three members each and one alternate who serves both teams, instead of having two mine rescue teams with five members and one alternate. This is considered an acceptable alternative method for the #3 Vein Slope Mine. MSHA grants the petition for modification for the #3 Vein Slope Mine with conditions.

FR Notice: 65 FR 40140.

Petitioner: R & R Coal Company (Formerly B & L Coal Co.).

[Docket No.: M–2000–079–C]

Regulation Affected: 30 CFR 49.2(b).

Summary of Findings: Petitioner's proposal is to reduce its mine rescue teams to two teams with three members each and one alternate who serves both teams, instead of having two mine rescue teams with five members and one alternate. This is considered an acceptable alternative method for the R & R Coal Company Mine. MSHA grants the petition for modification for the R & R Coal Company Mine with conditions.

FR Notice: 65 FR 40140.

Petitioner: F. K. Z. Coal Company.

[Docket No.: M–2000–080–C]

Regulation Affected: 30 CFR 49.2(b).

Summary of Findings: Petitioner's proposal is to reduce its mine rescue teams to two teams with three members each and one alternate who serves both teams, instead of having two mine rescue teams with five members and one alternate. This is considered an acceptable alternative method for the No. 1 Slope Mine. MSHA grants the petition for modification for the No. 1 Slope Mine with conditions.

FR Notice: 65 FR 40140.

Petitioner: D & D Company.

[Docket No.: M–2000–082–C]

Regulation Affected: 30 CFR 49.2(b).

Summary of Findings: Petitioner's proposal is to reduce its mine rescue teams to two teams with three members each and one alternate who serves both teams, instead of having two mine rescue teams with five members and one alternate. This is considered an acceptable alternative method for the Primrose Slope Mine. MSHA grants the petition for modification for the Primrose Slope Mine with conditions.

FR Notice: 65 FR 40140.

Petitioner: Chestnut Coal Company.

[Docket No.: M–2000–083–C]

Regulation Affected: 30 CFR 49.2(b).

Summary of Findings: Petitioner's proposal is to reduce its mine rescue teams to two teams with three members each and one alternate who serves both teams, instead of having two mine rescue teams with five members and one alternate. This is considered an acceptable alternative method for the No. 10 Slope Mine. MSHA grants the petition for modification for the No. 10 Slope Mine with conditions.

FR Notice: 65 FR 49017.

Petitioner: Pine Ridge Coal Company.

[Docket No.: M–2000–085–C]

Regulation Affected: 30 CFR 75.1002.

Summary of Findings: Petitioner's proposal is to modify its previously granted petition for modification, docket number M–98–004–C, to allow 2,400 volt cables to be used inby the last open crosscut at the working continuous miner sections at the Pine Ridge Coal Company, Robin Hood No. 9 Mine (I.D. No. 46–02143), be transferred to its Whites Branch Mine (I.D. No. 46–08827). This is considered an acceptable alternative method for the Pine Ridge Coal Company, Whites Branch Mine. MSHA grants the petition for modification for the 2,400-volt continuous miner system(s) used at the Whites Branch Mine with conditions, and grants application for relief to give effect to September 12, 2000, proposed decision and order.

FR Notice: 65 FR 49017.

Petitioner: The Pittsburgh & Midway Coal Mining Company.

[Docket No.: M–2000–087–C]

Regulation Affected: 30 CFR 75.1700.

Summary of Findings: Petitioner's proposal is to plug and abandon oil and gas wells, and mine through the oil and gas wells with a longwall mining machine instead of maintaining a 300-foot barrier around the well. This is considered an acceptable alternative method for the North River No. 1 Mine. MSHA grants the petition for modification for the North River No. 1 Mine with conditions.

FR Notice: 65 FR 49018.

Petitioner: 3–D Management Services, Inc.

[Docket No.: M–2000–092–C]

Regulation Affected: 30 CFR 75.503.

Summary of Findings: Petitioner's proposal is to use a spring-loaded device on battery plug connectors on mobile battery-powered machines to prevent the plug connector from accidently disengaging while under load instead of using padlocks. This is considered an acceptable alternative method for the Campbells Creek #5 Mine. MSHA grants the petition for modification for the Campbells Creek #5 Mine with conditions.

FR Notice: 65 FR 58821.

Petitioner: Marfork Coal Co., Inc.

[Docket No.: M–2000–121–C]]

Regulation Affected: 30 CFR 75.1002.

Summary of Findings: Petitioner's proposal is to use high-voltage (2,400-volt) cables to power longwall mining equipment. This is considered an acceptable alternative method for the Coon Cedar Grove Mine. MSHA grants the petition for modification for the 2,400-volt continuous miner system(s) at the Coon Cedar Grove Mine with conditions.

Petitioner: D & A Resources, Inc.

[Docket No.: M–2000–122–C]

FR Notice: 65 FR 64261.

Regulation Affected: 30 CFR 75.503.

Summary of Findings: Petitioner's proposal is to use a threaded ring and a spring-loaded device on battery plug connectors on mobile battery-powered machines to prevent the plug connector from accidently disengaging while under load instead of using padlocks. This is considered an acceptable alternative method for the Mine No. 4. MSHA grants the petition for modification for the Mine No. 4 with conditions.

Petitioner: Magic Coal Company.

[Docket No.: M–2000–130–C]

FR Notice: 65 FR 64262.

Regulation Affected: 30 CFR 75.503.

Summary of Findings: Petitioner's proposal is to use a threaded ring and

a spring-loaded device on battery plug connectors on mobile battery-powered machines to prevent the plug connector from accidently disengaging while under load instead of using padlocks. This is considered an acceptable alternative method for the Magic Mine. MSHA grants the petition for modification for the Magic Mine with conditions.

Petitioner: Peabody Coal Company.

[Docket No.: M–2000–133–C]

FR Notice: 65 FR 64262.

Regulation Affected: 30 CFR 75.503.

Summary of Findings: Petitioner's proposal is to use a spring-loaded metal locking device to secure battery connecting plugs to machine-mounted battery receptacles on permissible mobile battery-powered scoop cars and tractors to prevent the cable plug from inadvertently disengaging from the receptacle instead of using padlocks. This is considered an acceptable alternative method for the Camp #11 Mine. MSHA grants the petition for modification for the Camp #11 Mine with conditions.

Petitioner: Consolidation Coal Company.

[Docket No.: M–1999–023–C]

FR Notice: 64 FR 25517.

Regulation Affected: 30 CFR 75.364(b)(2).

Summary of Findings: Petitioner's proposal is to establish evaluation points A and B to measure air and gas due to hazardous conditions in certain areas of the return air course, to maintain the evaluation points in good condition at all times, and to have a certified person test for methane and the quantity of air on a weekly basis and record the results, date, time, and his/her initials in a book kept on the surface, available for inspection by interested persons. This is considered an acceptable alternative method for the Rend Lake Mine. MSHA grants the petition for modification for the unsafe-to-travel segment (approximately 250 feet) of the 2 West Mains and North Mains return air course Mine with conditions.

Petitioner: Snyder Coal Company.

[Docket No.: M–1999–031–C]

FR Notice: 64 FR 32551.

Regulation Affected: 30 CFR 75.364(b)(1), (4), and (5).

Summary of Findings: Petitioner's proposal is to travel and thoroughly preshift examine the intake haulage slope and primary escapeway areas from the gunboat/slope car at the section's intake gangway level with an alternative air quality evaluation, and have the examiner record the results of these examinations in a book kept on the surface, instead of conducting daily or weekly examinations, due to significant fall hazards. This is considered an acceptable alternative method for the Rattling Run Slope Mine. MSHA grants the petition for modification for the Rattling Run Slope Mine with conditions.

Petitioner: Snyder Coal Company.

[Docket No.: M–1999–032–C]

FR Notice: 64 FR 32552.

Regulation Affected: 30 CFR 75.1100–2.

Summary of Findings: Petitioner's proposal is to use portable fire extinguishers where rock dust, water cars, and other water storage equipped with three 10 quart pails is not practical. The petitioner proposes to use two portable fire extinguishers near the slope bottom and an additional portable fire extinguisher within 500 feet of the working face. This is considered an acceptable alternative method for the Rattling Run Slope Mine. MSHA grants the petition for modification for the Rattling Run Slope Mine with conditions.

Petitioner: Canyon Fuel Company, LLC.

[Docket No.: M–1999–049–C]

FR Notice: 64 FR 41139.

Regulation Affected: 30 CFR 75.350.

Summary of Findings: Petitioner's proposal is to use belt air to ventilate working places in areas of the mine where two-entry mining system is not used. The petitioner proposes to install a low-level carbon monoxide monitoring system as an early warning fire detection system in all belt entries used as intake air courses. This is considered an acceptable alternative method for the Dugout Canyon Mine. MSHA grants the petition for modification to allow air coursed through conveyor belt entries to be used to ventilate working places, in sections of the mine that do not use a two-entry mining system, for the Dugout Canyon Mine with conditions.

Petitioner: Coal Miners, Inc.

[Docket No.: M–1999–50–C]

FR Notice: 64 FR 41139.

Regulation Affected: 30 CFR 75.350.

Summary of Findings: Petitioner's proposal is to use air coursed through belt haulage entries to ventilate active working places. The petitioner proposes to install a low-level carbon monoxide detection system as an early warning fire detection system in the supply road with branches extended to the beltline at certain locations. This is considered an acceptable alternative method for the Eagle Valley Mine. MSHA grants the petition for modification for the Eagle Valley Mine with conditions.

Petitioner: Consolidation Coal Company.

[Docket No.: M–1999–055–C]

FR Notice: 64 FR 41139.

Regulation Affected: 30 CFR 75.364(b)(4).

Summary of Findings: The Petitioner's proposal is to establish evaluation check points to conduct weekly examinations for methane in certain areas of the return air course, to use a smoke tube to verify the direction of air flow, and instruct the examiner to record the results of the examinations in a record book kept on the surface available to interested parties. This is considered an acceptable alternative method for the Shoemaker Mine. MSHA grants the petition for modification for the Shoemaker Mine with conditions.

Petitioner: Canyon Fuel Company, LLC.

[Docket No.: M–1999–057–C]

FR Notice: 64 FR 41140.

Regulation Affected: 75.360(b)(9).

Summary of Findings: Petitioner's proposal is to install an Atmospheric Monitoring System (AMS) for continuous monitoring of electrical installations for carbon monoxide and methane instead of conducting a preshift examination. This is considered an acceptable alternative method for the SUFCO Mine. MSHA grants the petition for modification for the preshift examination of remote electrical installations and compressors serving mine de-watering pump installations conducted by pumpers who are certified mine examiners at the SUFCO Mine with conditions.

Petitioner: Canyon Fuel Company, LLC.

[Docket No.: M–1999–073–C]

FR Notice: 64 FR 49247.

Regulation Affected: 30 CFR 75.1909(b)(6).

Summary of Findings: Petitioner's proposal is to use an alternate method in lieu of front wheel brakes on its diesel graders at the Skyline Mine No. 3, Dugout Canyon Mine, and SUFCO Mine. The petitioner proposes to limit the speed of the diesel graders to 10 miles per hour by blocking out gear ratios that provide a higher speed, and to train the grader operators to drop the grader blade in the event the brakes fail. This is considered an acceptable alternative method for the Skyline Mine No. 3, Dugout Canyon Mine, and the SUFCO Mine. MSHA grants the petition for modification for the Skyline Mine No. 3, Dugout Canyon Mine, and the SUFCO Mine with conditions.

Petitioner: Bowie Resources Limited.

[Docket No.: M–1999–100–C]

FR Notice: 64 FR 57663.

Regulation Affected: 30 CFR 75.1909(b)(6)

Summary of Findings: Petitioner's proposal is to use an alternate method in lieu of front wheel brakes on diesel graders used at the Bowie No. 2 Mine. The petitioner proposes to limit the speed of the graders to 10 miles per hour by block welding a steel stop bar across the gear selector slot to the 5th and 6th gears, and train the diesel grader operators to drop the grader blade in the event the brakes fail and on how to recognize the appropriate speeds to use on different roadway and slope conditions. This is considered an acceptable alternative method for the Bowie No. 2 Mine. MSHA grants the petition for modification for the Bowie No. 2 Mine with conditions.

Petitioner: Wabash Mine Holding Company.

[Docket No.: M–1999–107–C]

FR Notice: 64 FR 70054.

Regulation Affected: 30 CFR 75.1909(b)(6).

Summary of Findings: Petitioner's proposal is to use an alternate method in lieu of the front wheel brakes on diesel graders. The petitioner proposes to equip diesel graders with devices that limit the speed of the diesel graders to 10 miles per hour and to train the diesel grader operators to drop the grader blade in the event the brakes fail. This is considered an acceptable alternative method for the Wabash Mine. MSHA grants the petition for modification for the Wabash Mine with conditions.

Petitioner: Blue Mountain Energy, Inc.

[Docket No.: M–1999–109–C]

FR Notice: 64 FR 70054.

Regulation Affected: 30 CFR 75.1909(b)(6).

Summary of Findings: Petitioner's proposal is to use an alternate method in lieu of the front wheel brakes on diesel graders. The petitioner proposes to equip diesel graders with devices that limit the speed of the diesel graders to 10 miles per hour and to train the diesel grader operators to drop the grader blade in the event the brakes fail. This is considered an acceptable alternative method for the Deserado Mine. MSHA grants the petition for modification for the Deserado Mine with conditions.

Petitioner: Black Beauty Coal Company.

[Docket No.: M–1999–110–C]

FR Notice: 64 FR 70054.

Regulation Affected: 30 CFR 75.1909(b)(6).

Summary of Findings: Petitioner's proposal is to use an alternate method in lieu of the front wheel brakes on diesel graders. The petitioner proposes to limit the speed of the diesel graders to 10 miles per hour and to train the diesel grader operators to drop the grader blade in the event the brakes fail. This is considered an acceptable alternative method for the Air Quality #1 Mine. MSHA grants the petition for modification for the Air Quality ι1 Mine with conditions.

Petitioner: Consolidation Coal Company.

[Docket No.: M–1999–119–C]

FR Notice: 64 FR 70055.

Regulation Affected: 30 CFR 75.312(c) and (d).

Summary of Findings: Petitioner's proposal is to test automatic closing doors and automatic fan signal devices every 31 days without shutting down the fan and without removing miners from the mine. This is considered an acceptable alternative method for the Shoemaker Mine. MSHA grants the petition for modification for the Shoemaker Mine for tests of: (1) The automatic fan stoppage signal device; and (2) the automatic closing air flow reversal prevention doors to be performed without shutting down the mine fan, and without removing the miners from the mine with conditions.

Petitioner: Plateau Mining Company.

[Docket No.: M–1999–137–C]

FR Notice: 64 FR 1914.

Regulation Affected: 30 CFR 75.1909(b)(6).

Summary of Findings: Petitioner's proposal is to use an alternative method in lieu of the front wheel brakes on diesel graders. The petitioner proposes to equip diesel graders with devices that limit the speed of the diesel graders to 10 miles per hour, and to train the diesel grader operators to drop the grader blade in the event the brakes fail. This is considered an acceptable alternative method for the Willow Creek Mine. MSHA grants the petition for modification for the Willow Creek Mine with conditions.

Petitioner: Lodestar Energy, Inc.

[Docket No.: M–1999–141–C]

FR Notice: 65 FR 1914.

Regulation Affected: 30 CFR 75.1909(b)(6).

Summary of Findings: Petitioner's proposal is to use an alternative method in lieu of the front wheel brakes on diesel graders. The petitioner proposes to equip the diesel grader with devices that limit the speed of the diesel grader to 10 miles per hour, and to train the diesel grader operators to drop the grader blade in the event the brakes fail. This is considered an acceptable alternative method for the Baker Mine. MSHA grants the petition for modification for the Baker Mine with conditions.

Petitioner: Mallie Coal Company, Inc.

[Docket No.: M–98–091–C]

FR Notice: 64 FR 2519.

Regulation Affected: 30 CFR 75.380(f)(4).

Summary of Findings: Petitioner's proposal is to use one twenty or two ten-pound portable chemical fire extinguishers on each Mescher Jeep. The petitioner proposes to install one fire extinguisher in the operator's deck if two fire extinguishers are used, and install the other fire extinguisher on the jeep readily accessible to the operator. If one fire extinguisher is used, it will be installed in the operator's deck. A total of twenty pounds of fire extinguisher capability will be carried on each jeep and the operator will inspect each fire extinguisher daily prior to entering the mine. This is considered an acceptable alternative method for the Mine No. 4. MSHA grants the petition for modification for the Mine No. 4 with conditions.

[FR Doc. 01–13042 Filed 5–22–01; 8:45 am]

BILLING CODE 4510–43–U

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. ICR–1218–0173(2001)]

Course Evaluation Form; Extension of the Office of Management of Budget's Approval of Information-Collection (Paperwork) Requirements

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice of an opportunity for public comment.

SUMMARY: OSHA solicits public comment concerning its request for an extension of the information-collection requirements contained in its Course Evaluation Form.

Request for Comment: The Agency has a particular interest in comments on the following issues:

- Whether the proposed information-collection requirements are necessary for the proper performance of the Agency's functions, including whether the information is useful;
- The accuracy of the Agency's estimate of the burden (time and costs) of the information-collection requirements, including the validity of the methodology and assumptions used;

• The quality, utility, and clarity of the information collected; and

• Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information-collection and -transmission techniques.

DATES: The public must submit written comments to the office listed under **ADDRESSES** on or before July 23, 2001.

ADDRESSES: Submit written comments to the Docket Office, Docket No. ICR 1218–0173(2001), OSHA, U.S. Department of Labor, Room N–2625, 200 Constitution Avenue, NW., Washington, DC 20201; telephone: (202) 693–2350. Commenters may transmit written comments of 10 pages or less by facsimile to: (202) 693–1648.

FOR FURTHER INFORMATION CONTACT: Gail Butler, Division of Administration and Training Information, OSHA Office of Training and Education, 1555 Times Drive, Des Plaines, Illinois 60018; telephone (not toll free): (847) 297–4810; e-mail: *gail.butler@osha.gov* or facsimile: (847) 297–4810. A copy of the Agency's Information-Collection Request (ICR) supporting the need for information-collection requirements specified in the Course Evaluation Form is available for inspection and copying in the Docket Office, or by requesting a mailed copy from Todd Owen at (202) 693–2444. For electronic copies of this ICR, contact OSHA on the Internet at *http://www.osha.gov/.*

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of it containing effect to reduce paperwork and respondent (e.g., employer) burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and continuing information-collection requirements in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments are clearly understood, and OSHA's estimate of the information burden is correct.

Section 21 of the Occupational Safety and Health Act of 1970 (the ''OSHA Act'') (see 29 U.S.C. 670) authorizes the Occupational Safety and Health Administration (''OSHA'' or the ''Agency'' to conduct training and employee education. Paragraphs (a), (b), and (c) of Section 21 require, respectively, that the Agency: ''(C)onduct, directly or by grants or contracts,(1) education programs to provide an adequate supply of qualified personnel to carry out the purposes of this Act, and(2) informational programs on the importance of and proper use of adequate safety and health equipment''; ''(C)onduct, directly or by grants or contracts, short-term training of personnel engaged in work related to (their) responsibilities under the Act''' and ''(1) provide for the establishment and supervision of programs for the education and training of employers and employees in the recognition, avoidance, and prevention of unsafe and unhealthful working conditions in employments covered by this Act, and (2) consult with and advise employers and employees, and organizations representing employers and employees as to effective means of preventing occupational injuries and illnesses.

As authorized by the appropriate provisions of section 21 of the Act, the OSHA Training Institute (the ''Institute'') provides basic, intermediate, and advanced training and education in occupational safety and health for federal and state compliance officers, Agency professionals and technical-support personnel, employers, employees, organizations representing employees and employers, educators who develop curricula and teach occupational safety and health courses, and representatives of professional safety and health groups. This program includes the courses on occupational safety and health provided by the Institute at its national training facility in Des Plaines, Illinois. In addition to conducting courses at the OSHA Training Institute in Des Plaines, Illinois, the Institute is also administering a program whereby several institutions in various locations throughout the United States have been authorized as OSHA Training Institute Education Centers. These Education Centers conduct a specific number of OSHA courses that are geared for private sector and other Federal Agency personnel. The goal of the Education Center program is to expand the accessibility of high-quality OSHA training courses.

All students completing training courses at the Institute and the Education Centers are requested to complete the Course Evaluation Form (OSHA Form 49, 08–98 edition) on the last day of class. Students may be Federal, state, private sector, local or tribal government employees. The Course Evaluation Form contains ten close-ended questions. The form requests participant feedback on ten elements to assess communication and accomplishment of learning objectives, course content, training environment, relevance of topics to job, effectiveness of exercises, workshops, laboratories, field trips and audiovisuals, usefulness of course materials and handouts, and overall rating of course. The feedback provides an overall impression of the student's experience for the course. Students provide more detailed feedback in the narrative sections of the form. Course Evaluation Form student input provides a standardized tool for collecting quality data that has been used to determine program successes and shortcomings. This quality data has assisted the Training Institute in directing resources where they can do the most good. All Course Evaluation Forms are reviewed by the course chairperson, instructors, the Institute Director and the supervisor responsible for that course. Ratings provide baseline data from which to draw conclusions about the effectiveness and quality of the training courses and to assess the level of student satisfaction with the course. Evaluation data is used to determine which courses may need improvement. Problem areas are noted and the supervisor discusses them with the course chairperson. Courses needing further improvement are scheduled for a more comprehensive follow-up course evaluation with recommendations for improvement. Revised courses are closely monitored to determine if problem areas have been resolved.

II. Proposed Actions

OSHA proposes to extend Office of Management and Budget (OMB) approval of the collection-of-information (paperwork) requirements specified in Course Evaluation Form. The Agency will summarize the comments submitted in responses to this notice, and will include this summary in its request to OMB to extend the approval of these information-collection requirements.

Type of Review: Extension of currently approved information-collection requirements.

Title: Course Evaluation Form.

OMB Number: 1218–0173.

Affected Public: Individuals; business or other for-profit organizations; Federal government; State, Local, or Tribal governments.

Number of Respondents: 16,300.

Frequency: On occasion.

Total Responses: 16,300.

Average Time per Response: 10 minutes.

Estimated Total Burden Hours: 2,716 hours.

IV. Authority and Signature

R. Davis Layne, Acting Assistant Secretary of Labor for Occupational

Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506) and the Secretary of Labor's Order No. 3–2000 (65 FR 50017).

Dated: Signed at Washington, DC on May 18, 2001.

R. Davis Layne,

Acting Assistant Secretary of Labor.

[FR Doc. 01–13043 Filed 5–22–01; 8:45 am]

BILLING CODE 4510–26–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts Combined Arts Advisory Panel

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), as amended, notice is hereby given that two meetings of the Leadership Initiatives Advisory Panel to the National Council on the Arts will be held at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 2506 as follows:

Visual Arts (Creativity and Organizational Capacity categories): June 19–21, 2001, Room 716. A portion of this meeting, from 1:30 a.m. to 2:30 p.m. on June 21st, will be open to the public for policy discussion. The remaining portions of this meeting, from 9 a.m. to 5:30 p.m. on June 19th and 20th, and from 9 a.m. to 11 a.m. and 12 p.m. to 5 p.m. on June 21st, will be closed.

Opera (Creativity and Organizational Capacity categories): June 26–27, 2001, Room 714. A portion of this meeting, from 1 p.m. to 2 p.m. on June 27th, will be open to the public for policy discussion. The remaining portions of this meeting, from 10 a.m. to 6:15 p.m. on June 26th, and from 9 a.m. to 1 p.m. and 2 p.m. to 4:30 p.m. on June 27th, will be closed.

The closed portions of these meetings are for the purposes of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of May 12, 2000, these sessions will be closed to the public pursuant to (c)(4)(6) and (9)(B) of section 552b of Title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels that are open to the public, and, if time allows, may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of AccessAbility, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682–5532, TDDY–TDD 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Kathy Plowitz-Worden, Office of Guidelines & Panel Operations, National Endowment for the Arts, Washington, DC 20506, or call 202/682–5691.

Dated: May 17, 2001.

Kathy Plowitz-Worden,

Panel Coordinator, Panel Operations, National Endowment for the Arts.

[FR Doc. 01–12911 Filed 5–22–01; 8:45 am]

BILLING CODE 7537–01–M

NATIONAL INSTITUTE FOR LITERACY

Notice of Meeting

AGENCY: National Institute for Literacy (NIFL).

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Institute for Literacy Board (Advisory Board). This notice also describes the function of the Advisory Board. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend the meeting.

DATE AND TIME: June 7, 2001 from 10:00 am to 5:00 pm.

ADDRESSES: National Institute for Literacy, 1775 I Street, NW., Suite 730, Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Shelly Coles, Executive Assistant, National Institute for Literacy, 1775 I Street, NW., Suite 730, Washington, DC 20006. Telephone number (202) 233–2027, email scoles@nifl.gov.

SUPPLEMENTARY INFORMATION: The Advisory Board is established under the Workforce Investment Act of 1998, Title II of Public Law 105–220, Sec. 242, the National Institute for Literacy. The Advisory Board consists of ten individuals appointed by the President with the advice and consent of the Senate. The Advisory Board is established to advise and make recommendations to the Interagency Group, composed of the Secretaries of Education, Labor, and Health and Human Services, which administers the National Institute for Literacy (Institute). The Interagency Group considers the Advisory Board's recommendations in planning the goals of the Institute and in the implementation of any programs to achieve the goals of the Institute. Specifically, the Advisory Board performs the following function (a) Makes recommendations concerning the appointment of the Director and the staff of the Institute; (b) provides independent advice on operation of the Institute; and (c) receives reports from the Interagency Group and Director of the Institute. In addition, the Institute consults with the Advisory Board on the award of fellowships. The National Institute for Literacy Advisory Board meeting on June 7, 2001, will focus on future and current NIFL programs activities, and other relevant literacy activities and issues. Records are kept of all Advisory Board proceedings and are available for public inspection at the National Institute for Literacy, 1775 I Street, NW., Suite 730, Washington, DC 20006, from 8:30 am to 5 pm.

Dated: May 14, 2001.

Carolyn Y. Staley,

Acting Executive Director.

[FR Doc. 01–12994 Filed 5–22–01; 8:45 am]

BILLING CODE 6055–01–M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Meeting Notice

In accordance with the purposes of sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b), the Advisory Committee on Reactor Safeguards will hold a meeting on June 6–8, 2001, in Conference Room T–2B3, 11545 Rockville Pike, Rockville, Maryland. The date of this meeting was previously published in the **Federal Register** on Friday, November 17, 2000 (65 FR 69578).

Wednesday, June 6, 2001

8:30 a.m.–8:35 a.m.: Opening Remarks by the ACRS Chairman (Open)—The ACRS Chairman will make opening remarks regarding the conduct of the meeting.

8:35 a.m.–11:20 a.m.: Proposed Risk-Informed Revisions to 10 CFR 50.46 and Proposed Revisions to the Framework for Risk-Informing the Technical Requirements of 10 CFR Part 50 (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding proposed risk-informed revisions to 10 CFR 50.46, ''Acceptance Criteria for Emergency Core Cooling Systems for Light-Water Nuclear Power Reactors,'' and proposed revisions to the framework for risk-informing the technical requirements of 10 CFR Part 50.

11:20 a.m.–12:15 p.m.: Potential Margin Reductions Associated with Power Uprates (Open)—The Committee will hear a presentation by and hold discussions with ACRS Senior Fellow, Dr. A. W. Cronenberg, regarding his

views on the adequacy of the staff's review process for power uprates and potential safety margin reductions associated with power uprates.

1:15 p.m.–3:15 p.m.: Draft Final Safety Evaluation Report for the South Texas Project Nuclear Operating Company (STPNOC) Request to Exclude Certain Components from the Scope of Special Treatment Requirements Required by Regulations (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding the draft final Safety Evaluation Report on the STPNOC exemption request.

3:35 p.m.–4:30 p.m.: Discussion of General Design Criteria (Open)—The Committee will hear a presentation by and hold discussions with Mr. J. N. Sorensen, ACRS Senior Fellow, regarding his views on risk-informing General Design Criteria included in Appendix A to 10 CFR Part 50.

4:50 p.m.–7:00 p.m.: Discussion of Proposed ACRS Reports (Open)—The Committee will discuss proposed ACRS reports on matters considered during this meeting, as well as proposed ACRS reports on: Risk-Based Performance Indicators; Response to the EDO's letter of April 12, 2001 on Topics Raised by the ACRS Pertaining to Issues Associated with Industry Use of Thermal-Hydraulic Codes; and Response to NRC Chairman Meserve's May 7, 2001 Memorandum Regarding Differing Professional Opinion on Steam Generator Tube Issues.

Thursday, June 7, 2001

8:30 a.m.–8:35 a.m.: Opening Remarks by the ACRS Chairman (Open)—The ACRS Chairman will make opening remarks regarding the conduct of the meeting.

8:35 a.m.–9:45 a.m.: Need to Revise 10 CFR Part 54, ''Requirements for Renewal of Operating Licenses for Nuclear Power Plants'' (Open)—The Committee will discuss the need for revising 10 CFR Part 54.

10:00 a.m.–11:00 a.m.: Regulatory Challenges for Advanced Power Reactors (Open)—The Committee will discuss follow-up matters resulting from the June 4–5, 2001 Workshop of the ACRS Subcommittee on Advanced Reactors and develop a course of action for dealing with these matters in the future.

11:00 a.m.–11:45 a.m.: Future ACRS Activities/Report of the Planning and Procedures Subcommittee (Open)—The Committee will discuss the recommendations of the Planning and Procedures Subcommittee regarding items proposed for consideration by the full Committee during future meetings. Also, it will hear a report of the Planning and Procedures Subcommittee on matters related to the conduct of ACRS business, and organizational and personnel matters relating to the ACRS.

11:45 a.m.–12:00 Noon: Reconciliation of ACRS Comments and Recommendations (Open)—The Committee will discuss the responses from the NRC Executive Director for Operations (EDO) to comments and recommendations included in recent ACRS reports and letters. The EDO responses are expected to be made available to the Committee prior to the meeting.

1:00 p.m.–1:30 p.m.: Arrangements for the Visit to the Waterford Plant and Region IV Office (Open)—The Committee will discuss arrangements and logistics for the June 27–28, 2001, visit to the Waterford Plant and NRC Region IV Office.

1:30 p.m.–7:00 p.m.: Discussion of Proposed ACRS Reports (Open)—The Committee will discuss proposed ACRS reports.

Friday, June 8, 2001

8:30 a.m.–8:35 a.m.: Opening Remarks by the ACRS Chairman (Open).

8:35 a.m.–9:00 a.m.: Proposed ACRS Reports (Open)—The Committee will continue its discussion of proposed ACRS reports.

9:00 a.m.–10:00 a.m.: Meeting with Commissioner Dicus (Open)—The Committee will meet with NRC Commissioner Dicus to discuss items of mutual interest.

10:15 a.m.–2:30 p.m.: Proposed ACRS Reports (Open)—The Committee will continue its discussion of proposed ACRS reports.

2:30 p.m.–3:00 p.m.: Miscellaneous (Open)—The Committee will discuss matters related to the conduct of Committee activities and matters and specific issues that were not completed during previous meetings, as time and availability of information permit.

Procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 11, 2000 (65 FR 60476). In accordance with these procedures, oral or written views may be presented by members of the public, including representatives of the nuclear industry. Electronic recordings will be permitted only during the open portions of the meeting and questions may be asked only by members of the Committee, its consultants, and staff. Persons desiring to make oral statements should notify Mr. James E. Lyons, ACRS, five days before the meeting, if possible, so that appropriate arrangements can be made to allow necessary time during the meeting for such statements. Use of still, motion picture, and television cameras during the meeting may be limited to selected portions of the meeting as determined by the Chairman. Information regarding the time to be set aside for this purpose may be obtained by contacting Mr. James E. Lyons prior to the meeting. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with Mr. James E. Lyons if such rescheduling would result in major inconvenience.

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements, and the time allotted therefor can be obtained by contacting Mr. James E. Lyons (telephone 301–415–7371), between 7:30 a.m. and 4:15 p.m., EDT.

ACRS meeting agenda, meeting transcripts, and letter reports are available for downloading or viewing on the internet at http://www.nrc.gov/ACRSACNW.

Videoteleconferencing service is available for observing open sessions of ACRS meetings. Those wishing to use this service for observing ACRS meetings should contact Mr. Theron Brown, ACRS Audio Visual Technician (301–415–8066), between 7:30 a.m. and 3:45 p.m., EDT, at least 10 days before the meeting to ensure the availability of this service. Individuals or organizations requesting this service will be responsible for telephone line charges and for providing the equipment facilities that they use to establish the videoteleconferencing link. The availability of videoteleconferencing services is not guaranteed.

Dated: May 17, 2001.

Andrew L. Bates,

Advisory Committee Management Officer.

[FR Doc. 01–13016 Filed 5–22–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards, Subcommittee Meeting on Planning and Procedures; Notice of Meeting

The ACRS Subcommittee on Planning and Procedures will hold a meeting on June 6, 2001, Room T–2B1, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance, with the exception of a portion that may be closed pursuant to 5 U.S.C. 552b(c) (2) and (6) to discuss organizational and personnel matters that relate solely to internal personnel rules and practices of ACRS, and information the release of which would constitute a clearly unwarranted invasion of personal privacy.

The agenda for the subject meeting shall be as follows:

Wednesday, June 6, 2001—12:15 p.m. Until 1:00 p.m.

The Subcommittee will discuss proposed ACRS activities and related matters. The purpose of this meeting is to gather information, analyze relevant issues and facts, and to formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Electronic recordings will be permitted only during those portions of the meeting that are open to the public, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the cognizant ACRS staff person named below five days prior to the meeting, if possible, so that appropriate arrangements can be made.

Further information regarding topics to be discussed, the scheduling of sessions open to the public, whether the meeting has been canceled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements, and the time allotted therefor can be obtained by contacting the cognizant ACRS staff person, Dr. John T. Larkins (telephone: 301/415–7360) between 7:30 a.m. and 4:15 p.m. (EDT). Persons planning to attend this meeting are urged to contact the above named individual one or two working days prior to the meeting to be advised of any changes in schedule, etc., that may have occurred.

Dated: May 15, 2001.

James E. Lyons,

Associate Director for Technical Support ACRS/ACNW.

[FR Doc. 01–13017 Filed 5–22–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Meeting of the ACRS Subcommittee on Reliability and Probabilistic Risk Assessment; Notice of Meeting

The ACRS Subcommittee on Reliability and Probabilistic Risk Assessment will hold a meeting on June 22, 2001, Room T–2B3, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Friday, June 22, 2001—8:30 a.m. until 12 p.m.

The Subcommittee will review the staff's draft Individual Plant Examination of External Events (IPEEE) Insight Report (draft NUREG–1742). The purpose of this meeting is to gather information, analyze relevant issues and facts, and to formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Electronic recordings will be permitted only during those portions of the meeting that are open to the public, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the cognizant ACRS staff engineer named below five days prior to the meeting, if possible, so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC staff, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, and the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by contacting the cognizant ACRS staff engineer, Mr. Michael T. Markley (telephone 301/415–6885) between 7:30 a.m. and 4:15 p.m. (EDT). Persons planning to attend this meeting are urged to contact the above named individual one or two working days prior to the meeting to be advised of any potential changes to the agenda, etc., that may have occurred.

Dated: May 17, 2001.

James E. Lyons,

Associate Director for Technical Support, ACRS/ACNW.

[FR Doc. 01–13018 Filed 5–22–01; 8:45 am]

BILLING CODE 7590–01–P

POSTAL SERVICE

Changes in Domestic Rates and Fees on Modification

AGENCY: Postal Service.

ACTION: Notice of implementation of changes to domestic rates and fees.

SUMMARY: This notice sets forth the changes to domestic rates and fees to be implemented as a result of the Decision of the Governors of the United States Postal Service on the Recommended Decision on Further Reconsideration of the Postal Rate Commission on Postal Rate and Fee Changes, Docket No. R2000–1, dated May 7, 2001.

EFFECTIVE DATE: July 1, 2001.

FOR FURTHER INFORMATION CONTACT: Daniel J. Foucheaux, Jr., (202) 268–2989.

SUPPLEMENTARY INFORMATION: On January 12, 2000, pursuant to its authority under 39 U.S.C. 3621, *et seq.*, the Postal Service filed with the Postal Rate Commission (PRC) a Request for a Recommended Decision on Proposed Changes in Rates of Postage and Fees for Postal Services (Request). The PRC designated the filing as Docket No. R2000–1. On November 13, 2000, pursuant to its authority under 39 U.S.C. 3624, the PRC issued its Recommended Decision on the Postal Service's Request to the Governors of the Postal Service.

Pursuant to 39 U.S.C. 3625, the Governors of the United States Postal Service acted on the PRC's recommendations on December 4, 2000. In one decision, the Governors rejected the PRC's recommendations regarding Courtesy Envelope Mail, Information-Based Inidicia Program Mail, a flat-rate envelope for Priority Mail, and maximum weight figures for Standard Mail letters and breakpoint figures for Standard Mail. Decision of the Governors of the United States Postal Service on the Recommended Decision of the Postal Rate Commission on Selected Mail Classification Matters, Docket No. R2000–1. In the second decision, the Governors acted on the remainder of the PRC's recommendations. Decision of the

Governors of the United States Postal Service on the Recommended Decision of the Postal Rate Commission on Postal Rate and Fee Changes, Docket No. R2000–1. The Governors allowed under protest all of the remaining classification, fee, and rate changes. The Governors requested reconsideration of a number of issues from the Commission, including revenue requirement, First-Class Mail costs, Bound Printed Matter rates, and nonprofit Standard Mail rates. The Commission thereafter issued a notice soliciting comments on matters allowed under protest in the Governors' decision.

In the Commission's Further Recommended Decision, issued on February 9, 2001, the Commission recommended changes to rates for Bound Printed Matter and Certified Mail, but declined to make further adjustments in the revenue requirement. In a decision dated March 5, 2001, the Governors rejected the Commission's Further Recommended Decision, and resumbitted the Request, pursuant to 39 U.S.C.3625(d). Decision of the Governors of the Unitd States Postal Service on the Further Recommended Decision of the Postal Rate Commission on Postal Rate and Fee Changes, Docket No. R2000–1. On April 10, 2001, the Commission issued an Opinion and Recommended Decision on Further Reconsideration, wherein it declined to reconsider its rate recommendations. On May 7, 2001, the Governors exercised their authority to modify the rates recommended by the Commission. Decision of the Governors of the United States Postal Service on the Recommended Decision on Further Reconsideration of the Postal Rate Commission on Postal Rate and Fee Changes, Docket No. R2000–1.

Attachment A to the Governors' Decision on Further Reconsideration, setting forth the fee and rate changes ordered into effect by the Governors, is set forth below. The rates and fees shown below reflect the revisions made to Rate Schedules 122 (Express Mail Custom Designed), 521.2C (Parcel Select DMBC Rates), and 522A-D (Bound Printed Matter) in errata issued on May 15, 2001. In accordance with the Decision of the Governors and Resolution No. 01–8 of the Board of Governors, the Postal Service hereby gives notice that the rate and fee changes set forth below will become effective at 12:01 a.m. on July 1, 2001.

Attachment A To The Decision Of The Governors Of The United States Postal Service On The Recommended Decision On Further Reconsideration Of The Postal Rate Commission On Postal Rate And Fee Changes, Docket No. R2000–1

MODIFIED RATE AND FEE SCHEDULES

[Express Mail Schedules 121, 122 and 123]

Weight not exceeding (pounds)	Schedule 121 Same Day Airport Service	Schedule 122 Custom Designed	Schedule 123 Next Day and Second Day PO to PO	Schedule 123 Next Day and Second Day PO to Addressee
½		$9.40	$9.55	$12.45
1		13.95	14.10	16.25
2		13.95	14.10	16.25
3		16.90	17.05	19.15
4		19.75	19.90	22.05
5		22.60	22.75	24.85
6		25.45	25.60	27.70
7		28.15	28.30	30.45
8		29.40	29.55	31.65
9		30.65	30.80	32.95
10		31.85	32.00	34.15
11		33.40	33.55	35.70
12		35.85	36.00	38.10
13		37.10	37.25	39.85
14		38.50	38.65	40.80
15		39.75	39.90	42.00
16		41.10	41.25	43.40
17		42.50	42.65	44.75
18		43.75	43.90	46.05
19		45.05	45.20	47.35
20		46.45	46.60	48.70
21		47.70	47.90	50.00
22		49.00	49.20	51.30
23		50.40	50.60	52.70
24		51.65	51.80	53.95
25		53.00	53.20	55.25
26		54.30	54.45	56.60
27		55.65	55.85	57.90
28		56.95	57.10	59.25
29		58.30	58.45	60.55
30		59.65	59.80	61.90
31		60.95	61.10	63.20
32		62.25	62.40	64.55
33		63.60	63.75	65.80
34		64.90	65.05	67.20
35		66.25	66.40	68.45
36		67.55	67.70	69.85
37		68.80	68.95	71.35
38		70.40	70.35	73.00
39		72.00	71.65	74.60

MODIFIED RATE AND FEE SCHEDULES—Continued

[Express Mail Schedules 121, 122 and 123]

Weight not exceeding (pounds)	Schedule 121 Same Day Airport Service	Schedule 122 Custom Designed	Schedule 123 Next Day and Second Day PO to PO	Schedule 123 Next Day and Second Day PO to Addressee
40		73.65	73.10	76.25
41		75.25	74.70	77.85
42		76.90	76.35	79.55
43		78.50	77.95	81.10
44		80.15	79.60	82.70
45		81.75	81.20	84.15
46		83.10	82.75	85.40
47		84.50	84.45	86.90
48		85.85	86.00	88.20
49		87.20	87.35	89.50
50		88.50	88.65	90.85
51		89.95	90.15	92.30
52		91.25	91.40	93.60
53		92.65	92.80	95.00
54		94.00	94.15	96.30
55		95.30	95.50	97.70
56		96.80	96.95	99.10
57		98.05	98.20	100.40
58		99.40	99.55	101.80
59		100.95	101.10	103.30
60		102.50	102.65	104.85
61		104.25	104.40	106.60
62		105.80	105.95	108.20
63		107.45	107.60	109.75
64		109.10	109.30	111.50
65		110.75	110.90	113.05
66		112.45	112.60	114.80
67		114.05	114.20	116.35
68		115.75	115.90	118.10
69		117.35	117.50	119.65
70		118.95	119.10	121.30

Schedules 121, 122 and 123 Notes:
1. The applicable 2-pound rate is charged for matter sent in a 'flat rate' envelope provided by the Postal Service.
2. Add $10.25 for each pickup stop.
3. Add $10.25 for each Custom Designed delivery stop.

FIRST-CLASS MAIL RATE SCHEDULE 221

[Letters and Sealed Parcels]

	Rate (cents)
Regular	
Single Piece: First Ounce	34.0
Presort [1]	32.2
Qualified Business Reply Mail	31.0
Additional Ounce [2]	23.0
Nonstandard Surcharge	
Single Piece	11.0
Presort	5.0
Automation-Presort [1]	
Letters [3]	
Basic Presort [4]	28.0
3-Digit Presort [5]	26.9
5-Digit Presort [6]	25.5
Carrier Route Presort [7]	24.5
Flats [8]	
Basic Presort [9]	31.2
3-Digit Presort [10]	29.7
5-Digit Presort [11]	27.7
Additional Ounce [2]	23.0
Nonstandard Surcharge	5.0

Schedule 221 Notes

[1] A mailing fee of $125.00 must be paid once each year at each office of mailing by any person who mails other than Single Piece First-Class Mail. Payment of the fee allows the mailer to mail at any First-Class rate. For presorted mailings weighing more than 2 ounces, subtract 4.6 cents per piece.

[2] Rate applies through 13 ounces. Heavier pieces are subject to Priority Mail rates.

[3] Rates apply to bulk-entered mailings of at least 500 letter-size pieces, which must be delivery point barcoded and meet other preparation requirements specified by the Postal Service and, for the Basic Presort rate, documents provided for entry as mail using Mailing Online or a functionally equivalent service, pursuant to section 981.

[4] Rate applies to letter-size Automation-Presort category mail not mailed at 3-Digit, 5-Digit, or Carrier Route rates.

[5] Rate applies to letter-size Automation-Presort category mail presorted to single or multiple three-digit ZIP Code destinations specified by the Postal Service.

[6] Rate applies to letter-size Automation-Presort category mail presorted to single or multiple five-digit ZIP Code destinations specified by the Postal Service.

[7] Rate applies to letter-size Automation-Presort category mail presorted to carrier routes specified by the Postal Service.

[8] Rates apply to bulk-entered mailings of at least 500 flat-size pieces, each of which must be delivery point barcoded or bear a ZIP+4 barcode, and must meet other preparation requirements specified by the Postal Service, and, for the Basic Presort rate, to documents provided for entry as mail using Mailing Online or a functionally equivalent service, pursuant to section 981.

[9] Rate applies to flat-size Automation-Presort category mail not mailed at the 3-Digit or 5-Digit rate.

[10] Rate applies to flat-size Automation-Presort category mail presorted to single or multiple three-digit ZIP Code destinations specified by the Postal Service.

[11] Rate applies to flat-size Automation-Presort category mail presorted to single or multiple five-digit ZIP Code destinations specified by the Postal Service.

FIRST-CLASS MAIL RATE SCHEDULE 222

[Cards]

	Rate (cents)
Regular	
Single Piece	21.0
Presort [1]	19.0
Qualified Business Reply Mail	18.0

FIRST-CLASS MAIL RATE SCHEDULE 222—Continued

[Cards]

	Rate (cents)
Automation-Presort [1, 2]	
Basic Presort [3]	17.4
3-Digit Presort [4]	16.8
5-Digit Presort [5]	16.1
Carrier Route Presort [6]	15.0

Schedule 222 Notes

[1] A mailing fee of $125.00 must be paid once each year at each office of mailing by any person who mails other than Single Piece First-Class Mail. Payment of the fee allows the mailer to mail at any First-Class rate.

[2] Rates apply to bulk-entered mailings of at least 500 pieces, which must be barcoded and meet other preparation requirements specified by the Postal Service and, for the Basic Presort rate, to documents provided for entry as mail using Mailing Online or a functionally equivalent service, pursuant to section 981.

[3] Rate applies to Automation-Presort category mail not mailed at 3-Digit, 5-Digit, or Carrier Route rates.

[4] Rate applies to Automation-Presort category mail presorted to single or multiple three-digit ZIP Code destinations as specified by the Postal Service.

[5] Rate applies to Automation-Presort category mail presorted to single or multiple five-digit ZIP Code destinations as specified by the Postal Service.

[6] Rate applies to Automation-Presort category mail presorted to carrier routes specified by the Postal Service.

FIRST-CLASS MAIL SCHEDULE 223

[Priority Mail Subclass]

Weight not exceeding (pounds)	Zones L[1, 2, 3]	Zone 4	Zone 5	Zone 6	Zone 7	Zone 8
1	$3.50	$3.50	$3.50	$3.50	$3.50	$3.50
2	3.95	3.95	3.95	3.95	3.95	3.95
3	5.20	5.20	5.20	5.20	5.20	5.20
4	6.45	6.45	6.45	6.45	6.45	6.45
5	7.70	7.70	7.70	7.70	7.70	7.70
6	8.10	8.30	8.35	8.50	9.55	10.40
7	8.40	8.90	9.00	9.30	10.60	11.85
8	8.50	9.50	9.65	10.10	11.65	13.30
9	8.65	10.10	10.30	10.90	12.70	14.75
10	8.75	10.65	10.95	11.80	13.75	16.20
11	9.00	11.25	11.60	12.80	14.80	17.65
12	9.25	11.85	12.25	13.75	15.85	19.10
13	9.65	12.45	12.90	14.75	16.90	20.55
14	10.05	13.05	13.55	15.70	17.95	22.00
15	10.45	13.65	14.20	16.65	19.00	23.45
16	10.85	14.25	14.85	17.60	20.05	24.90
17	11.25	14.85	15.50	18.60	21.10	26.35
18	11.65	15.45	16.30	19.55	22.15	27.80
19	12.05	16.05	17.05	20.50	23.20	29.25
20	12.45	16.65	17.85	21.40	24.25	30.70
21	12.85	17.25	18.60	22.40	25.30	32.15
22	13.25	17.85	19.35	23.35	26.35	33.60
23	13.65	18.45	20.15	24.30	27.40	35.05
24	14.05	19.05	20.95	25.25	28.45	36.50
25	14.45	19.65	21.75	26.25	29.50	37.95
26	14.85	20.25	22.45	27.20	30.55	39.40
27	15.25	20.85	23.25	28.15	31.60	40.85
28	15.65	21.45	24.05	29.10	32.65	42.30
29	16.05	22.05	24.85	30.05	33.70	43.75
30	16.45	22.65	25.60	31.05	34.75	45.20
31	16.85	23.25	26.35	31.95	35.80	46.65
32	17.25	23.85	27.15	32.90	36.85	48.10
33	17.65	24.45	27.95	33.85	37.90	49.55
34	18.05	25.05	28.70	34.80	38.95	51.00
35	18.45	25.65	29.50	35.80	40.00	52.45
36	18.85	26.25	30.25	36.75	41.05	53.90
37	19.25	26.95	31.05	37.70	42.10	55.35
38	19.65	27.55	31.80	38.70	43.15	56.80
39	20.05	28.25	32.60	39.65	44.20	58.25
40	20.45	28.95	33.40	40.60	45.25	59.70
41	20.85	29.55	34.15	41.55	46.30	61.15
42	21.25	30.25	34.90	42.45	47.40	62.60
43	21.65	30.90	35.70	43.45	48.45	64.05
44	22.05	31.55	36.50	44.40	49.55	65.50
45	22.45	32.25	37.25	45.35	50.60	66.95
46	22.85	32.90	38.00	46.30	51.65	68.40
47	23.25	33.55	38.80	47.30	52.75	69.85
48	23.65	34.25	39.60	48.25	53.80	71.30
49	24.05	34.90	40.35	49.20	54.90	72.75
50	24.45	35.55	41.15	50.15	55.95	74.20
51	24.85	36.25	41.90	51.10	57.00	75.65
52	25.25	36.90	42.70	52.10	58.05	77.10
53	25.65	37.55	43.45	53.05	59.10	78.55
54	26.05	38.20	44.25	53.95	60.15	80.00
55	26.45	38.90	45.05	54.90	61.20	81.45

FIRST-CLASS MAIL SCHEDULE 223—Continued

[Priority Mail Subclass]

Weight not exceeding (pounds)	Zones L[1, 2, 3]	Zone 4	Zone 5	Zone 6	Zone 7	Zone 8
56	26.85	39.55	45.80	55.90	62.25	82.90
57	27.25	40.20	46.55	56.85	63.30	84.35
58	27.65	40.90	47.35	57.80	64.35	85.80
59	28.05	41.55	48.15	58.75	65.40	87.25
60	28.45	42.20	48.95	59.75	66.45	88.70
61	28.85	42.90	49.65	60.70	67.50	90.15
62	29.25	43.50	50.45	61.65	68.55	91.60
63	29.65	44.20	51.25	62.60	69.60	93.05
64	30.05	44.90	52.05	63.60	70.65	94.50
65	30.45	45.50	52.75	64.50	71.70	95.95
66	30.85	46.20	53.55	65.45	72.75	97.40
67	31.25	46.90	54.35	66.40	73.80	98.85
68	31.65	47.50	55.15	67.35	74.85	100.30
69	32.05	48.20	55.90	68.35	75.90	101.75
70	32.45	48.90	56.65	69.30	76.95	103.20

Schedule 223 Notes

[1] The 2-pound rate is charged for matter sent in a ''flat rate'' envelope provided by the Postal Service.

[2] Add $10.25 for each pickup stop.

[3] EXCEPTION: Parcels weighing less than 15 pounds, measuring over 84 inches in length and girth combined, are chargeable with a minimum rate equal to that for a 15-pound parcel for the zone to which addressed.

STANDARD MAIL RATE SCHEDULE 321A

[Regular Subclass Presort Categories[1]]

	Rate (cents)
Letter Size	
Piece Rate	
Basic	25.3
3/5-Digit	23.3
Destination Entry Discount per Piece	
BMC	1.9
SCF	2.4
Non-Letter Size[2]	
Piece Rate	
Minimum per Piece[3]	
Basic	32.2
3/5 Digit	26.6
Destination Entry Discount per Piece	
BMC	1.9
SCF	2.4
Pound Rate[3]	66.8
Plus per Piece Rate	
Basic	18.4
3/5-Digit	12.8
Destination Entry Discount per Pound	
BMC	9.3
SCF	11.4

Schedule 321A Notes

[1] A fee of $125.00 must be paid each 12-month period for each bulk mailing permit.

[2] Residual shape pieces are subject to a surcharge of $0.18 per piece. For parcel barcode discount, deduct $0.03 per piece.

[3] Mailer pays either the minimum piece rate or the pound rate, whichever is higher.

STANDARD MAIL RATE SCHEDULE 321B

[Regular Subclass Automation Categories[1]]

	Rate (cents)
Letter Size[2]	
Piece Rate	
Basic Letter[3]	20.0
3-Digit Letter[4]	19.0
5-Digit Letter[5]	17.7
Destination Entry Discount per Piece	
BMC	1.9
SCF	2.4
Flat Size[6]	
Piece Rate	
Minimum per Piece[7]	
Basic Flat[8]	27.8
3/5-Digit Flat[9]	23.9
Destination Entry Discount per Piece	
BMC	1.9
SCF	2.4
Pound Rate[7]	66.8
Plus per piece Rate	
Basic Flat[8]	14.0
3/5-Digit Flat[9]	10.1
Destination Entry Discount per Pound	
BMC	9.3
SCF	11.4

Schedule 321B Notes

[1] A fee of $125.00 must be paid once each 12-month period for each bulk mailing permit.

[2] For letter-size automation pieces meeting applicable Postal Service regulations.

[3] Rate applies to letter-size automation mail not mailed at 3-digit, 5-digit or carrier route rates.

[4] Rate applies to letter-size automation mail presorted to single or multiple three-digit ZIP Code destinations as specified by the Postal Service.

[5] Rate applies to letter-size automation mail presorted to single or multiple five-digit ZIP Code destinations as specified by the Postal Service.

[6] For flat-size automation mail meeting applicable Postal Service regulations.

[7] Mailer pays either the minimum piece rate or the pound rate, whichever is higher.

[8] Rate applies to flat-size automation mail not mailed at 3/5-digit rate.

[9] Rate applies to flat-size automation mail presorted to single or multiple three-and five-digit ZIP Code destinations as specified by the Postal Service.

STANDARD MAIL RATE SCHEDULE 322

[Enhanced Carrier Route Subclass[1]]

	Rate (cents)
Letter Size	
Piece Rate	
Basic	17.8
Basic Automated Letter[2]	15.7
High Density	15.3
Saturation	14.5
Destination Entry Discount per Piece	
BMC	1.9
SCF	2.4
DDU	2.9
Non-Letter Size[3]	
Piece Rate	
Minimum per Piece[4]	
Basic	17.8
High Density	15.6
Saturation	14.9
Destination Entry Discount per Piece	
BMC	1.9
SCF	2.4
DDU	2.9
Pound Rate[4]	63.8
Plus per Piece Rate	
Basic	4.6
High Density	2.4
Saturation	1.7
Destination Entry Discount per Pound	
BMC	9.3
SCF	11.4

STANDARD MAIL RATE SCHEDULE 322—Continued

[Enhanced Carrier Route Subclass [1]]

	Rate (cents)
DDU	14.0

[1] A fee of $125.00 must be paid each 12-month period for each bulk mailing permit.
[2] Rate applies to letter-size automation mail presorted to routes specified by the Postal Service.
[3] Residual shape pieces are subject to a surcharge of $0.15 per piece.
[4] Mailer pays either the minimum piece rate or the pound rate, whichever is higher.

STANDARD MAIL RATE SCHEDULE 323A

[Nonprofit Subclass Presort Categories [1]]

	Rates (cents)
Letter Size	
Piece Rate	
Basic	15.8
3/5 Digit	14.6
Destination Entry Discount per Piece	
BMC	1.9
SCF	2.4
Non-Letter Size [2]	
Piece Rate	
Minimum per Piece [3]	
Basic	22.0
3/5 Digit	17.1
Destination Entry Discount per Piece	
BMC	1.9
SCF	2.4
Pound Rate [3]	55.0
Plus per Piece Rate	
Basic	10.7
3/5 Digit	5.8
Destination Entry Discount per Pound	
BMC	9.3
SCF	11.4

[1] A fee of $125.00 must be paid once each 12-month period for each bulk mailing permit.
[2] Residual shape pieces are subject to a surcharge of $0.18 per piece. For parcel barcode discount, deduct $0.03 per piece.
[3] Mailer pays either the minimum piece rate or the pound rate, whichever is higher.

STANDARD MAIL RATE SCHEDULE 323B

[Nonprofit Subclass Automation Categories [1]]

	Rate (cents)
Letter Size [2]	
Piece Rate	
Basic Letter [3]	13.3
3-Digit Letter [4]	12.3
5-Digit Letter [5]	10.8
Destination Entry Discount per Piece	
BMC	1.9
SCF	2.4
Flat Size [6]	
Piece Rate	
Minimum per Piece [7]	
Basic Flat [8]	17.9
3/5-Digit Flat [9]	15.4
Destination Entry Discount per Piece	
BMC	1.9
SCF	2.4
Pound Rate [7]	55.0
Plus per Piece Rate	
Basic Flat [8]	6.6
3/5-Digit Flat [9]	4.1
Destination Entry Discount per Pound	
BMC	9.3
SCF	11.4

[1] A fee of $125.00 must be paid once each 12-month period for each bulk mailing permit.
[2] For letter-size automation pieces meeting applicable Postal Service regulations.
[3] Rate applies to letter-size automation mail not mailed at 3-digit, 5-digit or carrier route rates.
[4] Rate applies to letter-size automation mail presorted to single or multiple three-digit ZIP Code destinations as specified by the Postal Service.
[5] Rate applies to letter-size automation mail presorted to single or multiple five-digit ZIP Code destinations as specified by the Postal Service.
[6] For flat-size automation mail meeting applicable Postal Service regulations.
[7] Mailer pays either the minimum piece rate or the pound rate, whichever is higher.
[8] Rate applies to flat-size automation mail not mailed at 3/5-digit rate.
[9] Rate applies to flat-size automation mail presorted to single or multiple three- and five-digit ZIP Code destinations as specified by the Postal Service.

STANDARD MAIL RATE SCHEDULE 324

[Nonprofit Enhanced Carrier Route Subclass [1]]

	Rate (cents)
Letter Size	
Piece Rate	
Basic	11.8
Basic Automated Letter [2]	10.5
High Density	9.5
Saturation	8.9
Destination Entry Discount per Piece	
BMC	1.9
SCF	2.4
DDU	2.9
Non-Letter Size [3]	
Piece Rate	
Minimum per Piece [4]	
Basic	11.8
High Density	10.2
Saturation	9.7
Destination Entry Discount per Piece	
BMC	1.9
SCF	2.4
DDU	2.9
Pound Rate [4]	37.0
Plus per Piece Rate	
Basic	4.2
High Density	2.6
Saturation	2.1
Destination Entry Discount per Pound	
BMC	9.3
SCF	11.4
DDU	14.0

[1] A fee of $125.00 must be paid each 12-month period for each bulk mailing permit.
[2] Rate applies to letter-size automation mail presorted to routes specified by the Postal Service.
[3] Residual shape pieces are subject to a surcharge of $0.15 per piece.
[4] Mailer pays either the minimum piece rate or the pound rate, whichever is higher.

PERIODICALS RATE SCHEDULE 421

[Outside County Subclass [1 2 12]]

	Postage rate unit	Rate [3] (cents)
Per Pound		
Nonadvertising Portion	Pound	17.9
Advertising Portion [11]		
Delivery Office [4]	Pound	15.3
SCF [5]	Pound	19.5
1&2	Pound	23.8
3	Pound	25.3
4	Pound	29.2
5	Pound	35.1
6	Pound	41.3

PERIODICALS RATE SCHEDULE 421—Continued

[Outside County Subclass [1 2 12]]

	Postage rate unit	Rate [3] (cents)
7	Pound	48.8
8	Pound	55.2
Science of Agriculture		
Delivery Office	Pound	11.5
SCF	Pound	14.6
Zones 1&2	Pound	17.9
Per Piece		
Less Nonadvertising Factor [6]		6.7
Required Preparation [7]	Piece	33.3
Presorted to 3-digit	Piece	28.3
Presorted to 5-digit	Piece	21.9
Presorted to Carrier Route	Piece	13.9
Discounts:		
Prepared to Delivery Office [4]	Piece	1.7
Prepared to SCF [5]	Piece	0.8
High Density [8]	Piece	2.6
Saturation [9]	Piece	4.4
Automation Discounts for Automation Compatible Mail [10]		
From Required:		
Prebarcoded letter size	Piece	6.7
Prebarcoded flats	Piece	4.2
From 3-Digit:		
Prebarcoded letter size	Piece	5.2
Prebarcoded flats	Piece	3.5
From 5-Digit:		
Prebarcoded letter size	Piece	4.1
Prebarcoded flats	Piece	2.5

[1] The rates in this schedule also apply to Nonprofit (DMCS Section 422.2) and Classroom rate categories. These categories receive a 5 percent discount on all components of postage except advertising pounds. Moreover, the 5 percent discount does not apply to commingled nonsubscriber, nonrequestor, complimentary, and sample copies in excess of the 10 percent allowance under DMCS sections 412.34 and 413.42, or to Science of Agriculture mail.

[2] Rates do not apply to otherwise Outside County mail that qualifies for the Within County rates in Schedule 423.

[3] Charges are computed by adding the appropriate per-piece charge to the sum of the nonadvertising portion and the advertising portion, as applicable.

[4] Applies to carrier route (including high density and saturation) mail delivered within the delivery area of the originating post office.

[5] Applies to mail delivered within the SCF area of the originating SCF office.

[6] For postage calculations, multiply the proportion of nonadvertising content by this factor and subtract from the applicable piece rate.

[7] Mail not eligible for carrier-route, 5-digit or 3-digit rates.

[8] Applicable to high density mail, deducted from carrier route presort rate.

[9] Applicable to saturation mail, deducted from carrier route presort rate.

[10] For automation compatible mail meeting applicable Postal Service regulations.

[11] Not applicable to qualifying Nonprofit and Classroom publications containing 10 percent or less advertising content.

[12] For a ''Ride-Along'' item enclosed with or attached to a periodical, add $0.10 per copy (experimental).

PERIODICALS RATE SCHEDULE 423%

[Within County]

	Rate (cents)
Per Pound	
General	14.6
Delivery Officer [1]	11.5
Per Piece	
Required Presort	10.1
Presorted to 3-digit	9.3
Presorted to 5-digit	8.4
Carrier Route Presort	4.8
Per Piece Discount	
Delivery Office [2]	0.5
High Density (formerly 125 piece) [3]	1.5
Saturation	2.1

PERIODICALS RATE SCHEDULE 423%—Continued

[Within County]

	Rate (cents)
Automation Discounts for Automation Compatible Mail [4]	
From Required:	
Prebarcoded Letter size.	5.2
Prebarcoded Flat size	2.7
From 3-digit:	
Prebarcoded Letter size	4.6
Prebarcoded Flat size	2.4
From 5-digit:	
Prebarcoded Letter size	3.9
Prebarcoded Flat size	2.1

[1] Applicable only to carrier route (including high density and saturation) presorted pieces to be delivered within the delivery area of the originating post office.

[2] Applicable only to carrier presorted pieces to be delivered within the delivery area of the originating post office.

[3] Applicable to high density mail, deducted from carrier route presort rate. Mailers also may qualify for this discount on an alternative basis as provided in DMCS section 423.83.

[4] For automation compatible pieces meeting applicable Postal Service regulations.

[5] For a ''Ride-Along'' item enclosed with or attached to a periodical, add $0.10 per copy (experimental).

PACKAGE SERVICES RATE SCHEDULE 521.2A

[Parcel Post SubClass Inter-BMC Rates]

Weight not exceeding (pounds)	Zone 1&2	Zone 3	Zone 4	Zone 5	Zone 6	Zone 7	Zone 8
1	$3.42	$3.45	$3.45	$3.45	$3.45	$3.45	$3.45
2	3.42	3.45	3.45	3.45	3.45	3.45	3.45
3	3.90	4.23	4.66	4.71	4.76	4.81	4.86
4	4.05	4.51	5.33	5.80	5.95	6.00	6.05
5	4.19	4.76	5.78	7.00	7.15	7.20	7.25
6	4.33	5.01	6.20	7.70	8.03	8.25	8.84
7	4.46	5.23	6.59	8.38	8.90	9.49	10.69
8	4.60	5.44	6.92	8.96	9.60	10.74	12.53
9	4.70	5.63	7.28	9.50	10.30	11.99	14.20
10	4.83	5.82	7.58	10.01	11.00	13.24	15.26
11	4.93	6.00	7.89	10.48	11.70	14.20	16.14
12	5.03	6.16	8.17	10.92	12.40	15.15	16.98
13	5.13	6.30	8.43	11.33	13.10	16.10	17.79
14	5.23	6.48	8.69	11.72	13.80	17.05	18.57
15	5.32	6.62	8.94	12.08	14.44	17.66	19.33
16	5.40	6.76	9.17	12.42	14.86	18.20	20.05
17	5.50	6.88	9.40	12.74	15.28	18.72	20.76
18	5.58	7.01	9.60	13.04	15.65	19.19	21.44
19	5.67	7.14	9.81	13.33	16.01	19.66	22.10
20	5.74	7.25	9.98	13.61	16.35	20.09	22.74
21	5.82	7.38	10.17	13.88	16.69	20.51	23.36
22	5.89	7.48	10.35	14.13	16.99	20.90	23.97
23	5.97	7.61	10.54	14.35	17.28	21.27	24.56
24	6.02	7.70	10.69	14.59	17.57	21.63	25.14
25	6.10	7.80	10.86	14.80	17.84	21.96	25.70
26	6.16	7.90	11.01	15.02	18.10	22.29	26.25
27	6.24	8.00	11.15	15.21	18.34	22.59	26.79
28	6.29	8.09	11.32	15.41	18.58	22.88	27.31
29	6.36	8.19	11.46	15.58	18.80	23.16	27.83
30	6.42	8.28	11.58	15.75	19.01	23.44	28.33
31	6.49	8.35	11.72	15.92	19.23	23.71	28.82
32	6.54	8.45	11.85	16.08	19.42	23.96	29.30
33	6.60	8.54	11.98	16.24	19.61	24.20	29.78
34	6.66	8.60	12.09	16.39	19.79	24.42	30.24
35	6.72	8.69	12.22	16.54	19.96	24.64	30.70
36	6.77	8.76	12.35	16.68	20.14	24.85	31.14
37	6.82	8.83	12.44	16.82	20.30	25.06	31.58
38	6.88	8.92	12.56	16.94	20.45	25.25	32.01
39	6.94	8.98	12.66	17.06	20.60	25.43	32.43
40	6.99	9.06	12.77	17.19	20.76	25.63	32.85
41	7.05	9.14	12.87	17.31	20.90	25.80	33.26
42	7.10	9.20	12.97	17.41	21.03	25.96	33.66
43	7.14	9.27	13.07	17.52	21.17	26.13	34.05
44	7.19	9.32	13.16	17.62	21.29	26.28	34.44
45	7.24	9.40	13.26	17.73	21.42	26.43	34.74
46	7.29	9.46	13.35	17.84	21.54	26.58	34.93
47	7.35	9.53	13.43	17.92	21.66	26.72	35.12
48	7.39	9.59	13.53	18.02	21.75	26.85	35.30
49	7.43	9.65	13.62	18.11	21.87	26.99	35.46
50	7.48	9.70	13.68	18.20	21.98	27.13	35.63
51	7.53	9.77	13.78	18.28	22.08	27.24	35.78
52	7.57	9.83	13.86	18.37	22.18	27.36	35.94
53	7.62	9.88	13.92	18.45	22.28	27.48	36.10
54	7.66	9.95	14.01	18.53	22.37	27.60	36.24
55	7.70	9.98	14.09	18.60	22.45	27.70	36.38
56	7.76	10.06	14.16	18.68	22.55	27.81	36.52
57	7.80	10.11	14.24	18.75	22.63	27.92	36.64
58	7.84	10.16	14.30	18.82	22.71	28.01	36.77
59	7.89	10.21	14.38	18.89	22.80	28.10	36.89
60	7.93	10.26	14.46	18.95	22.86	28.20	37.02
61	7.99	10.33	14.52	19.02	22.95	28.30	37.18
62	8.03	10.37	14.58	19.09	23.01	28.37	37.33
63	8.05	10.43	14.66	19.14	23.09	28.46	37.49
64	8.09	10.47	14.72	19.19	23.15	28.54	37.63
65	8.14	10.52	14.78	19.26	23.23	28.62	37.77
66	8.19	10.58	14.84	19.31	23.28	28.70	37.90
67	8.24	10.62	14.91	19.38	23.36	28.77	38.04
68	8.27	10.67	14.98	19.43	23.41	28.85	38.18
69	8.31	10.71	15.04	19.48	23.48	28.93	38.29
70	8.35	10.77	15.10	19.54	23.53	28.99	38.43

PACKAGE SERVICES RATE SCHEDULE 521.2A—Continued

[Parcel Post SubClass Inter-BMC Rates]

Weight not exceeding (pounds)	Zone 1&2	Zone 3	Zone 4	Zone 5	Zone 6	Zone 7	Zone 8
Oversize parcels [5]	34.75	38.94	45.10	54.87	66.41	82.14	106.31

[1] For Origin Bulk Mail Center Discount, deduct $0.90 per piece.
[2] For BMC Presort, deduct $0.23 per piece.
[3] For barcode discount, deduct $0.03 per piece.
[4] For nonmachinable Inter-BMC parcels, add $2.00 per piece.
[5] See DMCS section 521.61 for oversize Parcel Post.
[6] Parcel Post pieces exceeding 84 inches in length and girth combined and weighing less than 15 pounds are subject to a rate equal to that for a 15 pound parcel for the zone to which the parcel is addressed.
[7] For each pickup stop, add $10.25.

PACKAGE SERVICES RATE SCHEDULE 521.2B

[Parcel Post Subclass Intra-BMC Rates]

Weight not exceeding (pounds)	Local	Zone 1&2	Zone 3	Zone 4	Zone 5
1	$2.74	$3.04	$3.04	$3.04	$3.04
2	2.74	3.04	3.04	3.04	3.04
3	2.98	3.44	3.47	3.47	3.47
4	3.20	3.60	3.86	3.86	3.93
5	3.40	3.74	4.18	4.21	4.40
6	3.56	3.88	4.48	4.50	4.83
7	3.63	4.00	4.74	4.77	5.23
8	3.72	4.14	4.98	5.02	5.61
9	3.80	4.24	5.18	5.27	5.96
10	3.88	4.37	5.44	5.51	6.29
11	3.95	4.47	5.62	5.72	6.59
12	4.03	4.59	5.78	5.93	6.90
13	4.10	4.69	5.92	6.13	7.16
14	4.17	4.78	6.02	6.33	7.43
15	4.23	4.87	6.16	6.50	7.68
16	4.31	4.95	6.30	6.67	7.91
17	4.36	5.05	6.43	6.85	8.13
18	4.42	5.12	6.56	7.00	8.36
19	4.47	5.22	6.68	7.15	8.56
20	4.55	5.29	6.80	7.28	8.75
21	4.59	5.36	6.92	7.40	8.94
22	4.64	5.45	7.02	7.52	9.12
23	4.70	5.51	7.15	7.63	9.30
24	4.75	5.58	7.25	7.73	9.46
25	4.81	5.64	7.35	7.83	9.62
26	4.85	5.72	7.44	7.93	9.78
27	4.90	5.78	7.55	8.02	9.92
28	4.95	5.84	7.65	8.10	10.06
29	5.01	5.91	7.75	8.19	10.20
30	5.07	5.97	7.83	8.27	10.35
31	5.11	6.03	7.90	8.34	10.47
32	5.15	6.10	8.00	8.42	10.59
33	5.21	6.15	8.08	8.49	10.73
34	5.25	6.21	8.15	8.55	10.83
35	5.29	6.26	8.24	8.62	10.94
36	5.33	6.31	8.31	8.68	11.07
37	5.37	6.38	8.38	8.74	11.17
38	5.41	6.43	8.46	8.80	11.28
39	5.47	6.49	8.54	8.85	11.37
40	5.51	6.53	8.60	8.90	11.48
41	5.56	6.60	8.69	8.95	11.57
42	5.60	6.64	8.75	9.00	11.66
43	5.64	6.68	8.82	9.05	11.76
44	5.70	6.74	8.88	9.10	11.84
45	5.73	6.78	8.94	9.23	11.93
46	5.77	6.85	9.02	9.27	12.01
47	5.82	6.90	9.07	9.31	12.09
48	5.86	6.94	9.14	9.35	12.19
49	5.89	6.99	9.20	9.39	12.26
50	5.93	7.02	9.26	9.42	12.34
51	5.98	7.09	9.31	9.46	12.41
52	6.01	7.13	9.39	9.49	12.48
53	6.05	7.16	9.43	9.52	12.55

PACKAGE SERVICES RATE SCHEDULE 521.2B—Continued

[Parcel Post Subclass Intra-BMC Rates]

Weight not exceeding (pounds)	Local	Zone 1&2	Zone 3	Zone 4	Zone 5
54	6.10	7.20	9.47	9.56	12.63
55	6.14	7.25	9.50	9.60	12.69
56	6.17	7.30	9.53	9.63	12.75
57	6.21	7.35	9.55	9.65	12.83
58	6.25	7.39	9.58	9.68	12.89
59	6.29	7.43	9.61	9.71	12.95
60	6.31	7.48	9.63	9.73	13.02
61	6.38	7.53	9.66	9.76	13.08
62	6.40	7.57	9.68	9.81	13.13
63	6.44	7.61	9.70	9.87	13.19
64	6.48	7.65	9.72	9.91	13.25
65	6.52	7.69	9.75	9.96	13.30
66	6.54	7.75	9.77	10.02	13.37
67	6.60	7.79	9.79	10.07	13.41
68	6.63	7.81	9.80	10.11	13.46
69	6.64	7.86	9.82	10.16	13.52
70	6.65	7.90	9.84	10.21	13.57
Oversize parcels [3]	19.82	28.99	28.99	28.99	28.99

[1] For barcode discount, deduct $0.03 per piece.
[2] For nonmachinable Intra-BMC parcels, add $1.35 per piece.
[3] See DMCS section 521.61 for oversize Parcel Post.
[4] Parcel Post pieces exceeding 84 inches in length and girth combined and weighing less than 15 pounds are subject to a rate equal to that for a 15 pound parcel for the zone to which the parcel is addressed.
[5] For each pickup stop, add $10.25.

PACKAGE SERVICES RATE SCHEDULE 521.2C

[Parcel Post Subclass Parcel Select—Destination BMC Rates]

Weight not exceeding (pounds)	Zone 1 & 2	Zone 3	Zone 4	Zone 5
1	$2.13	$2.48	$2.75	$2.99
2	2.13	2.48	2.75	2.99
3	2.36	2.89	3.31	3.42
4	2.57	3.27	3.81	3.88
5	2.78	3.63	4.16	4.35
6	2.96	3.97	4.45	4.78
7	3.14	4.28	4.72	5.18
8	3.31	4.59	4.97	5.56
9	3.47	4.87	5.22	5.91
10	3.63	5.15	5.46	6.24
11	3.77	5.41	5.67	6.54
12	3.91	5.66	5.88	6.85
13	4.05	5.87	6.08	7.11
14	4.18	5.97	6.28	7.38
15	4.30	6.11	6.45	7.63
16	4.42	6.25	6.62	7.86
17	4.53	6.38	6.80	8.08
18	4.65	6.51	6.95	8.31
19	4.75	6.63	7.10	8.51
20	4.86	6.75	7.23	8.70
21	4.96	6.87	7.35	8.89
22	5.06	6.97	7.47	9.07
23	5.15	7.10	7.58	9.25
24	5.24	7.20	7.68	9.41
25	5.33	7.30	7.78	9.57
26	5.42	7.39	7.88	9.73
27	5.50	7.50	7.97	9.87
28	5.59	7.60	8.05	10.01
29	5.67	7.70	8.14	10.15
30	5.75	7.78	8.22	10.30
31	5.82	7.85	8.29	10.42
32	5.90	7.95	8.37	10.54
33	5.97	8.03	8.44	10.68
34	6.04	8.10	8.50	10.78
35	6.11	8.19	8.57	10.89
36	6.18	8.26	8.63	11.02
37	6.25	8.33	8.69	11.12
38	6.31	8.41	8.75	11.23

PACKAGE SERVICES RATE SCHEDULE 521.2C—Continued

[Parcel Post Subclass Parcel Select—Destination BMC Rates]

Weight not exceeding (pounds)	Zone 1 & 2	Zone 3	Zone 4	Zone 5
39	6.37	8.49	8.80	11.32
40	6.44	8.55	8.85	11.43
41	6.50	8.64	8.90	11.52
42	6.56	8.70	8.95	11.61
43	6.62	8.77	9.00	11.71
44	6.67	8.83	9.05	11.79
45	6.73	8.89	9.18	11.88
46	6.79	8.97	9.22	11.96
47	6.84	9.02	9.26	12.04
48	6.89	9.09	9.30	12.14
49	6.94	9.15	9.34	12.21
50	6.97	9.21	9.37	12.29
51	7.04	9.26	9.41	12.36
52	7.08	9.34	9.44	12.43
53	7.11	9.38	9.47	12.50
54	7.15	9.42	9.51	12.58
55	7.20	9.45	9.55	12.64
56	7.25	9.48	9.58	12.70
57	7.30	9.50	9.60	12.78
58	7.34	9.53	9.63	12.84
59	7.38	9.56	9.66	12.90
60	7.43	9.58	9.68	12.97
61	7.48	9.61	9.71	13.03
62	7.52	9.63	9.76	13.08
63	7.56	9.65	9.82	13.14
64	7.60	9.67	9.86	13.20
65	7.64	9.70	9.91	13.25
66	7.70	9.72	9.97	13.32
67	7.74	9.74	10.02	13.36
68	7.76	9.75	10.06	13.41
69	7.81	9.77	10.11	13.47
70	7.85	9.79	10.16	13.52
Oversize parcels [3]	18.85	20.65	27.84	28.94

[1] For barcode discount, deduct $0.03 per piece. Barcode discount is not available for DBMC mail entered at an ASF, except at the Phoenix, AZ ASF.
[2] For nonmachinable DBMC parcels, add $1.45 per piece.
[3] See DMCS section 521.61 for oversize Parcel Post.
[4] Parcel Post pieces exceeding 84 inches in length and girth combined and weighing less than 15 pounds are subject to a rate equal to that for a 15 pound parcel for the zone to which the parcel is addressed.
[5] A mailing fee of $125.00 must be paid once each 12-month period for Parcel Select.

PACKAGE SERVICES RATE SCHEDULE 521.2D

[Parcel Post Subclass Parcel Select—Destination SCF Rates]

Weight not exceeding (pounds)	
1	$1.71
2	1.71
3	1.85
4	1.99
5	2.12
6	2.24
7	2.35
8	2.45
9	2.56
10	2.65
11	2.74
12	2.83
13	2.92
14	3.00
15	3.08
16	3.15
17	3.22
18	3.29
19	3.36
20	3.43

PACKAGE SERVICES RATE SCHEDULE 521.2D—Continued

[Parcel Post Subclass Parcel Select—Destination SCF Rates]

Weight not exceeding (pounds)	
21	3.49
22	3.55
23	3.61
24	3.67
25	3.73
26	3.78
27	3.83
28	3.89
29	3.94
30	3.99
31	4.03
32	4.08
33	4.13
34	4.17
35	4.21
36	4.26
37	4.30
38	4.34
39	4.38
40	4.42

PACKAGE SERVICES RATE SCHEDULE 521.2D—Continued

[Parcel Post Subclass Parcel Select—Destination SCF Rates]

Weight not exceeding (pounds)	
41	4.46
42	4.50
43	4.53
44	4.57
45	4.61
46	4.64
47	4.67
48	4.71
49	4.74
50	4.77
51	4.80
52	4.84
53	4.87
54	4.90
55	4.93
56	4.96
57	4.98
58	5.01
59	5.04
60	5.07

PACKAGE SERVICES RATE SCHEDULE 521.2D—Continued

[Parcel Post Subclass Parcel Select—Destination SCF Rates]

Weight not exceeding (pounds)	
61	5.10
62	5.12
63	5.15
64	5.17
65	5.20
66	5.22
67	5.25
68	5.27
69	5.30
70	5.32
Oversize parcels [1]	11.35

[1] See DMCS section 521.61 for oversize Parcel Post.

[2] Parcel Post pieces exceeding 84 inches in length and girth combined and weighing less than 15 pounds are subject to a rate equal to that for a 15 pound parcel for the zone to which the parcel is addressed.

[3] A mailing fee of $125.00 must be paid once each 12-month period for Parcel Select.

PACKAGE SERVICES RATE SCHEDULE 521.2E

[Parcel Post Subclass Parcel Select—Destination Delivery Unit Rates]

Weight not exceeding pounds	
1	1.28
2	1.28
3	1.33
4	1.38
5	1.43
6	1.47
7	1.51

PACKAGE SERVICES RATE SCHEDULE 521.2E—Continued

[Parcel Post Subclass Parcel Select—Destination Delivery Unit Rates]

Weight not exceeding pounds	
8	1.55
9	1.58
10	1.62
11	1.65
12	1.68
13	1.71
14	1.74
15	1.77
16	1.79
17	1.82
18	1.85
19	1.87
20	1.89
21	1.92
22	1.94
23	1.96
24	1.98
25	2.00
26	2.02
27	2.04
28	2.06
29	2.07
30	2.09
31	2.10
32	2.11
33	2.12
34	2.13
35	2.14
36	2.15
37	2.16
38	2.17
39	2.18
40	2.19
41	2.20
42	2.21
43	2.22
44	2.23

PACKAGE SERVICES RATE SCHEDULE 521.2E—Continued

[Parcel Post Subclass Parcel Select—Destination Delivery Unit Rates]

Weight not exceeding pounds	
45	2.24
46	2.25
47	2.26
48	2.27
49	2.28
50	2.29
51	2.30
52	2.31
53	2.32
54	2.33
55	2.34
56	2.35
57	2.36
58	2.37
59	2.38
60	2.39
61	2.40
62	2.41
63	2.42
64	2.43
65	2.44
66	2.45
67	2.46
68	2.47
69	2.48
70	2.49
Oversize parcels [1]	6.98

[1] See DMCS section 521.61 for oversize Parcel Post.

[2] Parcel Post pieces exceeding 84 inches in length and girth combined and weighing less than 15 pounds are subject to a rate equal to that for a 15 pound parcel for the zone to which the parcel is addressed.

[3] A mailing fee of $125.00 must be paid once year 12-month period for Parcel Select.

PACKAGE SERVICES RATE SCHEDULE 522A

[Bound printed matter subclass single piece rates]

Weight not exceeding (pounds)	Zones						
	1 & 2	3	4	5	6	7	8
1	$1.80	$1.83	$1.87	$1.93	$1.99	$2.06	$2.21
1.5	1.80	1.83	1.87	1.93	1.99	2.06	2.21
2	1.84	1.88	1.94	2.02	2.10	2.19	2.38
2.5	1.90	1.95	2.00	2.11	2.21	2.33	2.57
3	1.94	2.00	2.08	2.20	2.32	2.46	2.75
3.5	1.99	2.06	2.15	2.29	2.43	2.60	2.93
4	2.03	2.11	2.21	2.37	2.55	2.72	3.11
4.5	2.07	2.17	2.29	2.47	2.65	2.87	3.30
5	2.13	2.23	2.36	2.55	2.77	3.00	3.47
6	2.22	2.35	2.49	2.74	2.99	3.26	3.83
7	2.31	2.46	2.63	2.92	3.21	3.53	4.19
8	2.40	2.57	2.78	3.10	3.44	3.81	4.55
9	2.50	2.68	2.91	3.27	3.66	4.07	4.92
10	2.60	2.80	3.05	3.45	3.87	4.34	5.27
11	2.68	2.91	3.19	3.63	4.09	4.61	5.64
12	2.78	3.03	3.33	3.81	4.32	4.88	6.00
13	2.87	3.14	3.47	3.99	4.54	5.15	6.36
14	2.97	3.26	3.61	4.17	4.76	5.42	6.73
15	3.06	3.37	3.75	4.35	4.98	5.69	7.09

[1] For barcode discount, deduct $0.03 per piece.

PACKAGE SERVICES RATE SCHEDULE 522B

[Bound Printed Matter Subclass Basic Presort and Carrier Route Presort Rates]

Zone	Per piece		Per pound
	Basic [1]	Carrier route [2]	
1 & 2	$0.97	$0.87	$0.07
3	0.97	0.87	0.09
4	0.97	0.87	0.12
5	0.97	0.87	0.16
6	0.97	0.87	0.20
7	0.97	0.87	0.25
8	0.97	0.87	0.34

[1] For barcode discount, deduct $0.03 per piece.

[2] Applies to mailings of at least 300 pieces presorted to carrier route as specified by the Postal Service.

PACKAGE SERVICES RATE SCHEDULE 522C

[Bound Printed Matter Subclass Destination Entry Basic Presort]

	DBMC Zone 1&2	DBMC Zone 3	DBMC Zone 4	DBMC Zone 5	DSCF	DDU
Per Piece Rate	0.83	0.83	0.83	0.83	0.69	0.62
Per Pound Rate	0.06	0.09	0.12	0.16	0.06	0.03

[1] For barcode discount, deduct $0.03 per piece. Barcode discount is not available for DDU and DSCF rates and DBMC mail entered at an ASF (except Phoenix, Arizona ASF).

[2] A mailing fee of $125.00 must be paid once each 12-month period to mail at any destination entry Bound Printed Matter rate.

PACKAGE SERVICES RATE SCHEDULE 522D

[Bound Printed Matter Subclass Destination Entry Carrier Route Presort]

	DBMC Zone 1&2	DBMC Zone 3	DBMC Zone 4	DBMC Zone 5	DSCF	DDU
Per Piece Rate	0.73	0.73	0.73	0.73	0.59	0.52
Per Pound Rate	0.06	0.09	0.12	0.16	0.06	0.03

[1] A mailing fee of $125.00 must be paid once each 12-month period to mail at any destination entry Bound Printed Matter rate.

PACKAGE SERVICES RATE SCHEDULE 523

[Media Mail Subclass]

	Rates (dollars)
First Pound:	
Not presorted[4]	1.33
Level A Presort (5–digits)[1, 2]	0.73
Level B Presort (BMC)[1, 3, 4]	1.03
Each additional pound through 7 pounds	0.45
Each additional pound over 7 pounds	0.30

[1] A mailing fee of $125.00 must be paid once each 12–month period for each permit.

[2] For mailings of 500 or more pieces properly prepared and presorted to five-digit destination ZIP Codes.

[3] For mailings of 500 or more pieces properly prepared and presorted to Bulk Mail Centers.

[4] For barcode discount, deduct $0.03 per piece.

PACKAGE SERVICES RATE SCHEDULE 524

[Library Mail Subclass]

	Rates (dollars)
First Pound:	
Not presorted [4]	1.26
Level A Presort (5-digits) [1, 2]	0.69
Level B Presort (BMC) [1, 3, 4]	0.98
Each additional pound through 7 pounds	0.43
Each additional pound over 7 pounds	0.29

[1] A mailing fee of $125.00 must be paid once each 12-month period for each permit.

[2] For mailings of 500 or more pieces properly prepared and presorted to five-digit destination ZIP Codes.

[3] For mailings of 500 or more pieces properly prepared and presorted to Bulk Mail Centers.

[4] For barcode discount, deduct $0.03 per piece.

FEE SCHEDULE 911

[Address Corrections]

Description	Fee
Per manual correction	$0.60
Per automated correction	0.20

FEE SCHEDULE 912 [1]

Description	Fee
ZIP Coding of Mailing Lists	
Per thousand addresses	$73.00
Correction of Mailing Lists	
Per submitted address	$0.25
Minimum charge per list	$7.50
Address Changes for Election Boards and Registration Commissions	
Per change of address	$0.23
Sequencing of Address Cards	
Per correction	$0.25

[1] When rural routes have been consolidated or changed to another post office, no charge will be made for correction if the list contains only names of persons residing on the route or routes involved.

I. Post Office Boxes

FEE SCHEDULE 921

[Post Office Boxes and Caller Service]

Box Size [2]	Fee Group B2	C3	C4	C5	D6	D7	E
Semi-annual Box Fees [1]:							
1	$30.00	$27.50	$22.50	$19.00	$10.00	$8.50	$0.00
2	45.00	40.00	32.50	27.50	16.00	13.00	0.00
3	85.00	75.00	60.00	50.00	25.00	22.50	0.00
4	170.00	150.00	125.00	87.50	50.00	40.00	0.00
5	300.00	250.00	212.50	150.00	90.00	65.00	0.00

[1] A customer ineligible for carrier delivery may obtain a post office box at Group E fees, subject to administrative decisions regarding customer's proximity to post office.

[2] Box Size 1 = under 296 cubic inches; 2 = 296–499 cubic inches; 3 = 500–999 cubic inches; 4 = 1000–1999 cubic inches; 5 = 2000 cubic inches and over.

II. Key Duplication and Lock Charges

Description	Fee
Key duplication or replacement	$4.00
Post office box lock replacement	10.00

III. Semi-annual Caller Service Fee—$375.00

IV. Annual Call Number Reservation Fee

(All applicable Fee Groups)—$30.00.

FEE SCHEDULE 931

[Business Reply Mail]

Description	Fee
Active business reply advance deposit account:	
Per piece	
Qualified (without optional Quarterly fee)	$0.05
Qualified (with optional Quarterly fee)	0.01
Nonletter-size, using weight averaging	0.01
Other	0.10
Payment of postage due charges if active business reply mail advance deposit account not used:	
Per piece	0.35
Monthly Fees for customers using weight averaging for nonletter-size business reply	600.00

FEE SCHEDULE 931—Continued

[Business Reply Mail]

Description	Fee
Optional Qualified BRM Quarterly Fee	1,800.00

Accounting fee for advance deposit account (see Fee Schedule 1000).

Permit fee (with or without advance deposit account) (see Fee Schedule 1000).

FEE SCHEDULE 932

[Merchandise Return]

Description	Fee
Accounting fee for advance deposit account (see Fee Schedule 1000)	
Permit fee (see Fee Schedule 1000).	

FEE SCHEDULE 933

[On-Site Meter Service]

Description	Fee
Meter Service (per employee)	$31.00
Meters reset and/or examined (per meter)	4.00
Checking meter in or out of service (per meter)	[1] 4.00

[1] Fee does not apply to Secured Postage meters.

Fee Schedule 934

[Reserved]

FEE SCHEDULE 935

[Bulk Parcel Return Service]

Description	Fee
Per Returned Piece	$1.62

Accounting fee for advance deposit account (see Fee Schedule 1000).

Permit fee (see Fee Schedule 1000).

FEE SCHEDULE 936

[Shipper Paid Forwarding]

Description	Fee
Accounting fee for advance deposit account (see Fee Schedule 1000)..	

FEE SCHEDULE 941

[Certified Mail]

Description	Fee (in addition to postage)
Per piece	$2.10

FEE SCHEDULE 942

[Registered Mail]

Declared Value of Article [1]	Fee (in addition to postage)	Handling charge
$ 0.00	$7.25	
0.01 to 100	7.50	
100.01 to 500	8.25	
500.01 to 1,000	9.00	
1,000.01 to 2,000	9.75	
2,000.01 to 3,000	10.50	
3,000.01 to 4,000	11.25	
4,000.01 to 5,000	12.00	

FEE SCHEDULE 942—Continued

[Registered Mail]

Declared Value of Article [1]	Fee (in addition to postage)	Handling charge
5,000.01 to 6,000	12.75	
6,000.01 to 7,000	13.50	
7,000.01 to 8,000	14.25	
8,000.01 to 9,000	15.00	
9,000.01 to 10,000	15.75	
10,000.01 to 11,000	16.50	
11,000.01 to 12,000	17.25	
12,000.01 to 13,000	18.00	
13,000.01 to 14,000	18.75	
14,000.01 to 15,000	19.50	
15,000.01 to 16,000	20.25	
16,000.01 to 17,000	21.00	
17,000.01 to 18,000	21.75	
18,000.01 to 19,000	22.50	
19,000.01 to 20,000	23.25	
20,000.01 to 21,000	24.00	
21,000.01 to 22,000	24.75	
22,000.01 to 23,000	25.50	
23,000.01 to 24,000	26.25	
24,000.01 to 25,000	27.00	
25,000.01 to $1 million	27.00	plus 75 cents for each $1,000 (or fraction thereof) over $25,000.
Over $1 million to $15 million	758.25	plus 75 cents for each $1,000 (or fraction thereof) over $1 million.
Over $15 million	11258.25	plus amount determined by the Postal Service based on weight, space and value.

[1] Articles with a declared value of more than $25,000 can be registered, but compensation for loss or damage is limited to $25,000.

FEE SCHEDULE 943

[Insurance]

Coverage	Fee[1] (in addition to postage)
Express Mail Insurance	
Document Reconstruction:	
$0.01 to $ 500	no charge.
Merchandise:	
$0.01 to $500	no charge.
$500.01 to 5000	$1.00 for each $100 (or fraction thereof) over $500 in value.
General Insurance	
$0.01 to $50	$1.10.
$50.01 to $100	$2.00.
$100.01 to $5000	$2.00 plus $1.00 for each $100 (or fraction thereof) over $100 in coverage.

[1] For bulk insurance coverage between $0.01 to $50.00, deduct $0.60 per price. For bulk insurance coverage between $50.01 to $5,000.00, deduct $0.80 per piece.

FEE SCHEDULE 944

[Collect on Delivery]

Description	Fee (in addition to postage)
Amount to be collected, or Insurance Coverage Desired:	
$0.01 to $50	$4.50
50.01 to 100	5.50
100.01 to 200	6.50
200.01 to 300	7.50
300.01 to 400	8.50
400.01 to 500	9.50
500.01 to 600	10.50
600.01 to 700	11.50
700.01 to 800	12.50
800.01 to 900	13.50
900.01 to 1000	14.50
Notice of nondelivery of COD	3.00
Alteration of COD charges or designation of new addressee	3.00
Registered COD	4.00

FEE SCHEDULE 945

[Return Receipts]

Description	Fee (in addition to postage)
Receipt requested at time of mailing [1]:	
Items other than merchandise	$1.50

FEE SCHEDULE 945—Continued

[Return Receipts]

Description	Fee (in addition to postage)
Merchandise (without another special service)	2.35
Receipt requested after mailing [2]	3.50

[1] This receipt shows the signature of the person to whom the mailpiece was delivered, the date of delivery and the delivery address, if such address is different from the address on the mailpiece.

[2] This receipt shows to whom the mailpiece was delivered and the date of delivery.

FEE SCHEDULE 946

[Restricted Delivery]

Description	Fee (in addition to postage)
Per Piece	$3.20

FEE SCHEDULE 947
[Certificate of Mailing]

Description	Fee (in addition to postage)
Individual Pieces	
Original certificate of mailing for listed pieces of all classes of ordinary mail (per piece)	$0.75
Three or more pieces individually listed in a firm mailing book or an approved customer provided manifest (per piece)	0.25
Each additional copy of original certificate of mailing or original mailing receipt for registered, insured, certified, and COD mail (each copy)	0.75
Bulk Pieces	
Identical pieces of First-Class and Standard Mail paid with ordinary stamps, precanceled stamps, or meter stamps are subject to the following fees:	
Up to 1,000 pieces (one certificate for total number)	3.50
Each additional 1,000 pieces or fraction	0.40
Duplicate copy	0.75

FEE SCHEDULE 948
[Delivery Confirmation]

Description	Fee (in addition to postage)
Used in Conjunction with Priority Mail	
Electronic	$0.00
Manual	0.40
Used in Conjunction with Parcel Post, Bound Printed Matter, Library Mail, and Media Mail	
Electronic	0.12
Manual	0.50
Used in Conjunction with Regular and Nonprofit Standard Mail	
Electronic	0.12

FEE SCHEDULE 949
[Signature Confirmation]

Description	Fee (in addition to postage)
Used in Conjunction with Priority Mail	
Electronic	$1.25
Manual	1.75

FEE SCHEDULE 949—Continued
[Signature Confirmation]

Description	Fee (in addition to postage)
Used in Conjunction with Parcel Post, Bound Printed Matter, Library Mail, and Media Mail	
Electronic	1.25
Manual	1.75

FEE SCHEDULE 951
[Parcel Air Lift]

Description	Fee (in addition to Parcel Post postage)
Up to 2 pounds	$0.40
Over 2 up to 3 pounds	0.75
Over 3 up to 4 pounds	1.15
Over 4 pounds	1.55

FEE SCHEDULE 952
[Special Handling]

Description	Fee (in addition to postage)
Not more than 10 pounds	$5.40
More than 10 pounds	7.50

FEE SCHEDULE 961
[Stamped Envelopes]

Description	Fee (in addition to postage)
Single Sale: #6¾ size and #10 size	
Basic	$0.08
Special	0.09
Household (50): #6¾ size through #10 size	
Basic	3.50
Special	4.50
Bulk (500): #6¾ size	
Plain Basic	12.00
Printed Basic	17.00
Bulk (500): >#6¾ size through #10 size	
Plain Basic [1, 2]	14.00
Printed Basic	20.00
Plain Special	19.00
Printed Special	25.00

[1] Available in ''double window'' style.

[2] Available in ''savings bond'' style.

Note: ''Basic'' envelopes include ''regular'' (no window), ''window'' (single window), ''pre-cancelled regular'', and ''pre-cancelled window'' styles. ''Special'' envelopes include all envelopes with patched in indicia. ''Printed'' envelopes are available with multi-color printing.

FEE SCHEDULE 962
[Stamped Cards]

Description	Fee (in addition to postage)
Stamped Card	$0.02
Double Stamped Card	0.04

FEE SCHEDULE 971
[Money Orders]

Description	Fee
Domestic—$0.01 to $700	$0.90
APO–FPO—$0.01 to $700	0.25
Inquiry Fee, which includes the issuance of copy of a paid money order	2.75

FEE SCHEDULE 981
[Mailing Online]

Description	Fee
Fees are calculated by multiplying 1.52 times the sum of printer contractual costs for the particular mailing and 0.5 cents per impression for other Postal Service costs	
P = Printer Contractual Costs; I = Number of Impressions	$1.52\times(P+0.5xI)$

Certification of a system as functionally equivalent to Mailing Online (see Fee Schedule 1000).

This provision expires the later of:

a. three years after the implementation date specified by the Postal Service Board of Governors, or

b. if, by the expiration date specified in (a), a proposal to make Mailing Online permanent is pending before the Postal Rate Commission, the later of:

[1] three months after the Commission takes action on such proposal under section 3624 of Title 39, or

[2] if applicable—on the implementation date for a permanent Mailing Online.

FEE SCHEDULE 1000

Description	Fee [1]
First-Class Presorted Mailing	$125.00

FEE SCHEDULE 1000—Continued

Description	Fee [1]
Regular, Enhanced Carrier Route, Nonprofit, and NonprofitEnhanced Carrier Route Standard Mail Bulk Mailing	125.00
Periodicals	
A. Original Entry	350.00
B. Additional Entry	50.00
C. Re-entry	40.00
D. Registration for News Agents	40.00
Parcel Select	125.00
Bound Printed Matter: Destination BMC, SCF, and DDU	125.00
Media Mail Presorted Mailing	125.00
Library Mail Presorted Mailing	125.00
Authorization to Use Permit Imprint	125.00
Special Services	
Bulk Parcel Return Service	
A. Permit	125.00
B. Accounting Fee (advance deposit account)	375.00
Business Reply Mail	
A. Permit (with or without advance deposit account)	125.00
B. Accounting Fee (advance deposit account)	375.00
Mailing Online [2]	
A. Certification of a system as functionally equivalent to Mailing Online	125.00
Merchandise Return	
A. Permit	125.00
B. Accounting Fee (advance deposit account)	375.00
Shipper Paid Forwarding	
A. Accounting Fee (advance deposit account)	375.00

[1] Fees must be paid once each 12-month period.
[2] This provision expires the later of:
a. Three years after the Mailing Online implementation date specified by the Postal Service Board of Governors, or
b. If, by the expiration date specified in (a), a proposal to make Mailing Online permanent is pending before the Postal Rate Commission, the later of:
1. Three months after the Commission takes action on such proposal under section 3624 of Title 39, or
2. —If applicable—on the implemenation date for a permanent Mailing Online.

Stanley F. Mires,
Chief Counsel, Legislative.

[FR Doc. 01–13063 Filed 5–22–01; 8:45 am]

BILLING CODE 7710–12–U

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 24978; 812–12466]

Nations Fund Trust, et al.; Notice of Application

May 16, 2001.

AGENCY: Securities and Exchange Commission (''SEC'' or ''Commission'').

ACTION: Notice of an application under section 17(b) of the Investment Company Act of 1940 (''Act'') for an exemption from section 17(a) of the Act.

SUMMARY: Applicants request an order to permit certain series of Nations Funds Trust (''NFST'') to acquire all of the assets and liabilities of certain series of Nations Fund Trust (''NFT''), Nations Fund, Inc. (''NFI''), Nations Reserve (''NR''), and Nations LifeGoals Funds, Inc. (''NLG'') (the ''Reorganization''). Because of certain affiliations, applicants may not rely on rule 17a-8 under the Act.

Applicants: NFT, NFI, NR, NLG, NFST and Banc of America Advisors, LLC. (''BAALLC'').

Filing Date: The application was filed on February 26, 2001, and amended on May 16, 2001.

Hearing or Notification of Hearing: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on June 7, 2001, and should be accompanied by proof of service on applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549–0609. Applicants, One Bank of America Plaza, 101 South Tryon Street, Charlotte, NC 28255.

FOR FURTHER INFORMATION CONTACT: Bruce R. MacNeil, Senior Counsel, (202) 942–0634, or Janet M. Grossnickle, Branch Chief, (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch, 450 Fifth Street, NW., Washington, DC 20549–0102 (telephone (202) 942–8090).

Applicants' Representations

1. NFT, a Massachusetts business trust, NFI, a Maryland corporation, NR, a Massachusetts business trust, and NLG, a Maryland corporation, are open-end management investment companies registered under the Act. NFT currently offers 34 series, one of which will participate in the Reorganization. NFI offers six series, two of which will participate in the Reorganization. NR currently offers 16 series, two of which will participate in the Reorganization. NLG offers three series, all of which will participate in the Reorganization. The participating series of NFT, NFI, NR and NLG are collectively referred to as the ''Acquired Funds.'' Two of the Acquired Funds are feeder funds (''Acquired Feeder Funds'') which invest all of their assets in corresponding master portfolios (''Master Portfolios'') of Nations Master Investment Trust (''NMIT''), an open-end management

investment company registered under the Act.

2. NFST, a Delaware business trust, is an open-end management investment company registered under the Act. NFST is organizing seven new series, (the ''Acquiring Funds,'' and together with the Acquired Funds, the ''Funds'').[1] Two of the Acquiring Funds will be feeder funds (''Acquiring Feeder Funds,'' together with the Acquired Feeder Funds, the ''Feeder Funds'') which will invest all of their assets in corresponding Master Portfolios of NMIT.[2]

3. BAALLC is registered under the Investment Advisers Act of 1940 (''Advisers Act'') and is the investment adviser for the Acquired Funds that are not Feeder Funds as well as the Acquired Feeder Funds' corresponding Master Portfolios. The Acquired Funds that are not Feeder Funds and the Acquired Feeder Funds' corresponding Master Portfolios are currently subadvised by either Banc of America Capital Management Inc. (''BACAP'') or Marsico Capital Management, LLC (''Marsico Capital''), which are investment advisers registered under the Advisers Act. BAALLC is also the investment adviser, and BACAP and Marsico Capital are also the investment subadvisers, respectively, for the Acquiring Funds that are not Feeder Funds, and the Acquiring Feeder Funds' corresponding Master Portfolios, except for one Acquiring Fund where BACAP and Chicago Equity Partners LLC (''Chicago Equity'') are co-subadvisers. BAALLC, BACAP and Marsico Capital are wholly-owned subsidiaries of Bank of America Corporation. Chicago Equity is not an affiliated person of BAALLC or any other company in the Bank of America Group (as defined below).

4. Bank of America Corporation, Bank of America, N.A., and/or certain of their affiliates that are under common control with BAALLC (the ''Bank of America Group''), hold of record, in their name and in the names of their nominees, more than 5% (and in some cases, more than 25%) of the outstanding voting securities of each of the Acquired Funds. All such securities are held for the benefit of others in a trust, agency, custodial, or other fiduciary or representative capacity. None of the companies of the Bank of America Group owns an economic interest in any of the Funds.

5. On August 23, 2000, the board of trustees of NFST (the ''Acquiring Funds' Board,'') and the board of directors or trustees of NFT, NFI, NR and NLG (the ''Acquired Funds' Boards,'' together with the Acquiring Funds' Board, the ''Boards''), including all of the directors or trustees who are not ''interested persons,'' as defined in section 2(a)(19) of the Act (''Independent Members'') of the respective Funds, approved an agreement and plan of reorganization (''Plans'') on behalf of each Acquiring Fund and Acquired Fund. Under the Plans, on the date following the closing date (''Closing Date''), which is currently anticipated to be June 8, 2001, each class of each Acquiring Fund will acquire all of the assets and liabilities of the corrresponding class of the Acquired Fund in exchange for shares of designated classes of the Acquiring Fund that have an aggregate net asset value equal to the value of the class of the Acquired Fund's net assets, determined as of the Closing Date unless mutually agreed otherwise (''Valuation Time''). The value of the assets will be determined in accordance with NFT's, NFI's, NR's, NLG's and NFST's then current valuation procedures stated in their prospectuses. On the date following each Closing Date, the Acquired Funds will make a pro rata distribution of shares of the Acquiring Fund to its shareholders and liquidate.

6. Applicants state that the Acquiring Funds will pursue investment objectives and following principal investment strategies that are either identical or similar to those of the Acquired Funds. Each of the Acquired Funds has multiple classes of shares, and the respective Acquiring Fund will have the same classes of shares. Applicants state that the distribution and shareholder servicing arrangements for the respective classes of the Acquired Fund are substantially identical to the arrangements of the corresponding classes of the Acquiring Fund. For purposes of calculating any deferred sales charge, each Acquired Fund's shareholders will be deemed to have held shares of the respective Acquiring Fund since the date the shareholder initially purchased shares of the Acquired Fund. No sales charge will be imposed in connection with the Reorganization.

7. The Boards, including all of the Independent Members, found that participation in the Reorganization is in the best interest of each of their respective Funds and that the interests of each Fund's existing shareholders will not be diluted as a result of the Reorganization. In approving the Reorganization, the Boards considered, among other things: (a) The potential effect of the Reorganization; (b) the respective expense ratios of the Funds; (c) the compability of the investment objectives and investment strategies of the Funds; (d) the terms and conditions of the Reorganization; and (e) the tax-free nature of the Reorganization. The Boards also noted that BAALLC and its affiliates (but not the Funds) will bear the expenses associated with the Reorganization, and considered potential benefits of the Reorganization to BAALLC and its affiliates.

8. Each Plan may be terminated at any time by mutual written consent of the Acquiring Fund and the Acquired Fund at any time through the Closing Date. In addition, either Board may terminate the Plan under certain circumstances specified in the Plan. The consummation of the reorganization is subject to the following conditions: (a) A registration statement under the Securities Act of 1933 for the Acquiring Funds will have become effective; (b) the Acquired Funds' shareholders will have approved their respective Plan; (c) applicants will have received exemptive relief from the SEC with respect to the issues in the application; (d) the funds will have received an opinion of counsel conerning the tax-free nature of the Reorganization; and (e) the Acquired Fund will have declared a dividend to distribute substantially all of its investment company taxable income and net capital gain, if any, to its shareholders. Applicants agree not to make any material changes to the Plan that affect the application without prior SEC staff approval.

9. Definitive proxy solicitation materials have been filed with the SEC and were mailed to the Acquired Funds' shareholders on or about January 29, 2001. A special meeting of the Acquired Funds' shareholders was held on April 12, 2001, and the Acquired Funds' shareholders approved their respective Plan.

Applicants' Legal Analysis

1. Section 17(a) of the Act generally prohibits an affiliated person of a registered investment company, or an affiliated person of that person acting as

[1] A registration statement for the seven shell Acquiring Funds was filed with the SEC on October 13, 2000 and became effective on December 27, 2000.

[2] The Acquired Funds and the corresponding Acquiring Funds are: (i) NFT Nations Balanced Assets Fund and NR Nations Asset Allocation Fund into NFST Nations Government Securities Fund; (ii) NFI Nations U.S. Government Bond Fund and NFI Nations Government Securities Fund into NFST Nations Government Securities Fund; (iii) NR Nations Marsico Focused Equities Fund into NFST Nations Marsico Focused Equities Fund; (iv) NR Nations Marsico Growth and Income Fund into NFST Nations Marsico Growth and Income Fund; (v) NLG Nations LifeGoal Growth Portfolio into NFST Nations LifeGoal Growth Portfolio; (vi) NLG Nations LifeGoal Balanced Growth Portfolio into NFST Nations Lifegoal Balanced Growth Portfolio; and (vii) NLG Nations LifeGoal Income and Growth Portfolio into NFST Nations Lifegoal Income and Growth Portfolio.

principal, from selling any security or other property to, or purchasing any security or other property from, the company. Section 2(a)(3) of the Act defines an ''affiliated person'' of another person to include (a) any person that directly or indirectly owns, controls, or holds with power to vote 5% or more of the outstanding voting securities of the other person; (b) any person 5% or more of whose outstanding voting securities are directly or indirectly owned, controlled or held with power to vote by the other person; (c) any person directly or indirectly controlling, controlled by, or under common control with the other person; and (d) if the other person is an investment company, any investment adviser of that company.

2. Rule 17a–8 under the Act exempts from the prohibitions of section 17(a) mergers, consolidation, or purchases or sales of substantially all of the assets of registered investment companies that are affiliated persons solely by reason of having a common investment adviser, common directors/trustees, and/or common officers, provided that certain conditions set forth in the rule are satisfied.

3. Applicants state that the Bank of America Group holds of record more than 5% (and in some cases, more than 25%) of the outstanding voting securities of each of the Acquired Funds. Because of this ownership, applicants state that the Funds may be deemed affiliated persons for reasons other than those set forth in rule 17a–8 and therefore unable to rely on the rule. Applicants request an order pursuant to section 17(b) of the Act exempting them from section 17(a) to the extent necessary to consummate the Reorganization.

4. Section 17(b) of the Act provides that the SEC may exempt a transaction from the provisions of section 17(a) if the evidence establishes that the terms of the proposed transaction, including the consideration to be paid, are reasonable and fair and do not involve overreaching on the part of any person concerned, and that the proposed transaction is consistent with the policy of each registered investment company concerned and with the general purposes of the Act.

5. Applicants submit that the terms of the Reorganizaiton satisfy the standards set forth in section 17(b). Applicants note that the Boards, including a majority of the Independent Members, found that participation in the Reorganization is in the best interests of each Fund that the interests of the existing shareholders of each Fund will not be diluted as a result of the Reorganization. Applicants also note that the Reorganization will be based on the Funds' relative net asset values.

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 01–12933 Filed 5–20–01; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44309; File No. SR–Amex–2001–04]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change and Amendment No. 1 Thereto by the American Stock Exchange LLC Relating to the Listing and Trading of Trust Issued Receipts

May 16, 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 February 7, 2001, the American Stock Exchange LLC (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') the proposed rule change, and amended such proposed rule change on May 8, 2001,[3] described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons and to approve the proposal and Amendment No. 1 on an accelerated basis.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Amex proposes to amend Amex Rule 1202 to provide eligibility requirements for Component Securities represented by a series of Trust Issued Receipts (''TIRs'') that became part of such TIR when the security was either: (a) Distributed by a company whose securities are already included as a Component Security in the series of TIRs; or (b) received in exchange for the securities of a company previously included as a Component Security that are no longer outstanding due to a merger, consolidation, corporate combination or other event. The text of the proposed rule filing is below. Additions are in italics; deletions are in brackets.

Trust Issued Receipts

Initial and Continued Listing

Rule 1202

Trust Issued Receipts will be listed and traded on the Exchange subject to application of the following criteria:

(a)–(e) No change.

* * * Commentary

.01 No change.

.02 The eligibility requirements for Component Securities that are represented by a series of Trust Issued Receipts and that became part of the Trust Issued Receipt when the security was either: (a) distributed by a company already included as a Component Security in the series of Trust Issued Receipts; or (b) received in exchange for the securities of a company previously included as a Component Security that is no longer outstanding due to a merger, consolidation, corporate combination or other event, shall be as follows:

(i) the Component Security must be listed on a national securities exchange or traded through the facilities of Nasdaq and a reported national market system security;

(ii) the Component Security must be registered under section 12 of the Exchange Act; and

(iii) the Component Security must have a Standard & Poor's Sector Classification that is the same as the Standard & Poor's Sector Classification represented by Component Securities included in the Trust Issued Receipt at the time of the distribution or exchange.

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 Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The Exchange 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

In September 1999, the Exchange adopted rules for the listing and trading

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Amendment No. 1 made non-substantive changes to the text of proposed Commentary .02 of Amex Rule 1202. *See* letter from Claire P. McGrath, Vice President and Special Counsel, Amex, to Nancy Sanow, Assistant Director, Division of Market Regulation, SEC, dated May 4, 2001.

of TIRs.[4] TIRs are negotiable receipts that are issued by trusts and represent investors' discrete identifiable and undivided beneficial ownership interest in the securities deposited into the trust. Since that time, the Exchange has listed 15 TIRs under the trade name HOLDRS, representing a wide variety of industry sectors (*e.g.,* Internet, biotechnology, pharmaceutical and telecommunications), and the market as a whole (*e.g.,* Market 2000+HOLDRS and Eurpoe 2001 HOLDRS).

In September 2000, to accommodate the listing of additional TIRs, the Exchange revised the existing listing criteria and trading rules to permit the listing and trading of TIRs pursuant to Rule 19b–4(e).[5] The Exchange established the following eligibility criteria for Component Securities represented by a series of TIRs:

- Each Component Security must be registered under section 12 of the Exchange Act;
- Each Component Security must have a minimum public float of at least $150 million;
- Each Component Security must be listed on a U.S. national securities exchange or traded through the facilities of Nasdaq and a reported national market system security;
- Each Component Security must have an average daily trading volume of at least 100,000 shares during the preceding sixty-day trading period;
- Each Component Security must have an average daily dollar value of shares traded during the preceding sixty-day trading period of at least $1 million; and
- The most heavily weighted Component Security may not initially represent more than 20% of the overall value of the TIR.

Recently, the rules relating to the distributions of securities by Component Securities in a trust has been revised to provide: (a) If a company whose securities are included in a series of TIRs distributes a security, the distributed security will remain in the trust as a Component Security if it is listed for trading on a U.S. national securities exchange or through the facilities of Nasdaq and its Standard & Poor's sector classification is the same as the sector classification represented by the other Component Securities in the trust at the time of the distribution; and (b) if the securities of a company that are included in a series of TIRs are no longer outstanding as a result of a merger, consolidation, corporate combination or other event, any securities received in exchange for those securities will remain in the trust as a Component Security if it is listed for trading on a U.S. national securities exchange or through the facilities of Nasdaq and its Standard & Poor's sector classification is the same as the sector classification represented by the other Component Securities in the trust at the time of the merger, consolidation, corporate combination or other event.

As a result of this change, a security that is automatically deposited into the trust as a result of a distribution or a corporate event may remain in the trust even though it does not meet all of the initial eligibility requirements set forth in Commentary .01 to Amex Rule 1202. For example, securities distributed by an issuer or exchanged in a merger generally do not have measurable price and trading histories, and may not have a minimum public float of $150 million. There is no requirement to review the securities that are represented by TIRs on an ongoing basis to determine whether Component Securities continue to meet the initial eligibility requirements. The Exchange now proposed to amend Amex Rule 1202 to provide eligibility requirements for a Component Security that became part of a trust when the security was either: (a) Distributed by a company already included as a Component Security in the series of TIRs; or (b) received in exchange for the securities of a company previously included as a Component Security and that are no longer outstanding due to a merger, consolidation, corporate combination or other event. The eligibility requirements for such Component Securities are as follows:

- Such Component Security must be listed on national securities exchange or traded through the facilities of Nasdaq and a reported national market system security;
- Such Component Security must be registered under Section 12 of the Exchange Act; and
- Such Component Security must have a Standard & Poor's Sector Classification that is the same as the Standard & Poor's Sector Classification represented by Component Securities already included in the TIR at the time of the distribution or exchange.

The Exchange believes that it is appropriate in these limited situations to provide alternate eligibility criteria for Component Securities. To reduce the number of distributions of securities from the TIR which cause inconvenience and increased transaction and administrative costs for investors, it is useful to allow certain securities that are received as part of a distribution from a company or as the result of a merger, consolidation, corporate combination or other event to remain in the TIR. The proposed eligibility requirements ensure that Component Securities included in a TIR as a result of a distribution or exchange event are widely held (having been distributed to all of the shareholders holding the original Component Security), traded through the facilities of an exchange or Nasdaq and registered under section 12 of the Act.[6]

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with section 6(b) of the Act[7] in general, and furthers the objectives of section 6(b)(5)[8] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, remove impediments to and perfect the mechanisms of a free and open market and a national market system, and, in general, protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change will impose no burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change, 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

[4] *See* Securities Exchange Act Release No. 41892 (September 21, 1999), 64 FR 52559 (September 29, 1999).

[5] Rule 19b–4(e), adopted by the Commission on December 8, 1998, permits the Exchange to list and trade new derivative securities products without a rule change provided the Exchange has in place trading rules, procedures, a surveillance program and listing standards that pertain to the class of securities covering the new product. *See* Securities Exchange Act Release No. 40761 (December 8, 1998), 63 FR 70921 (December 22, 1998).

[6] 15 U.S.C. 78*l*.

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to the File No. SR–Amex–2001–04 and should be submitted by June 13, 2001.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

After careful review, the Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and in particular, the requirements of section 6(b)(5) of the Act.[9] Specifically, the Commission finds that the proposal to provide an alternate eligibility criteria for Component Securities received as part of a distribution or as a result of a merger, consolidation, corporate combination or other event to remain in the trust will prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, facilitate transactions in securities, remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, protect investors and the public interest, and is not designed to permit unfair discrimination between customers, issuers, brokers or dealers.[10]

The Amex has requested that the proposed rule change be given accelerated approval pursuant to section 19(b)(2) of the Act.[11]

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of the notice of filing thereof in the **Federal Register** pursuant to section 19(b)(2).[12] There are TIRs currently listed and trading that have adopted the revised distribution provisions and such distributed or exchange securities may have or will shortly become Component Securities in one or more trusts issuing TIRs. Accordingly, the Commission finds that it is consistent with section 6(b)(5) of the Act[13] to approve the proposal on an accelerated basis to accommodate such possibility.

It Is Therefore Ordered, pursuant to section 19(b)(2) of the Act,[14] that the proposed rule change (SR–Amex–2001–04) and Amendment No. 1 are hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[15]

Jonathan G. Katz,

Secretary.

[FR Doc. 01–12934 Filed 5–22–01; 8:45 am]

BILLING CODE 8010–01–M

[9] 15 U.S.C. 78f(b)(5).

[10] In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[11] 15 U.S.C. 78s(b)(2).

[12] 15 U.S.C. 78s(b)(2).

[13] 15 U.S.C. 78f(b)(5).

[14] 15 U.S.C. 78s(b)(2).

[15] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

AGENCY: Small Business Administration.

ACTION: Notice of Reporting Requirements Submitted for OMB Review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

DATES: Submit comments on or before June 22, 2001. If you intend to comment but cannot prepare comments promptly, please advise the OMB Reviewer and the Agency Clearance Officer before the deadline.

Copies: Request for clearance (OMB 83–1), supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer.

ADDRESSES: Address all comments concerning this notice to: Agency Clearance Officer, Jacqueline White, Small Business Administration, 409 3rd Street, SW., 5th Floor, Washington, D.C. 20416; and OMB Reviewer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: Jacqueline White, Agency Clearance Officer, (202) 205–7044.

SUPPLEMENTARY INFORMATION:

Title: Other funding under the SBDC Umbrella.

No: 2186.

Frequency: On Occasion.

Description of Respondents: SBA Business Development Centers.

Annual Responses: 58.

Annual Burden: 29.

Jacqueline White,

Chief, Administrative Information Branch.

[FR Doc. 01–13009 Filed 5–22–01; 8:45 am]

BILLING CODE 8025–01–P

SOCIAL SECURITY ADMINISTRATION

Office of the Commissioner; Benefit Adjustments Pursuant to Public Law 106–554

AGENCY: Social Security Administration.

ACTION: Notice.

SUMMARY: Pub. L. 106–554 authorizes Federal agencies to compensate beneficiaries, to the extent practicable and feasible, for any shortfall in benefits that may have been caused by an error that affected the Consumer PriceIndex starting in 1999. This index, produced by the Bureau of Labor Statistics in the Department of Labor, was slightly understated for certain months in 1999.Pursuant to Pub. L. 106–554, the Commissioner has determined that some recipients of Social Security and Supplemental Security Income benefits did experience a shortfall in payments in 2000 and 2001 due to the Consumer PriceIndex error. This is because the 2.4-percent cost-of-living increase, promulgated in the **Federal Register** on October 25, 1999, would have been 2.5 percent in the absence of the 1999 Consumer Price Index error.

Accordingly, the Commissioner has proposed, and the Office of Management and Budget has approved, a plan for making the appropriate compensation payments under Pub. L. 106–554.By August 1, 2001, we will make a one-time payment that compensates for the entire shortfall experienced in months prior to August 2001. Benefits paid in August 2001 and later will be adjusted as if the Consumer Price Index error had not occurred. In this notice we are announcing the appropriate bases and formulas we will use to compute benefits to be paid in August 2001 and thereafter.

FOR FURTHER INFORMATION CONTACT: Jeffrey L. Kunkel, Office of the Chief Actuary,Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235, (410) 965–3013.

Background

Sections 215(i)(1) and 1617 of the Social Security Act (the Act) provide that the Consumer Price Index (CPI) be used to determine ''automatic'' adjustments to benefits under title II and title XVI of the Act. The Bureau of Labor Statistics (BLS) in the Department of Labor publishes the CPI. On September 28, 2000, the BLS announced their discovery of a software error used in the CPI calculation, affecting the calculation for months after 1998. The BLS recalculated the CPI for each month from January 1999 through August 2000. Based on criteria related to the size of the error, the BLS revised the CPI for January 2000 through August 2000, but did not revise the index for January through December of 1999.

Effects of Pub. L. 106–554

Section 308 of Pub. L. 106–554, enacted December 21,2000, requires the Office of Management and Budget and Federal agencies that administer benefit programs to determine whether the CPI computation error for 1999 resulted in a shortfall in payments to beneficiaries and to compensate beneficiaries for any such shortfall. We determined that the 2.4-percent cost-of-living increase, promulgated in the **Federal Register** on October 25, 1999, would have been 2.5 percent in the absence of the 1999 CPI error. We also determined that the 3.5-percent cost-of-living increase, promulgated in the **Federal Register** on October 24, 2000, was not affected by the 1999 CPI error. In compliance with Pub. L. 106–554, payments will be made to compensate for the past shortfall, and ongoing payments will be increased to the extent required to remove the effects of the CPI error. The following describes the basis for such compensation and adjustment.

Basis for Compensation and Adjustment

Bulletin No. 01–04 from the ExecutiveOffice of the President, Office of Management and Budget, dated January 16,2001, contains the recalculated CPI values for 1999 (these were not published as revisions by the BLS). For the quarter ending September 30, 1999, the published CPI for Urban Wage Earners and Clerical Workers was in error only for the month of September. The published CPI for September 1999 is 164.7 while the recalculated value is 164.8. Thus, the recalculated CPI values for this quarter are: July 1999, 163.3; August 1999, 163.8; and for September 1999, 164.8. The average CPI for this calendar quarter was originally determined based on published values to be 163.9. It is 164.0 based on the recalculated CPI values. The average CPI for the third quarter of 1998 is 160.0 (this was unaffected by the computation error). Thus, on a recalculated basis, the average CPI for the quarter ending September 30, 1999, exceeds the average for the quarter ending September 30, 1998, by 2.5 percent.

The quarter ending September 30, 1999, was a cost-of-living computation quarter for all purposes of the Act. The average CPI for the quarter ending September 30, 2000, (169.7 as published October 24, 2000 in the **Federal Register**) exceeds that for the quarter ending September 30, 1999 on either basis, (164.0 recalculated or 163.9 based on BLS-published monthly CPIs) by 3.5 percent. Thus, the cost-of-living increase for December 2000 remains 3.5 percent, unchanged from the value previously promulgated.

Title II Benefits

Consistent with the above cost-of-living increase calculations and pursuant to Pub. L. 106–554, we will calculate title II benefits, to be paid in August 2001 and later, as if the December 1999 cost-of-living increase had been 2.5 percent. Such calculation applies only in the case of workers and family members for whom eligibility for benefits (that is, the worker's attainment of age 62, or disability or death before age 62) occurred before 2000.

For eligibility after 1978, we generally determine benefits by means of a formula. This formula, while unaffected by the CPI error, produces an initial benefit that is subsequently increased with cost-of-living increases that become effective in or after the first year of eligibility.

For eligibility before 1979, we determine title II benefits by means of a benefit table. Both the table for December 1999 and the table for December 2000 are affected when they are computed as if the cost-of-living increase for December 1999 had been 2.5 percent. The table for December 2000 is affected because values in that table are dependent on those in the December 1999 table. A copy of either adjusted table is available on the Internet at http://www.ssa.gov/OACT/ProgData/tableForm.html. For a printed copy, write to:Social Security Administration, Office of Public Inquiries, 4100 Annex, Baltimore, MD 21235.

Other title II benefits given by specific tables are ''special minimum'' benefits, as described in section 215(a)(1)(C)(i) of the Act. As in the case of the benefit tables applicable to beneficiaries eligible before 1979, the special minimum benefit tables for both December 1999 and December 2000 are affected by computation as if the December 1999 cost-of-living increase had been 2.5 percent. The adjusted tables are shown below.

SPECIAL MINIMUM PRIMARY INSURANCE AMOUNTS AND MAXIMUM FAMILY BENEFITS

Number of years of coverage	Payable for December 1999		Payable for December 2000	
	Primary insurance amount	Maximum family benefit	Primary insurance amount	Maximum family benefit
11	$28.50	$43.20	$29.40	$44.70
12	57.50	86.90	59.50	89.90
13	86.80	130.50	89.80	135.00
14	115.60	174.00	119.60	180.00
15	144.70	217.30	149.70	224.90
16	173.80	261.30	179.80	270.40
17	202.90	305.10	210.00	315.70
18	232.00	348.60	240.10	360.80
19	261.00	392.20	270.10	405.90
20	290.00	435.70	300.10	450.90
21	319.40	479.70	330.50	496.40
22	348.20	523.10	360.30	541.40
23	377.60	567.40	390.80	587.20
24	406.70	610.70	420.90	632.00
25	435.70	653.90	450.90	676.70

SPECIAL MINIMUM PRIMARY INSURANCE AMOUNTS AND MAXIMUM FAMILY BENEFITS—Continued

Number of years of coverage	Payable for December 1999		Payable for December 2000	
	Primary insurance amount	Maximum family benefit	Primary insurance amount	Maximum family benefit
26	465.10	698.40	481.30	722.80
27	494.00	741.70	511.20	767.60
28	523.00	785.20	541.30	812.60
29	552.00	829.00	571.30	858.00
30	581.10	872.30	601.40	902.80

Title XVI Benefits

Supplemental Security Income (SSI) payment levels for the aged, blind, and disabled, payable under title XVI of the Social Security Act, are increased annually with cost-of-living increases. For SSI payment levels for the year 2000, we used a cost-of-living increase of 2.4 percent based on published CPI figures. Pursuant to Pub. L. 106–554, in order to compensate for the shortfall in past benefit payments and provide the basis for adjusting ongoing and future payments, we will adjust the title XVI Federal payment levels as if the cost-of-living increase for January 2000 had been 2.5 percent. Accordingly, we provide the following calculations of title XVI payment levels.

For 1999, we derived the monthly benefit amounts for an eligible individual, an eligible individual with an eligible spouse, and for an essential person from yearly unrounded Federal SSI benefit amounts of $6,010.02, $9,014.01, and $3,011.89. For adjusted 2000 values, these yearly unrounded amounts increase by 2.5 percent (on a recalculated basis) to $6,160.27, $9,239.36, and $3,087.19 respectively. Each of these resulting amounts must be rounded, when not a multiple of $12, to the next lower multiple of $12. Accordingly, the corresponding adjusted annual amounts, effective for 2000, are $6,156, $9,228, and $3,084. Dividing the yearly amounts by 12 gives the corresponding monthly amounts for 2000—$513, $769, and $257, respectively. Of these 3 monthly amounts, only the $513 amount for an eligible individual is higher than the previously determined value for 2000 (based on the published CPI).

Similarly, SSI payment levels for the aged, blind, and disabled increased by 3.5 percent effective for January 2001. For 2001, the adjusted yearly unrounded amounts for 2000, as shown above, increase by 3.5 percent to $6,375.88, $9,562.74, and $3,195.24 for an eligible individual, an eligible individual with an eligible spouse, and for an essential person, respectively. Following the procedure outlined above, the corresponding adjusted monthly amounts for 2001 are $531, $796, and $266. Again, of these 3 monthly amounts, only the amount for an eligible individual ($531) is higher than the previously determined value for 2001.

Dated: May 18, 2001.

Larry G. Massanari,

Acting Commissioner of Social Security.

[FR Doc. 01–13131 Filed 5–21–01; 11:23 am]

BILLING CODE 4191–02–P

DEPARTMENT OF STATE

[Public Notice 3664]

United States International Telecommunication Advisory Committee (ITAC)—Telecommunication Standardization Sector (ITAC–T) and U.S. Study Group A & B; Notice of Meetings

The Department of State announces meetings of the U.S. International Telecommunication Advisory Committee—Telecommunication Standardization (ITAC–T) National Committee and US Study Group A and B. The purpose of the Committees is to advise the Department on policy and technical issues with respect to the International Telecommunication Union and international telecommunication standardization and development. Except where noted, meetings will be held at the Department of State, 2201 ''C'' Street, NW., Washington, DC.

The ITAC–T National Committee will meet on May 30, 2001, from 2:00 to 5:00 at a location to be determined to continue drafting new ITAC–T Guidelines.

The ITAC–T U.S. Study Group A will meet from 9:30 to noon on June 4, 2001, to prepare for meetings of ITU–T Study Groups 2 and 3 at a location to be determined.

US Study Group B will meet on Thursday, June 14, 2001 from 9:30 to 3:30 at the Department of Commerce, Room B841A, 1401 Constitution Ave, NW., Washington, DC 20230 to prepare for the next ITU–T Study Group 4 meeting. Enter the building at the main entrance on 14th Street.

Members of the general public may attend these meetings. Directions to meeting locations and actual room assignments may be determined by calling the Secretariat at 202 647–0965/2592. For meetings held at the Department of State: entrance to the building is controlled; people intending to attend any of the ITAC meetings should send a fax to (202) 647–7407 not later than 24 hours before the meeting for preclearance. This fax should display the name of the meeting (ITAC T, U.S. Study Group) and date of meeting, your name, social security number, date of birth, and organizational affiliation. One of the following valid photo identifications will be required for admission: U.S. driver's license, passport, U.S. Government identification card. Enter the Department of State from the C Street Lobby; in view of escorting requirements, non-Government attendees should plan to arrive not less than 15 minutes before the meeting begins.

Attendees may join in the discussions, subject to the instructions of the Chair. Admission of members will be limited to seating available.

Dated: May 15, 2001.

Marian Gordon,

Director, Telecommunication & Information Standardization, U.S. Department of State.

[FR Doc. 01–13148 Filed 5–21–01; 2:08 pm]

BILLING CODE 4710–45–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Aviation Proceedings, Agreements filed during the week ending May 11, 2001

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. 412 and 414. Answers may be filed within 21 days after the filing of the application.

Docket Number: OST–2001–9642
Date Filed: May 9, 2001
Parties: Members of the International Air Transport Association
Subject: PTC2 EUR 0373 dated 8 May 2001
TC2 Within Europe Expedited Resolutions r1–r4
Intended effective date: 31 May 2001

Docket Number: OST–2001–9651
Date Filed: May 9, 2001
Parties: Members of the International Air Transport Association
Subject:
MV/PSC/109 dated April 4, 2001
Mail Vote S075 (Euro-Related Resolutions/RP) r1–r7
Intended effective date: 1 June 2001

Docket Number: OST–2001–9669
Date Filed: May 11, 2001
Parties: Members of the International Air Transport Association
Subject:
PTC2 EUR 0374 dated 11 May 2001
Within Europe Expedited Resolutions r1–r20
PTC2 EUR 0375 dated 11 May 2001
Within Europe Expedited Resolutions 002q, 078y r21–r22
PTC2 EUR 0376 dated 11 May 2001
Within Europe Expedited Resolution 002L r23
Intended effective dates: 1 June, 15 June, 1 July 2001

Dorothy Y. Beard,
Federal Register Liaison.
[FR Doc. 01–12975 Filed 5–22–01; 8:45 am]
BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD09–01–027]

Great Lakes Icebreaking: Recording Decision on Final Environmental Impact Statement

AGENCY: Coast Guard, DOT.

ACTION: Notice of availability.

SUMMARY: The Coast Guard announces the availability of its Record of Decision for the Final Environmental Impact Statement (''FEIS'') issued on 26 July 2000. In accordance with the National Environmental Policy Act and the Council of Environmental Quality Regulations, the Coast Guard has approved the preferred alternative for Ninth Coast Guard District icebreaking activity.

ADDRESSES: The Record of Decision is available for inspection or copying at the Ninth Coast Guard District Legal Office, 1240 East Ninth Street, Room 2075, Cleveland, Ohio 44199–2060 between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays, Telephone (216) 902–6010. Any interested party may request a copy of the EIS by writing or calling the National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia, 22161, (800) 553–6847 and asking for document number PB 2000–105–877.

FOR FURTHER INFORMATION CONTACT: For questions regarding the Record of Decision, contact LCDR Clayton Diamond, Ninth Coast Guard District Legal Office, 1240 East Ninth Street, Room 2075, Cleveland, Ohio 44199–2060, Telephone (216) 902–6010. For questions regarding the FEIS, contact Mr. Frank Blaha, U.S. Coast Guard Civil Engineering Unit, 1240 East Ninth Street, Room 2179, Cleveland, Ohio 44199–2060, Telephone (216) 902–6258.

SUPPLEMENTARY INFORMATION: The Record of Decision is based upon the FEIS for USCG icebreaking operations on the Great Lakes. The USCG will implement the preferred alternative by continued icebreaking operations in order to engage in the agency's primary duties: facilitation of shipping, flood control, search and rescue, and research and development, through icebreaking in the Great Lakes. All practicable measures to avoid or minimize environmental impacts from winter commercial shipping operations, including icebreaking, have been identified and incorporated in the preferred alternative.

Dated: May 3, 2001.

James D. Hull,
Rear Admiral, U.S. Coast Guard, Commander, Ninth Coast Guard District.
[FR Doc. 01–12980 Filed 5–22–01; 8:45 am]
BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA Special Committee 147: Minimum Operational Performance Standards for Traffic Alert and Collision Avoidance Systems Airborne Equipment

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of RTCA Special Committee 147 meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of RTCA Special Committee 147: Minimum Operational Performance Standards for Traffic Alert and Collision Avoidance Systems Airborne Equipment.

DATES: The meeting will be held June 12–13, 2001 starting at 9:00 a.m.

ADDRESSES: The meeting will be held at RTCA, Inc., 1140 Connecticut Avenue, NW., Suite 1120, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: RTCA Secretariat, 1140 Connecticut Avenue, NW., Washington, DC 20036; telephone (202) 833–9339; fax (202) 833–9434; web site *http://www.rtca.org.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463, 5 U.S.C., Appendix 2), notice is hereby given for a Special Committee 147 meeting. The agenda will include:

- June 12, 13:
  - Opening Session (Welcome and Introductory Remarks, Review/Approve Summary of Previous Meeting, Review of Open Action Items)
  - FAA Traffic Alert and Collision Avoidance System (TCAS) Program Status Report (FAA Headquarters, Technical Center and ARINC Monitoring Program)
  - EUROCONTROL TCAS Transition Program (Implementation Status, Problems Discovered from Europeans, Monitoring Programs, EMOTION/7 Discussions)
  - Requirements Working Group (RWG) report on RWG proposed changes to DO–185A and review of RWG recommendations
  - Closing Session (Future Actions/Activities, Date and Place of Next Meeting, Adjourn)

Attendance is open to the interested public but limited to space availability. With the approval of the chairmen, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on May 17, 2001.

Janice L. Peters,
FAA Special Assistant, RTCA Advisory Committee.
[FR Doc. 01–13050 Filed 5–22–01; 8:45 am]
BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Proposed Collection; Comment Request

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

ACTION: Notice and request for comments.

SUMMARY: In order to comply with the requirements of the Paperwork Reduction Act of 1995 concerning proposed extensions of information collection requirements, FinCEN is soliciting comments concerning Treasury Form TD F 90–22.49, Suspicious Activity Report by Casinos (''SARC''), which is used by Nevada casinos to file reports with the U.S. Department of the Treasury of potentially suspicious transactions and activities that may occur by, at, or through a Nevada casino.

DATES: Written comments must be received on or before July 23, 2001.

ADDRESSES: Direct all written comments to the Financial Crimes Enforcement Network, Office of Compliance and Regulatory Enforcement, Attn.: SARC Comments, Suite 200, 2070 Chain Bridge Road, Vienna, VA 22182–2536.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or for a copy of the SARC form should be directed to Leonard C. Senia, Regulatory Program Specialist (Team Leader), Office of Compliance and Regulatory Enforcement, (202) 354–6412; or Stacie A. Larson, Office of Chief Counsel, (703) 905–3590. A copy of the SARC form can be obtained through the Internet at http://www.treas.gov/fincen/forms.html. (Also, comments may be submitted by electronic mail to the following Internet address: ''*regcomments@fincen.treas.gov*'' with the caption in the body of the text, ''Attention: PRA Comments—SARC'').

SUPPLEMENTARY INFORMATION: The gaming regulation of the State of Nevada requires certain casinos licensed by that state to report suspicious transactions to the Treasury Department. *See,* Nevada Gaming Commission Regulation 6A, Section 100, effective October 1, 1997. Regulation 6A applies to all Nevada casinos with gross annual gaming revenue in excess of $10 million and having an annual table games statistical win in excess of $2,000,000. TD F 90–22.49 is the form used to make the report.

Information collected on the SARC will be made available, in accordance with strict safeguards, to appropriate criminal law enforcement and regulatory personnel in the official performance of their duties. The information collected is used for regulatory purposes and in investigations involving money laundering, tax violations, fraud, and other financial crimes.

This notice proposes no changes to the current text of the TD F 90–22.49 or its instructions.

In accordance with requirements of the Paperwork Reduction Act of 1995, 44 U.S.C. 3506(c)(2)(A), and its implementing regulations, 5 CFR 1320, the following information concerning the collection of information on TD F 90–22.49, is presented to assist those persons wishing to comment on the information collection. The estimates below are based on FinCEN's experience with SARC forms that were filed during calendar year 2000.

Title: Suspicious Activity Report by Casinos (''SARC'').

Form Number: TD F 90–22.49.

OMB Number: 1506–0006.

Type of Request: Extension of a currently approved information collection.

Description of Respondents: Businesses.

Estimated Number of Respondents: 110.

Estimated Number of Annual Responses: 107.

Frequency: As required.

Estimate of Burden: Reporting average of 31 minutes per response; recordkeeping average of 5 minutes per response.

Estimate of Total Annual Burden on Respondents: Reporting burden estimate=55 hours; recordkeeping burden estimate=9 hours. Estimated combined total of 64 hours.

Estimate of Total Annual Cost to Respondents for Hour Burdens: Based on $20 per hour, the total cost to the public is estimated to be $1,280.

Estimate of Total Other Annual Costs to Respondents: None.

Request for Comments

FinCEN specifically invites comments on the following subjects: (a) Whether the proposed collection of information is necessary for the proper performance of the mission of FinCEN, including whether the information shall have practical utility; (b) the accuracy of FinCEN'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.

In addition, the Paperwork Reduction Act of 1995 requires agencies to estimate the total annual cost burden to respondents or recordkeepers resulting from the collection of information. Thus, FinCEN also specifically requests comments to assist with this estimate. In this connection, FinCEN requests commenters to identify any additional costs associated with the completion of the form. These comments on costs should be divided into two parts: (1) Any additional costs associated with reporting; and (2) any additional costs associated with recordkeeping.

Responses to the questions posed by this notice will be summarized and included in the request for Office of Management and Budget approval. All comments will become a matter of public record.

Dated: May 15, 2001.

James F. Sloan,

Director, Financial Crimes Enforcement Network.

[FR Doc. 01–13059 Filed 5–22–01; 8:45 am]

BILLING CODE 4820–03–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

[Docket No. 01–10]

Preemption Determination

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Notice.

SUMMARY: The Office of the Comptroller of the Currency (OCC) is publishing its response to a written request for the OCC's opinion of whether Federal law would preempt a Michigan statute, as interpreted by the Michigan Financial Institutions Bureau, that limits the ability of national banks to make loans to finance motor vehicle sales. The OCC has determined that the state law, as interpreted, would be preempted under Federal law.

FOR FURTHER INFORMATION CONTACT: MaryAnn Nash, Counsel, or Mark Tenhundfeld, Assistant Director, Legislative and Regulatory Activities Division, (202) 874–5090.

SUPPLEMENTARY INFORMATION: The request for a preemption opinion was submitted by two national banks, headquartered in Ohio, that are engaged in the business of motor vehicle financing in Ohio and other states (collectively, the Requesters). As part of that business, the Requesters engage in motor vehicle sales financing through automobile dealers. In these arrangements, the Requesters enter into agreements with dealers under which the dealers act as the Requesters' agents for the purpose of soliciting loans to finance motor vehicles, taking applications for the vehicle loans,

preparing loan documentation, and obtaining the buyers' signatures. The Requesters prescribe the terms of the loan, including the interest rate, fund the loan, and issue loan approvals in Ohio.

In a ruling dated January 1, 2000, the Michigan Financial Institutions Bureau (FIB) issued a declaratory ruling in which it concluded that the proposed arrangement between the Requesters and the dealers would result in ''installment sales contracts'' governed by the Michigan Motor Vehicle Sales Act (MVSFA). Compliance with the MVSFA effectively would prohibit the Requesters from originating motor vehicle loans using dealers as agents.

The Requesters have asked for the OCC's opinion on whether the National Bank Act would preempt the MVSFA as interpreted by the FIB. The Requesters note that the National Bank Act expressly authorizes national banks to make loans as well as to engage in activities incidental to lending. 12 U.S.C. 24 (Seventh). The Requesters assert the FIB's characterization of its proposed program as an ''installment sales contract'' subject to the provisions of the MVSFA impairs their ability to exercise a Federally authorized power.

As is explained in greater detail in the response, the OCC agrees that national banks are authorized under 12 U.S.C. 24 (Seventh) to engage in the business of lending, either directly or through an agent. The OCC further agrees that the Michigan law, as interpreted by the FIB, would be preempted. It frustrates the Requesters ability to exercise their lending authority by limiting the Requesters' use of agents, it prohibits the Requesters from charging interest rates permitted by their home state as authorized by 12 U.S.C. 85, and it seeks to apply a state licensing requirement to national banks, as a precondition to their exercise of powers granted under Federal law.

Section 114 of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994 generally requires the OCC to publish notice in the **Federal Register** of requests for preemption opinions in one of the four specified areas: community reinvestment, consumer protection, fair lending, or the establishment of intrastate branches. 12 U.S.C. 43. Section 114 also requires the OCC to publish any final opinion letter in which the OCC concludes that Federal law preempts a state law in one of these four areas. Without expressly determining whether section 114 applied to this request, the OCC published a Notice of Request for Preemption Determination dated October 25, 2000 (65 FR 63917). The OCC is publishing its response to the request as an appendix to this notice.

Dated: May 15, 2001.

John D. Hawke, Jr.,

Comptroller of the Currency.

Appendix

Thomas A. Plant

Senior Vice President, Assistant General Counsel, National City Bank, 1900 East Ninth Street, Cleveland, OH 44114–3484

Daniel W. Morton

Vice President and Senior Counsel, The Huntington National Bank, Legal Department, 10th Floor, Huntington Center, Columbus, OH 43287

Re: *Michigan Motor Vehicles Sales Finance Act*

Dear Messrs. Plant and Morton: This responds to your letters dated September 14, 2000 and September 21, 2000 (collectively, the Letters) on behalf of National City Bank, Cleveland, Ohio and The Huntington National Bank, Columbus, Ohio (collectively, the Banks). In the Letters, you request confirmation by the Office of the Comptroller of the Currency of your view that Federal law preempts a Michigan statute, as interpreted by the Michigan Financial Institutions Bureau (FIB), that limits the ability of national banks to make loans to finance motor vehicle sales. For the reasons discussed below, we conclude that Federal law would preempt the Michigan statute as interpreted by the FIB.

Background

The Banks are national banks headquartered in Ohio with offices in several other states. The Banks are engaged in the business of motor vehicle financing in Ohio and other states. The Banks typically engage in motor vehicle sales financing through automobile dealers. In these arrangements, the Banks enter into agreements with the dealers under which the dealers act as the Banks' agents for the purpose of soliciting loans to finance motor vehicles, taking applications for the vehicle loans, preparing the loan documentation, and obtaining the buyers' signatures on all required documents. The Banks prescribe the terms of the loan, including the minimum interest rate, and fund the loans and issue loan approvals in Ohio.

Because of questions regarding the interpretation of Michigan law, the Banks first sought a declaratory ruling from FIB on the applicability of the Michigan Motor Vehicle Sales Act (the MVSFA) to this proposed arrangement. In a ruling dated January, 1, 2000 (the Ruling),[1] the FIB concluded that, the proposed arrangement between the banks and Michigan motor vehicle dealers would result in ''installment sale contracts'' subject to the MVSFA.[2] However, in order for a motor vehicle installment sale contract to comply with the MVSFA: (1) The dealer must originate the loan as a licensed installment seller of motor vehicles; and (2) the bank may only purchase the loan as a licensed sales finance company.[3] The transaction must also comply with the several other requirements of the MVSFA that apply to installment sale contracts.[4] This interpretation of the MVSFA effectively prohibits a national bank from originating motor vehicle loans using a dealer as the bank's agent. You asked our view on whether Federal law would preempt the MVSFA as interpreted by the FIB.

The OCC published a notice of your request in the **Federal Register**,[5] and invited interested parties to comment. The OCC received thirteen comments in response to the notice. Several commenters opined that Federal law does preempt the state law in question. These commenters cited the authority of national banks under 12 U.S.C. 24(Seventh) to engage in lending activities and other activities necessary to carry on the business of banking. These commenters also noted that Federal law preempts state laws that purport to regulate an activity that is authorized by Federal law and that insured depository institutions are free to engage in the full range of permissible activities in accordance with the Gramm-Leach-Bliley-Act (GLBA).

The remaining commenters opined that Federal law should not be viewed as preempting the MVSFA as interpreted by the FIB. One of these commenters, the Michigan Commissioner of the Office of Financial and Insurance Services, submitted a lengthy comment restating the conclusions reached by the FIB in its Declaratory Ruling and raising several other arguments opposing Federal preemption of what the State regulator views as a State consumer protection act. The other commenters asserted, variously, that the Riegle-Neal Act requires a national bank to establish a branch in order to lend money in another state, that the OCC should not issue any opinion stating

[1] In the Matter Of: Request by Rodney D. Martin on Behalf of National City Bank for a Declaratory Ruling on the Applicability of the Motor Vehicle Sales Finance Act to Certain Transactions (January 1, 2000).

[2] Section 2 of the MVSFA defines an ''installment sale contract'' as one ''for the retail sale of a motor vehicle, or which has a similar purpose or effect, under which part or all of the price is payable in 2 or more scheduled payments subsequent to the making of the contract * * *.'' Michigan Compiled Laws (MCL) 492.102(9); Michigan Sales Act (MSA) 23.628(2)(9).

[3] MCL 492.103(a)and (b); MSA 23.628(3)(a) and (b).

[4] These include, for example, provisions concerning the form and contents of an installment sales contract, disclosures that must be made to the buyer, the amount and computation of fees and finance charges, and prohibited charges. *See* MCL 492.112–492.134.

[5] *See* 65 FR 63917 (October 25, 2000)(the Notice). As stated in the Notice, section 114 of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994 (the Riegle-Neal Act) (Pub. L. 103–328, sec. 114, 108 Stat. 2338, 2366–68 (1994), codified at 12 U.S.C. 43) requires the OCC to publish notice in the **Federal Register** before issuing a final written opinion about the preemptive effect of Federal law in the areas of community reinvestment, consumer protection, fair lending, and the establishment of interstate branches. Without making a determination as to whether section 114 applies to this preemption opinion request, the OCC decided that it was appropriate to use notice and comment procedures given the significance of the legal issues presented.

or implying that non-bank entities may benefit from the preemptive effect of the National Bank Act when they act as agents for national banks, and that the OCC should defer to Michigan regulator's interpretation of the Michigan statute. One commenter adopted a more neutral stance and encouraged the OCC to be mindful of the vital interests of states in the area of consumer protection.

Analysis

Permissibility of the Activity

The threshold question in any preemption analysis is whether the activities in question are permissible for a national bank under Federal law. If they are not, then there is no preemption issue.

The Banks' proposed activity is fashioned from three component parts: The Banks propose to engage in the business of lending, they seek to use third-party agents in connection with that business, and they seek to apply the interest rates permissible in their home state to these motor vehicle loans. All three activities are permissible under Federal law.

First, section 24(Seventh) specifically authorizes national banks to make loans. Thus, a national bank need look no further than the express language of the statute for authorization to make loans. Section 24(Seventh) also authorizes national banks to engage in the more general ''business of banking'' and activities incidental thereto. The Supreme Court has made clear that the ''business of banking'' authorized by section 24(Seventh) is a broad, flexible concept that allows the National Bank Act to adapt to changing times. See *NationsBank of North Carolina, N.A.* v. *Variable Annuity Life Ins. Corp.,* 513 U.S. 251, 258, n.2 (1995) (''We expressly hold that the ''business of banking'' is not limited to the enumerated powers in section 24 Seventh and that the Comptroller therefore has discretion to authorize activities beyond those specifically enumerated.''). An activity will be deemed ''incidental'' to the business of banking if it is ''convenient or useful in connection with the performance of'' a power authorized under Federal law. *Arnold Tours, Inc.* v. *Camp,* 472 F.2d 427, 432 (1st Cir. 1972).

Second, the authority of national banks under section 24(Seventh) permits a national bank to use the services of agents and other third parties in connection with a bank's lending business. Federal banking regulations specifically provide that a national bank may ''use the services of, and compensate persons not employed by, the bank for originating loans.'' [6] 12 CFR 7.1004(a). Likewise, the regulations permit national banks to utilize the services of third parties to disburse loan proceeds. 12 CFR § 7.1003(b). These agents may undertake these activities at sites that are neither the main office nor a branch office of the bank provided the requirements of those regulations are satisfied. 12 CFR §§ 7.1003(b), 7.1004(b).

Finally, under 12 U.S.C. 85, national banks may charge interest in accordance with the laws of the state where the bank's main office is located without regard to where the borrower resides and despite contacts between the loan and another state. The U.S. Supreme Court has specifically upheld this authority. *Marquette National Bank* v. *First of Omaha Service Corp.,* 439 U.S. 299 (1978).[7] Based on this analysis, it is clear that each of the component activities that together comprise the Banks' proposed activities through Michigan automobile dealers is permissible under well-settled authority.[8]

Preemptive Effect of Federal Law

In our opinion, Federal law preempts the MVSFA as interpreted by the FIB in its Declaratory Ruling, because the statute, as interpreted, conflicts with Federal law authorizing the Bank to engage in the activities in question and with the OCC's exclusive visitorial powers over national banks. These points are addressed in more detail below, following a brief summary of the law governing preemption and the OCC's visitorial powers.

Preemption and Visitorial Powers

When the Federal government acts within the sphere of authority conferred upon it by the Constitution, Federal law is paramount over, and may preempt, state law. U.S. Const. art. VI, cl. 2 (the Supremacy Clause); *Cohen* v. *Virginia,* 19 U.S. (6 Wheat.) 264, 414 (1821) (Marshall, C.J.). Federal authority over national banks stems from several constitutional sources, including the Necessary and Proper Clause and the Commerce Clause of the United States Constitution. U.S. Const. art. I, section 8, cl.3, cl. 18; *McCulloch* v. *Maryland,* 17 U.S. (4 Wheat.) 316, 409 (1819).

The United States Supreme Court has identified several bases for Federal preemption of state law. First, Congress may expressly state that it intends to preempt state law. E.g., *Jones* v. *Rath Packing Co.,* 430 U.S. 519 (1977). Second, a Federal statute may create a scheme of Federal regulation ''so pervasive as to make reasonable the inference that Congress left no room for the States to supplement it.'' *Rice* v. *Norman Williams Co.,* 458 U.S. 654, 659 (1982). Third, the state law may conflict with a Federal law. See, e.g., Franklin National Bank, 347 U.S. 373 (1954); *Davis* v. *Elmira Savings Bank,* 161 U.S. 275 (1896). In elaborating on this third test, the Supreme Court has stated—

Federal law may be in ''irreconcilable conflict'' with state law. *Rice* v. *Norman Williams Co.,* 458 U.S. 654, 659 (1982). Compliance with both statutes, for example, may be a ''physical impossibility,'' *Florida Lime & Avocado Growers, Inc.* v. *Paul,* 373 U.S. 132, 142–143 (1963); or, the state law may ''stan[d] as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress.'' *Hines* v. *Davidowitz,* 312 U.S. 52, 67 (1941).

Barnett Bank v. *Nelson,* 517 U.S. 25, 31 (1996). The Court in Barnett went on to state that—

In defining the pre-emptive scope of statutes and regulations granting a power to national banks, these cases (i.e., national bank preemption cases) take the view that normally Congress would not want States to forbid, or to impair significantly, the exercise of a power that Congress explicitly granted. To say this is not to deprive States of the power to regulate national banks, where * * * doing so does not prevent or significantly interfere with the national bank's exercise of its powers.

517 U.S. at 33.

A conflict between a state law and Federal law need not be complete in order for Federal law to have preemptive effect. Where a Federal grant of authority is unrestricted, for example, state law that attempts to place limits on the scope and exercise of that authority will be preempted. See, e.g., *New York Bankers Association, Inc.* v. *Levin,* 999 F. Supp. 716 (W.D.N.Y. 1998). Thus, Federal law preempts not only state laws that purport to prohibit a national bank from engaging in an activity permissible under Federal law but also state laws that condition or confine the exercise by a national bank of its express or incidental powers.

As the Court stated in Barnett,

* * * where Congress has not expressly conditioned the grant of ''power'' upon a grant of state permission, the Court has ordinarily found that no such condition applies. In Franklin Nat. Bank, the Court made this point explicit. It held that Congress did not intend to subject national banks' power to local restrictions, because the Federal power-granting statute there in question contained ''no indication that Congress [so] intended * * * as it has done by express language in several other instances.''

517 U.S. at 34 (citations omitted; emphasis in original).

Application of Federal Law to State Statutes

As noted above, it is well established that a national bank may engage in the business of lending, either directly or through an agent. See 12 U.S.C. 24(Seventh). In our view, the FIB's interpretation of Michigan law to include bank originated loans within the definition of ''installment sales contracts'' subject to the MVSFA conflicts with Federal law and significantly interferes with the Banks' ability to exercise their lending authority in three distinct ways.

[6] This is not a situation where a loan product has been developed by a non-bank vendor that seeks to use a national bank as a delivery vehicle, and where the vendor, rather than the bank, has the preponderant economic interest in the loan.

[7] See also OCC Interpr. Ltr. No. 822 (February 17, 1998), reprinted in (1997–1998 Transfer Binder) Fed. Banking L. Rep. (CCH) P 81–265 (identifying circumstances, not applicable here, under which national banks must use rates permitted by a state, other than its main office state, in which the bank has a branch).

[8] As mentioned above, several commenters questioned the permissibility of the Banks activities under the Riegle-Neal Act. These commenters argued that, under the Riegle-Neal Act, the Banks would be required to establish branches in Michigan in order to lend money there and that Michigan state consumer protection laws would apply to the branches. Nothing in the Riegle-Neal Act, however, requires that a bank have a branch in a state as a prerequisite to lending in that state. (We note that both banks have branches in Michigan. Consequently, the provision of the Riegle-Neal Act relating to the applicability of state law to a branch of an out-of-state bank is discussed subsequently in this letter.)

First, the FIB's interpretation of Michigan law prohibits banks from using automobile dealers as agents to originate loans. Congress intended to permit national banks to have ''all such incidental powers as shall be necessary to carry on the business of banking.'' 12 U.S.C. 24(Seventh). Federal regulations expressly interpret this grant to include the authority to use agents to originate loans. See 12 CFR § 7.1004. To the extent that a state asserts the right to restrict or condition a national bank's exercise of the Federally granted powers, that state's law will be preempted. Barnett, supra, at 34; Franklin, supra, at 378; *Bank of America National Trust & Savings Ass'n.* v. *Lima,* 103 F. Supp. 916, 918, 920 (D. Mass. 1952) (exercise of national bank powers is not subject to state approval; states have no authority to require national banks to obtain a license to engage in an activity permitted to them by Federal law).[9]

Second, by effectively prohibiting the Banks from originating loans at an automobile dealership in Michigan, the FIB's interpretation of the MVSFA prevents the Banks from exercising its power under 12 U.S.C. 85, as previously discussed, to charge the interest rates permitted by its home state, Ohio. To the extent the FIB interprets the MVSFA to subject the Banks to interest rate limitations of other states, it is preempted by Federal law.

Finally, it is our opinion that the FIB's interpretation of the MVSFA that would require a national bank to obtain a state license and treat the transaction as a loan purchase from a dealership also is preempted by the Federal law giving the OCC exclusive visitorial authority over national banks. A state requirement that a national bank obtain state approval or license to exercise a power authorized under Federal law is an assertion by the state that it has supervisory or regulatory authority over national banks. This is in direct conflict with the Federal law providing that the OCC has exclusive visitorial powers over national banks except as otherwise provided by Federal law. 12 U.S.C. 484; 12 CFR 7.4000. A state law that purports to vest this authority in a state is preempted. In this case, it is our opinion that the FIB's application of the state licensing requirement to national banks would be preempted on this basis as well.

The characterization by several of the commenters of the MVSFA as a consumer protection statute does not alter this conclusion. With respect to banks with interstate branches, the Riegle-Neal Act provides:

[t]he laws of the host State regarding community reinvestment, consumer protection, fair lending, and establishment of intrastate branches shall apply to any branch in the host State of an out-of-state national bank to the same extent as such state laws apply to a branch of a bank chartered by that State except—

(i) When Federal law preempts that application of such state laws to a national bank * * *

12 U.S.C. 36(f)(1)(A) (emphasis added).

Thus, the Riegle-Neal Act does not protect state consumer laws to the extent that they are preempted by Federal law and, as discussed, it is our opinion that the MVFSA is preempted by Federal law.[10]

Conclusion

To the extent the FIB interprets the MVSFA to limit the Banks' proposed motor vehicle financing arrangement, it is our opinion that it is preempted by Federal law. We trust that this is responsive to your inquiry. Our conclusions are based on the facts and representations made in your letters. Any material change in facts or circumstances could affect the conclusions stated in this letter.

Sincerely,

Julie L. Williams,

First Senior Deputy Comptroller and Chief Counsel.

[FR Doc. 01–12946 Filed 5–22–01; 8:45 am]

BILLING CODE 4810–33–P

[9] See also OCC Interpr. Ltr. No. 866 (Oct. 8, 1999), reprinted in [1999–2000 Transfer Binder] Fed. Banking L. Rep. (CCH) P 81–360 (state law requirements that purport to preclude national banks from soliciting trust business from customers located in states other than where the bank's main office is located would be preempted); OCC Interpr. Ltr. No. 749 (Sept. 13, 1996), reprinted in [1996–1997 Transfer Binder] Fed. Banking L. Rep. (CCH) P 81–114 (state law requiring national banks to be licensed by the state to sell annuities would be preempted); OCC Interpr. Ltr. 644 (March 24, 1994), reprinted in [1994 Transfer Binder] Fed. Banking L. Rep. (CCH) P 83,553 (state registration and fee requirements imposed on mortgage lenders would be preempted).

[10] In addition, we note under the circumstances that section 85 permits the bank to charge interest in accordance with Ohio law and preempts any state law requirement that Michigan usury law applies to the loans at issue. See OCC Interpr. Ltr. 822, supra n. 6. Because the activities in question do not involve insurance, the unique preemption standard established under the McCarran-Ferguson Act is not at issue 12 U.S.C. 1012. Nor are the recently enacted provisions of the GLBA. 15 U.S.C. 6701.

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 1116

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 1116, Foreign Tax Credit.

DATES: Written comments should be received on or before July 23, 2001 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Allan Hopkins, (202) 622–6665, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Foreign Tax Credit.

OMB Number: 1545–0121.

Form Number: 1116.

Abstract: Form 1116 is used by individuals (including nonresident aliens), estates, or trusts who paid foreign income taxes on U.S. taxable income, to compute the foreign tax credit. This information is used by the IRS to determine if the foreign tax credit is properly computed.

Current Actions: There are no changes being made to Form 1116 at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 779,773.

Estimated Time Per Respondent: 3 hours, 38 minutes.

Estimated Total Annual Burden Hours: 2,837,771.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of

information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: May 17, 2001.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 01–13065 Filed 5–22–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0300]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 *et seq.*), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before June 22, 2001.

FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT: Denise McLamb, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273–8030, FAX (202) 273–5981 or e-mail *denise.mclamb@mail.va.gov.* Please refer to ''OMB Control No. 2900–0300.''

SUPPLEMENTARY INFORMATION:

Title: Veterans Application for Assistance in Acquiring Special Housing Adaptations, VA Form 26–4555d.

OMB Control Number: 2900–0300.

Type of Review: Extension of a currently approved collection.

Abstract: VA Form 26–4555d is used by disabled veterans in applying for special housing and adaptations to dwellings. Grants are available to assist disabled veterans in making adaptations to their current residences or one, which they intend to live in as long as the veteran or a member of the veteran's family owns the home. It also provides information for use in approving or disapproving a veteran's application for a grant.

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 **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on October 17, 2000, on page 61380.

Affected Public: Individuals or households.

Estimated Annual Burden: 25 hours.

Estimated Average Burden Per Respondent: 20 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 75.

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503, (202) 395–7316. Please refer to ''OMB Control No. 2900–0300'' in any correspondence.

Dated: May 4, 2001.

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 01–12972 Filed 5–22–01; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERAN AFFAIRS

Office of Research and Development; Department of Veterans Affairs Human Research Protection Accreditation Program

AGENCY: Department of Veterans Affairs.

ACTION: Notice of draft accreditation standards.

SUMMARY: This notice informs interested parties that draft standards for the Department of Veterans Affairs (VA) Human Research Protection Accreditation Program (VAHRPAP) will be available for public comment on the National Committee for Quality Assurance (NCQA) Web site: www.ncqa.org.

DATES: The public comment period will start May 16, 2001, and will continue through June 1, 2001.

ADDRESS: The preferred method for receiving comments is as a Microsoft Word file attached to an e-mail message. The e-mail message should be sent to *VAHRPAP@ncqa.org* and have ''Public Comment'' in the subject line. Please include your name, organizational affiliation and telephone number in any e-mail correspondence.

Mail written comments (one original and three copies) to the following address: NCQA, Attn: VAHRPAP, 2000 L Street, NW., Suite 500, Washington, DC 20036. If you sent your comments by e-mail, please do not send duplicate comments by mail.

SUPPLEMENTARY INFORMATION: The Department of Veterans Affairs awarded a five-year contract to the National Committee for Quality Assurance (NCQA) to conduct an accreditation program, the first of its kind, to help to ensure that VA medical centers are complying with VA and other applicable Federal regulations for the protection of human subjects of research. NCQA is a private, non-profit organization dedicated to improving health care quality, with 10 years of experience in accrediting and certifying health care programs. NCQA will partner with Medical Care Management Corporation (MCMC) to design the program and to recruit, credential and schedule surveyors. MCMC has established a large panel of experienced clinical researchers who evaluate the appropriateness of experimental treatments, conduct technology assessments and review research protocols.

VA conducts biomedical, health services, and rehabilitation research to improve the health care delivered to the Nation's veterans. The Office of Research and Development (ORD) has developed policies, consistent with the Common Rule and the Food and Drug Administration (FDA) regulations, to safeguard human subjects in research. Also, as part of its responsibilities in protecting human subjects, VA's Office of Research Compliance and Assurance (ORCA) collaborates with the Office of Research and Development in carrying out this accreditation contract, and will analyze trends from the accreditation reports for continuing quality improvement. The VA Human Research Protection Accreditation Program (VAHRPAP) will provide a routine external evaluation of compliance with VA and other Federal policies.

FOR FURTHER INFORMATION: For further information about the accreditation program, contact NCQA Customer Service, at (202) 955–5697. For questions about the Department of Veterans Affairs human subjects protection policies or programs, call Brenda Cuccherini, PhD, VA Office of Research and Development, at (202) 408–3614.

Dated: May 16, 2001.

Anthony J. Principi,

Secretary of Veterans Affairs.

[FR Doc. 01–12974 Filed 5–22–01; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Adjustments for Service-Connected Benefits

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: As required by the Veterans' Compensation Cost-of-Living Adjustment Act of 2000, Public Law 106–413, the Department of Veterans Affairs (VA) is hereby giving notice of adjustments in certain benefit rates. These adjustments affect the compensation and dependency and indemnity compensation (DIC) programs.

DATES: These adjustments are effective December 1, 2000, the date provided by Public Law 106–413.

FOR FURTHER INFORMATION CONTACT: Paul Trowbridge, Consultant, Compensation and Pension Service (212A), Veterans Benefit Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 273–7218.

SUPPLEMENTARY INFORMATION: Section 2 of Public Law 106–413 provides for an increase in each of the rates in sections 1114, 1115(1), 1162, 1311, 1313, and 1314 of title 38, United States Code. VA is required to increase these benefit rates by the same percentage as increases in the benefit amounts payable under title II of the Social Security Act. In computing increased rates in the cited title 38 sections, fractions of a dollar are rounded down to the nearest dollar. The increased rates are required to be published in the **Federal Register**.

The Social Security Administration has announced that there will be a 3.5 percent cost-of-living increase in Social Security benefits. Therefore, applying the same percentage, the following rates for VA compensation and DIC programs will be effective December 1, 2000:

DISABILITY COMPENSATION (38 U.S.C. 1114)

Disability Evaluation (percent)	Monthly rate
10	$101
20	194
30	298
40	427
50	609

DISABILITY COMPENSATION (38 U.S.C. 1114)—Continued

Disability Evaluation (percent)	Monthly rate
60	769
70	969
80	1,125
90	1,266
100	2,107

38 U.S.C. 1114(k) through (s)	Monthly rate
38 U.S.C. 1114(k)	$78; $2,621; $78; $3,677
38 U.S.C. 1114(l)	$2,621
38 U.S.C. 1114(m)	$2,891
38 U.S.C. 1114(n)	$3,290
38 U.S.C. 1114(o)	$3,677
38 U.S.C. 1114(p)	$3,677
38 U.S.C. 1114(r)	$1,578; $2,350
38 U.S.C. 1114(s)	$2,359

Additional Compensation for Dependents (38 U.S.C. 1115(1))

38 U.S.C. 1115 (1)	Monthly Rate
38 U.S.C. 1115(1)(A)	$121
38 U.S.C. 1115(1)(B)	$208; $63
38 U.S.C. 1115(1)(C)	$82; $63
38 U.S.C. 1115(1)(D)	$98
38 U.S.C. 1115(1)(E)	$229
38 U.S.C. 1115(1)(F)	$192

Clothing Allowance (38 U.S.C. 1162)—$565 per year.

DIC TO A SURVIVING SPOUSE (38 U.S.C. 1311)

Pay grade	Monthly rate
E–1	$911
E–2	911
E–3	911
E–4	911
E–5	911
E–6	911
E–7	942
E–8	995
E–9(1)	1,038
W–1	962
W–2	1,001
W–3	1,031
W–4	1,090
O–1	962
O–2	995
O–3	1,063
O–4	1,125
O–5	1,239
O–6	1,396
O–7	1,509
O–8	1,653
O–9	1,771
O–10(2)	1,943

(1) If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, the surviving spouse's monthly rate is $1,119.

(2) If the veteran served as Chairman or Vice Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps, or Commandant of the Coast Guard, the surviving spouse's monthly rate is $2,083.

DIC TO A SURVIVING SPOUSE (38 U.S.C. 1311(A) THROUGH (D))

38 U.S.C. 1311(a) through (d)	Monthly rate
38 U.S.C. 1311(a)(1)	$911
38 U.S.C. 1311(a)(2)	197
38 U.S.C. 1311(b)	229
38 U.S.C. 1311(c)	229
38 U.S.C. 1311(d)	110

DIC TO CHILDREN (38 U.S.C. 1313)

38 U.S.C. 1313	Monthly rate
38 U.S.C. 1313(a)(1)	$386
38 U.S.C. 1313(a)(2)	$556
38 U.S.C. 1313(a)(3)	$723
38 U.S.C. 1313(a)(4)	$723; $140

SUPPLEMENTAL DIC TO CHILDREN (38 U.S.C. 1314)

38 U.S.C. 1314	Monthly rate
38 U.S.C. 1314(a)	$229
38 U.S.C. 1314(b)	$386
38 U.S.C. 1314(c)	$194

Section 304 of Public Law 106–419 replaces the previous 38 U.S.C. 5503(b)(1)(A) estate limitation threshold of $1,500 for withholding of benefits, and $500 for resumption of benefits. The provision affects certain incompetent, hospitalized or institutionalized veterans who do not have a dependent spouse or child.

The new estate value limit for withholding of benefits is increased to five times the 100 percent service-connected disability rate for a veteran who does not have dependents. The estate value amount at which benefits may be resumed is now one half of that rate. This new formula will cause the estate limitation threshold to change with each change to basic compensation rates.

As a result, and effective November 1, 2000, the estate limitation threshold is increased to $10,180 for withholding of benefits, and $5,090 for resumption of benefits. This is based on compensation

rates in effect at the time of passage of Public Law 106–419.

Also, effective December 1, 2000, the estate limitation threshold is increased to $10,535 for withholding of benefits, and $5,267.50 for resumption of benefits. This is based on the legislative increase to basic compensation rates effective December 1, 2000.

VA will publish the current dollar amounts for withholding and resumption of benefits under 38 U.S.C. 5503(b)(1)(A) with the **Federal Register** notices for future legislative adjustments.

Dated: May 16, 2001.

Anthony J. Principi,

Secretary of Veterans Affairs.

[FR Doc. 01–12973 Filed 5–22–01; 8:45 am]

BILLING CODE 8320–01–U

Federal Register

Wednesday,
May 23, 2001

Part II

Small Business Administration

13 CFR Part 108

New Markets Venture Capital Program; Final Rule

SMALL BUSINESS ADMINISTRATION

13 CFR Part 108

RIN 3245–AE40

New Markets Venture Capital Program

AGENCY: U.S. Small Business Administration.

ACTION: Final rule; Withdrawal of interim final rule.

SUMMARY: The U.S. Small Business Administration (''SBA'') adds a new regulation to implement the New Markets Venture Capital Program Act of 2000 (''the Act''). The Act authorizes SBA to issue regulations necessary to implement the program. The regulations set forth the requirements for: Newly-formed venture capital companies to qualify to become New Markets Venture Capital (''NMVC'') companies to make developmental venture capital investments in smaller enterprises located in low-income geographic areas and provide operational assistance to such enterprises receiving such investments; and Existing Specialized Small Business Investment Companies (''SSBICs'') to qualify for grants to provide operational assistance to smaller enterprises located in low-income geographic areas and which such SSBICs have financed or expect to finance.

SBA also withdraws the interim final rule on the New Markets Venture Capital Program originally published on January 22, 2001, the effective date of which subsequently was delayed until June 22, 2001. Because the interim final rule is withdrawn, it will not take effect on June 22, 2001.

DATES: *Effective Date:* This final rule is effective on May 23, 2001.

Applicability Date: This final rule applies to all applications received no later than the application deadline date and time.

Withdrawal Date: The interim final rule adding 40 CFR part 108, which was published at 66 FR 7218 and delayed at 66 FR 10811 and 66 FR 20530, is withdrawn as of May 23, 2001.

FOR FURTHER INFORMATION CONTACT: Austin Belton, Director, Office of New Markets Venture Capital, Investment Division, or Louis Cupp, Policy Analyst, Investment Division, at (202) 205–6510. This is not a toll-free number.

SUPPLEMENTARY INFORMATION:

I. Background

The New Markets Venture Capital Program Act of 2000 (''the Act'') was created by the Consolidated Appropriations Act of 2001, Public Law 106–554, enacted December 21, 2000. Congress recognized that despite the nation's overall economic prosperity, many underserved areas in America have not experienced such prosperity and millions of Americans living in these areas do not have access to jobs or entrepreneurial opportunities. It enacted the New Markets Venture Capital (''NMVC'') program to help create an economic infrastructure in such underserved areas by encouraging business growth through program-supported investment. This type of investing is known in the community development venture capital industry as ''double bottom line'' investing, because the investments have both an anticipated financial and social return. Social returns include creating sustainable jobs at businesses receiving investments from NMVC companies, and encouraging such businesses to provide much-needed new products and services within underserved areas.

Congress noted that between 1997 and 1998, the median income for the nation's households rose 3.5 percent in real terms, yet 12.7 percent of Americans (34.5 million people) still live below the poverty line. Many of these Americans live in inner city and rural areas, where job opportunities are scarce and there is little to attract small business investors. In rural and urban communities, poverty remains a persistent problem. Job growth is well below the national average, with unemployment at or above 14%. Unemployment is 7.5% in the African American urban community, and is 6.4% in the Hispanic urban population; both are nearly double the national average. Despite these statistics, Congress found that it is not enough to create jobs in these pockets of poverty, rather these communities need a new economic infrastructure to enable them to develop their full potential and participate fully in the economic mainstream. The NMVC program will encourage the growth of such an infrastructure by supporting new equity capital investments by NMVC companies and SSBICs and by providing operational assistance to smaller enterprises located in low-income geographic areas whose growth will foster the creation of wealth and job opportunities in such areas.

SBA will enter into participation agreements with NMVC companies to fulfill these statutory purposes. The Act authorizes SBA to guarantee debentures of NMVC companies. Such debentures leverage the private capital that NMVC companies must raise and enable them to make the equity investments in low-income geographic areas contemplated by the Act. The Act also authorizes SBA to provide grants to NMVC companies to provide operational assistance to smaller enterprises in which they invest. In addition, the Act enhances the ability of existing SSBICs to invest in smaller enterprises in low-income areas by giving them grants to provide operational assistance to such enterprises in connection with such investments.

SBA will enter into participation agreements with NMVC companies that have a solid business plan for making investments in the low-income geographic areas targeted by the Act, and that have the most likelihood of expanding economic opportunities in such areas.

II. Rulemaking History

On January 22, 2001, 66 FR 7218, SBA published in the **Federal Register** an interim final rule with an effective date of February 21, 2001. SBA subsequently published in the **Federal Register** on February 20, 2001, 66 FR 10811, a delay of the effective date of the final rule until April 23, 2001. The delay was for the purpose of giving Administration officials the opportunity for further review and consideration of new regulations, consistent with the Assistant to the President and Chief of Staff memorandum entitled ''Regulatory Review Plan,'' published in the **Federal Register** on January 24, 2001.

On April 23, 2001, 66 FR 20530, SBA published in the **Federal Register** notice of a further delay of the effective date of the interim final rule, to June 22, 2001. The purpose of this further delay was to give Administration officials additional time for further review and consideration of new regulations, consistent with that ''Regulatory Review Plan,'' before the interim final rule became effective.

Also on April 23, 2001, 66 FR 20531, SBA published in the **Federal Register** a proposed rule implementing the NMVC program, and a proposed withdrawal of the previously published interim final rule. The proposed rule incorporated substantive changes resulting from the Administration's review of the interim final rule. The deadline for public comments on the proposed rule was May 4, 2001. SBA received one comment, which is addressed in Section IV.A, below.

III. Withdrawal of Interim Final Rule

SBA withdraws the interim final rule it published in the **Federal Register** on January 22, 2001 (66 FR 7218). SBA received no comments on its proposed rulemaking action of withdrawing its previously published interim final rule

and implementing the NMVC program instead with this final rule. SBA withdraws the interim final rule before it becomes effective on June 22, 2001, for the purpose of implementing the NMVC program instead with this final rule, which is based on the proposed rule SBA published in the **Federal Register** on April 23, 2001 (66 FR 20531). The purpose of implementing the NMVC program with this final rule instead of the interim final rule is to implement the program with substantive changes resulting from the Administration's review of the interim final rule.

IV. Discussion of Comments on and Changes to the Proposed Rule

A. Public Comments

SBA received one comment in response to the proposed rule. The majority of the commenter's comments concern the ways in which SBA changed various regulations in the proposed rule from the versions of those regulations in the previously published interim final rule. This section focuses on only those comments, and does not discuss those comments that reiterate comments already made and already discussed in the preamble to the proposed rule.

With regard to the proposed definition of ''Relevant Venture Capital Finance'' in § 108.50, as changed from the version of this definition previously published in the interim final rule, the commenter recommends that SBA implement its earlier version of this definition. The commenter believes that SBA's proposed change will result in SBA not considering the organizational mission of the NMVC company when determining the qualifications of the management team. SBA will implement this regulation as proposed, for the following reasons. First, SBA believes that the proposed definition does not have any effect on the separate regulatory requirement in § 108.120 that in order to be eligible for the program, a NMVC company applicant must have as its primary mission the economic development of one or more low-income areas. Second, the change will allow applicants and SBA to focus on management team members' demonstrable prior equity investment activities in small business in low-income areas, rather than attempting to prove the intent behind such prior activities.

The commenter noted that SBA eliminated from the proposed rule § 108.240, which had been included in the previously published interim final rule, and recommended that SBA put that section back into the final rule. That section concerns the circumstances in which non-cash assets may be included in private capital. The commenter suggested that the NMVC program should not be more stringent than the Small Business Investment Company (''SBIC'') program in this regard. SBA declines to implement this regulation in the final rule. SBA believes that, unlike SBICs, NMVC companies should not be allowed to include non-cash assets in their private capital. First, SBA selects SBICs through a non-competitive process, but will select NMVC companies through a competitive process in which SBA will compare applicants to one another. SBA will not have sufficient time in the selection process to first evaluate an applicant's proposed non-cash assets before that applicant is compared to other applicants. SBA could not ensure the integrity and fairness of the selection process if it were to compare an applicant that proposes to raise all of its capital in the form of cash to an applicant that proposes to have some of its capital be in the form of non-cash assets, without first reviewing and evaluating such non-cash assets. Second, even in the SBIC program, the permitted contribution of non-cash assets for inclusion in private capital is extremely limited. In practice, generally the only non-cash assets SBA approves are ''pre-licensing investments,'' which are not expected in the NMVC program.

The commenter objected to the change SBA made in the proposed rule to § 108.330, from the version previously published in the interim final rule. SBA revised a $5,000 application fee due in two installments, $2,000 at application submission and $3,000 at the time of final approval, to a $5,000 grant issuance fee due in advance at application submission. The commenter suggested that the only purpose for this change is to deter applicants. On the contrary, SBA desires to encourage professional venture capital funds, committed to participating in the program, to apply for NMVC company designation. SBA believes that asking applicants to pay the grant issuance fee at the time of application will ensure this result. As stated in the preamble to the proposed rule, SBA has determined that the Act authorizes SBA to charge a fee in connection with its issuance of a grant. SBA has decided to collect the entire fee in advance, as opposed to just a portion, in order to avoid the administrative costs of collecting the fee in two installments. SBA continues to believe that the amount of the fee is reasonable, and the fee ultimately will be borne only by successful applicants.

The commenter addressed the requirements in proposed § 108.710 that 80 percent of the businesses receiving financing from a NMVC company be smaller enterprises, be located in low-income areas, and receive equity capital investments, and that 80 percent of the total dollars invested by a NMVC company be in the form of equity capital investments in smaller enterprises located in low-income areas. The commenter makes several recommendations: First, that SBA eliminate the requirement that 80 percent of businesses receive equity capital investments; second, that SBA eliminate the 80 percent of dollars requirement and replace it with a requirement that an NMVC company only must invest 100 percent of its leverage (but none of its regulatory capital) in the form of equity capital investments; and third, that SBA replace the proposed 80 percent of businesses and 80 percent of total investment dollars requirement with only an 80 percent of businesses requirement. Some of these suggestions reiterate comments this commenter made in response to the interim final rule, and some relate to the changes SBA made to this regulation between the version published in the interim final rule and the version published in the proposed rule.

The commenter presents several reasons for its recommendations. First, it believes that the Act does not state that 80 percent of businesses must receive equity capital investments. Second, it states that NMVC companies need to have more investment flexibility to offset the higher risks of investments in low-income areas, including an ability to invest a portion of funds as amortizing debt. SBA has considered the commenter's suggestions and has decided to implement § 108.710 as proposed for the following reasons.

With regard to the requirement that 80 percent of the businesses in which a NMVC company invests must receive equity capital investments, as well as be smaller enterprises located in low-income areas, SBA believes that the Act requires this. This implements the requirement outlined in the definition of ''participation agreement'' in section 351(6)(B) of the Small Business Investment Act (''SBI Act''), as amended by the Act, that a NMVC company must make investments in smaller enterprises at least 80 percent of which are located in low-income areas. This also implements the legislative purposes stated in section 352 of the SBI Act, as amended by the Act, which include

''encouraging developmental venture capital investments in smaller enterprises primarily located in low-income geographic areas'' and ''to establish a developmental venture capital program with the mission of addressing the unmet equity investment needs of small enterprises located in low-income geographic areas.'' ''Developmental venture capital'' is defined in section 351(1) of the SBI Act, as amended by the Act, as equity capital investments with the primary objective of fostering economic development in low-income areas. SBA believes that the clear purpose of the Act, read as a whole, is to promote equity capital investments in smaller enterprises in low-income areas. Accordingly, SBA believes § 108.710(a)(1) is required by the Act.

SBA also believes that the additional requirement SBA proposed in § 108.710(a)(2), that 80 percent of the total dollars a NMVC company has invested also must be in the form of equity capital investments in smaller enterprises located in low-income areas, fulfills the purposes of the Act, discussed above. SBA believes that the Act as a whole encourages NMVC companies to take a proactive posture with respect to the companies in which they invest, and to take reasonable risks in making investments in such companies. Several features of the NMVC program already offset the expectation of higher risk and lower rate of return to a NMVC company in making equity capital investments in smaller enterprises located in low-income areas. First, a NMVC company does not have to repay interest on its guaranteed debentures during the first five years after issuance, which gives the company time patiently to allow the businesses in which it invests to grow and, thus, for its investments to generate returns. Second, there is no limitation on the amount of ownership interest a NMVC company can take in a business in which it invests, thus giving the company the ability to act to reduce the risk of the business' failure. Third, the program includes a grant component, which gives a NMVC company additional resources to help increase the potential for a return on its investment in a business.

The commenter commented on the change SBA made in proposed § 108.2030, from the version previously published in the interim final rule, regarding the acceptable length of time within which commitments or annuities for grant matching resources may be payable. The commenter suggested that SBA allow NMVC companies to expend their grant matching resources over a period of 10 years as originally stated, rather than five years as stated in the proposed rule. The commenter suggested that doing so is not specifically prohibited by statute and would give NMVC companies the ability to provide operational assistance throughout the term of their investments.

SBA considered the consequences of implementing this suggestion, including the fact that it could result in a NMVC company expending all of its SBA grant funds before it expends any of its grant matching resources. After deliberation SBA has decided to implement the regulation as proposed, for several reasons.

First, SBA believes that implicit in the Act is a requirement that SBA's grant funds and a NMVC company's or SSBIC's grant matching resources be expended simultaneously within the same period of time. Since SBA believes that by law it can make its grants funds available for expenditure only for a period of time not exceeding five years, SBA believes it also should place the same time restriction on the expenditure of grant matching resources.

Second, from a grant administration perspective, it would not be the most efficient use of SBA's resources to continue to monitor grants to SSBICs and NMVC companies for a 10-year period when SBA's grant funds have been fully expended within the first five years. Pursuant to paragraph .71 of Circular A–110 of the Office of Management and Budget (''OMB''), SBA must not perform a close-out on such grants until the grant project is complete. Pursuant to the Act, the purpose of the grant is providing operational assistance to small businesses in connection with investments, and the grant project would not be complete until both the SBA grant funds and the NMVC company's or SSBIC's grant matching resources had been expended for this purpose.

Third, SBA believes that simultaneous expenditure by SSBICs and NMVC companies of both grant funds and grant matching resources will give SBA the best ability to ensure proper implementation of the NMVC program. If SBA monitors the use of both resources simultaneously, SBA can ensure that grants are being used for purposes that are authorized by the Act and that best fulfill the objectives of the NMVC program. If SBA finds that such funds and resources are not being used properly, or if a NMVC company or SSBIC is not complying with other grant requirements, pursuant to paragraph .22(h) of OMB Circular A–110, SBA can withhold payment of further grant funds until the situation is remedied.

B. Other Changes to the Proposed Rule

SBA made substantive changes to §§ 108.380(a)(1)(i)(A) and (B) concerning the amounts of regulatory capital and operational assistance grant matching resources a conditionally approved NMVC company must raise in order to receive from SBA final approval as a NMVC company. These changes implement a solution to a problem raised by a comment SBA received in response to the interim final rule, and already discussed in the preamble to SBA's proposed rule.

The commenter had advised that if SBA over-commits its grant funds, it could result in SBA giving applicants less than the 30 percent ''grant-to-private-capital ratio'' contemplated by the Act, due to the pro rata reduction in the amount of grant award each applicant would receive. The commenter suggested that SBA revise § 108.380(a)(1)(i)(B) to limit the amount of grant matching resources a conditionally approved NMVC company must raise in order to receive final approval. The commenter suggested this limit should be an amount not more than the amount of operational assistance grant that SBA has ''conditionally designated for that NMVC company.'' In essence, the commenter suggested that SBA place a limit on the amount of grant funds SBA would award to an applicant.

SBA proposed not to implement this suggestion for several reasons discussed in the preamble to the proposed rule (66 FR 20532–20533). However, SBA recognized that the possibility remained that an applicant might raise more regulatory capital and grant matching resources than it proposed to raise in its application, and more than SBA anticipated when SBA evaluated the applicant's application and made conditional approvals based on its selection process and the amount of appropriated funds available.

SBA continues to believe that the solution suggested by the commenter, placing a limit on the amount of grant funds SBA will award, is not allowable under § 358(a)(4) of the SBI Act, as amended by the Act. Under that section, SBA must award a grant in an amount equal to the amount of grant matching resources an applicant actually raises. Upon further deliberation, however, SBA believes it does have the discretion under the statutory scheme to place a limit on the amount of regulatory capital and grant matching resources an applicant is allowed to raise after filing its application. SBA believes that this

solution will achieve the result sought by the commenter but using a different approach.

SBA's selection process will include an evaluation of the proposals submitted by applicants, which will include specific amounts of capital and grant matching resources the applicants propose to raise. SBA will evaluate, among other things, the extent to which an applicant will concentrate its resources in particular low-income geographic areas, and the extent to which the applicant's proposed activities will promote economic development and the creation of wealth and job opportunities in such areas. This evaluation necessarily will include an assessment of the amounts of capital and grant matching resources an applicant intends to raise and to concentrate in particular low-income areas, in relation to the impact those resources might have on those areas.

SBA also will be selecting applicants for conditional approval so as to achieve the greatest extent of potential nationwide and rural/urban impact of the program. This process necessarily will include an assessment of the amounts of capital and grant matching resources an applicant intends to raise, in relation of the number of particular low-income areas toward which the applicant proposes to direct its activities.

For these reasons, a key factor in SBA's selection of applicants for conditional approval will be the amounts of capital and grant matching resources an applicant proposes in its application. In order to preserve both the integrity of the competitive selection process and the delicate balance between the various aspects of the applications SBA selects for conditional approval, SBA believes it must hold the selected applicants to fulfilling the plans as they have proposed in their applications and upon which SBA based its decision to select them. Accordingly, SBA has changed §§ 108.380(a)(1)(i)(A) and (B) to state that in order to receive final approval from SBA, a conditionally approved applicant must raise amounts of capital and grant matching resources equal to the amounts it set forth in its application to SBA. An applicant must not raise more or less than such amounts.

For these same reasons, SBA also has made similar substantive changes to §§ 108.2000(b)(6) and 108.2030(d)(2) regarding the amount of capital and grant matching resources that SSBIC applicants must raise.

SBA has made technical corrections to §§ 108.720(c)(1)(i) and (ii), concerning real estate businesses that are ineligible to receive financings from NMVC companies. SBA modeled this regulation on § 107.720(c), concerning real estate businesses that are ineligible to receive financings from SBICs. This SBIC regulation refers to particular major group and industry numbers contained in the Standard Industrial Classification (''SIC'') Manual. In promulgating a similar regulation for the NMVC program, SBA attempted to translate the SIC Manual references into equivalent references to the North American Industrial Classification System (NAICS) Manual, which is SBA's current size standard classification system. SBA re-examined this proposed regulation as a result of a question received by an interested member of the public and realized that SBA had not correctly translated the SIC Manual references into NAICS Manual references. This final rule corrects this technical error and conforms this regulation to the parallel regulation applicable to SBICs.

V. Section by Section Analysis

The following is a section by section analysis of SBA's regulations to add a new part 108 to title 13 of the Code of Federal Regulations to implement the Act.

A. General Information About the Regulations

As you read through the section by section analysis of particular regulations, you will see that SBA models many of these regulations on similar regulations governing SBA's SBIC program, found in part 107 of this title. In addressing the challenge of implementing the NMVC program, SBA is able to draw upon the experience that it has gained over the last 43 years in administering the SBIC program.

The SBIC program was created by the Small Business Investment Act of 1958 in response to a Federal Reserve study finding that small businesses in general were unable to obtain the long-term debt and equity funds that they needed for success. The basic objective of the program is to attract and supplement private capital, managed by private investment managers, to meet that need. SBA licenses such companies as SBICs, regulates their activities to ensure that they are financially sound and serve the program's public policy objectives, and supplements their private capital by guaranteeing debentures or other securities that they issue.

The SBIC program has been extraordinarily successful in recent years and today represents a major factor in small business financing. It is estimated that 34 percent of all companies receiving institutional venture capital in 1999 obtained it from an SBIC. In fiscal year 2000, SBICs invested a record $5.5 billion in more than 3,000 small growth companies. This was accomplished with a budget appropriation of just $24.3 million.

A key strength of the SBIC program lies in the fact that all investment decisions are made by private individuals with their own money at first risk. However, this also represents a limitation in that such investment activities are profit driven and generally are not targeted to small businesses located in low-income areas. Low-income investments typically are smaller and more costly to make, and they require significantly more assistance over the investment period than most SBIC investments. At the same time, they generally offer a more limited profit potential to the investor. The NMVC program addresses these factors by adding to the SBIC structure an operational assistance grant subsidy and by recruiting managers and investors that have an economic development objective in addition to their financial one.

Because of these many similarities between SBICs and NMVC companies and between these two venture capital programs, SBA incorporates into the NMVC program many of the SBIC regulations that SBA believes are fundamental to the safety and soundness of the SBIC program.

B. Section by Section Analysis

Sections 108.10 through 108.50 briefly describe the NMVC program, state the legal basis for the program, definitions, and provide guidance on how to read part 108. Most of the definitions come directly from 13 CFR part 107, which governs the SBIC program. Most of the newly defined terms come directly from the Act, and SBA does not supplement or modify them. SBA also adds several new definitions, including the terms ''Low-Income Enterprise'' and ''Low-Income Investment,'' as a shorter way to describe equity capital investments in a smaller enterprise that, at the time of the initial financing, has its principal office located in a low-income geographic area.

Sections 108.100 through 108.160 describe the qualifications for the NMVC program. Under the Act, NMVC companies must be newly formed for-profit entities. SBA requires that NMVC companies be organized under state law and be either corporations, limited liability companies, or limited partnerships. SBA requires that they

have qualified management, have economic development as their primary mission, and identify particular low-income geographic areas in which they propose to focus their investment activities. SBA models these regulations on the SBIC program, including the requirements that NMVC companies must have management and ownership diversity and that SBA will require pre-approval of all management expenses of a NMVC company (see 13 CFR 107.100 through 107.160).

Sections 108.200 through 108.240 address capitalization of a NMVC company, including minimum capital requirements, permitted sources of capital, and limitations on non-cash contributions to capital. These regulations also are modeled on similar regulations in the SBIC program (see 13 CFR 107.200 through 107.250).

Sections 108.300 through 108.330 set forth policies and procedures for application for designation as a NMVC company. SBA will allow submission of applications for participation in the NMVC program only during a specific application period, to be set forth in a Notice of Funds Availability published in the **Federal Register**, as opposed to a rolling admissions process. SBA will use this method of selecting applicants for three reasons. First, SBA believes this method will enable SBA to achieve the statutory directive of ensuring, to the extent possible and given the applications received, nationwide availability of developmental venture capital. SBA will compare applications both for quality and other criteria described in the regulations, and for the geographic areas they intend to cover so as to choose the best applications for each geographic area and avoid duplication within specific geographic areas. Second, SBA has received one-year appropriated funds for operational assistance grants, and the statute requires SBA to distribute available appropriated funds pro rata among NMVC companies and SSBICs that apply for such grants. (See discussion of §§ 108.2000 through 108.2040 for more information about how SBA proposes to administer the operational assistance grant program.) Submission of all applications for these grant funds at the same time will allow SBA to distribute these funds among all eligible and qualified recipients. Third, SBA believes this procedure will allow SBA to orderly administer appropriated funds it may receive in subsequent fiscal years, by allowing SBA to open up the NMVC program to new rounds of applicants.

SBA will require applicants for participation in the NMVC program to submit an application, similar to the application for the SBIC program but which also includes the requirement for a comprehensive business plan. Many of the topics SBA will require applicants to include in their business plans are outlined in section 354(b) of the SBI Act, as amended by the Act, regarding application for the NMVC program. In addition, SBA will use the following additional topics: market analysis of the specific low-income areas towards which the applicant proposes to target its investments and other activities, operational capacity and investment strategies, plans for raising capital and matching funds for operational assistance grants, and projected amount of investment in low-income areas as opposed to outside those areas. Based in part on the experience of other Federal agencies with similar economic development programs, SBA believes these additional topics will allow SBA to ensure that applicants understand the objectives of the NMVC program and have a good plan for accomplishing those objectives and for creating and maintaining a viable investment fund.

SBA also will assess a fee for receiving a grant under the NMVC program to ensure that applicants are professional venture capital firms committed to participate in the program.

Sections 108.340 through 108.395 describe SBA's evaluation criteria and selection process for participation in the NMVC program. SBA will consider ten criteria in its evaluation and selection of applicants for participation in the NVMC program. Most of the specified criteria are set forth in the Act. SBA will use the following additional selection criteria not specifically described in the Act: the quality of the applicant's business plan in terms of meeting the objectives of the program; the strength and likelihood for success of the applicant's operations and investment strategies; the need for developmental venture capital investments in the geographic areas in which the applicant proposes to concentrate its activities; and the extent of the applicant's understanding of the markets in such geographic areas. Based in part on the experience of other Federal agencies with similar economic development programs, SBA believes these additional evaluation criteria are effective indicators of whether the objectives of the NMVC program will be met.

The Act provides for SBA to conditionally approve companies for participation in the NMVC program, based on SBA's evaluation of their applications. Conditionally approved companies must raise the required amounts of capital and of matching funds for the operational assistance grant award from SBA within a time period specified by SBA. As provided in the Act, SBA will finally approve as NMVC companies all conditionally approved NMVC companies that raise the required amount of capital within the time period specified by SBA and sign a participation agreement with SBA. Section 108.380(b) also sets forth procedures under which SBA may grant to conditionally approved companies, as provided in the Act, an exception to the requirement to raise all of their required matching funds for their operational assistance grants before SBA designates them as finally approved NMVC companies.

Sections 108.400 through 108.470 describe SBA's requirements for changes in ownership, control, or structure of a NMVC company. These regulations are modeled after similar regulations for the SBIC program (see 13 CFR 107.400 through 107.475).

Sections 108.500 through 108.585 describe SBA's requirements for managing the operations of a NMVC company. These regulations are modeled after similar regulations for the SBIC program (see 13 CFR 107.500 through 107.590).

Sections 108.600 through 108.680 describe SBA's record keeping, record retention, and reporting requirements for NMVC companies. These regulations are modeled after similar regulations for the SBIC program (see 13 CFR 107.600 through 107.680). SBA also will require each NMVC company to provide reports concerning the community development impact of each investment it makes, as well as reports on its administration and use of grant funds as required by Circular A–110 of the Office of Management and Budget, ''Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and other Non-Profit Organizations.'' SBA anticipates that to the extent not inconsistent with SBA's regulations for the NMVC program, NMVC companies' administration and use of grant funds will be subject to OMB Circular A–110 and to Part 31 of the Federal Acquisition Regulations, 48 CFR part 31, ''Contract Cost Principles and Procedures.'' OMB Circular A–110 is optional for use in connection with grants to commercial organizations. SBA will apply it to NMVC companies in order to take advantage of existing and well-known grant administrative procedures and policies to facilitate SBA's orderly administration of grants to NMVC companies. (See the discussion of §§ 108.2000 through 108.2040 concerning applicability of these same

procedures and policies to grants to SSBICs.)

Sections 108.690 through 108.692 describe SBA's requirements for SBA's examinations of NMVC companies. These regulations are modeled after similar regulations for the SBIC program (see 13 CFR 107.690 through 107.692).

Sections 108.700 through 108.885 describe SBA's requirements for determining the eligibility of financings of small businesses by NMVC companies, and regarding types of allowable financings. These regulations are modeled after similar regulations for the SBIC program (see 13 CFR 107.700 through 107.885).

Section 108.710 sets forth the requirement that at the close of each year, 80 percent of the concerns that NMVC companies have financed must be smaller enterprises that, as of the time of the initial financing, had their principal office in a low-income geographic area and in which the NMVC companies have made equity capital investments as defined in the regulations (see proposed § 108.50). This regulation implements the requirement outlined in the definition of ''participation agreement'' in section 351(6)(B) of the SBI Act. SBA interprets this statutory section to refer to 80 percent of the businesses in which a NMVC company invests. Section 108.710 also requires that for all financings extended by a NMVC company, the NMVC company must have invested at least 80 percent (in total dollars) in low-income investments. In other words, 80 percent of the dollars used to finance business concerns must be invested in equity capital investments in smaller enterprises located in low-income areas. This provision will require that a substantial portion of a NMVC company's capital and leverage go toward making equity investments in smaller enterprises located in low-income areas. SBA believes that this will fulfill one of the Act's purposes—to address the unmet equity investment needs of businesses located in low-income areas.

Sections 108.1100 through 108.1720 describe SBA's requirements and procedures for NMVC companies to obtain leverage from SBA and the procedures governing how SBA will fund leverage. These regulations are modeled after similar regulations for the SBIC program (see 13 CFR 107.1100 through 107.1720).

Sections 108.1810 through 108.1840 describe defaults by NMVC companies on the terms and conditions governing their participation in the NMVC program, and SBA's remedies upon such defaults. These regulations are modeled after similar regulations for the SBIC program (see 13 CFR 107.1810 through 107.1840).

Section 108.1900 concerns termination by a NMVC company of its participation in the NMVC program. This regulation is modeled after a similar regulation for the SBIC program (see 13 CFR 107.1900).

Sections 108.1910 through 108.1930 address miscellaneous issues, including application for an exemption from regulatory requirements and the effect of regulation changes on transactions previously consummated. These regulations are modeled after similar regulations for the SBIC program (see 13 CFR 107.1910 through 107.1930).

Section 108.1940 sets forth procedures under which SBA may designate additional census tracts or equivalent county divisions as low-income geographic areas. This regulation implements the authority given to SBA's Administrator in section 351(3)(A)(iii) of the SBI Act, as amended by the Act. SBA has designed these procedures to allow for maximum opportunity by interested members of the public to ask SBA to designate specific census tracts or equivalent county divisions as additional low-income geographic areas.

Sections 108.2000 through 108.2040 set forth requirements and procedures for operational assistance grants to both NMVC companies and to SSBICs. SBA will award such grants only after receiving and evaluating applications in response to a Notice of Funds Availability published in the **Federal Register**. SBA will award grants to SSBICs and to NMVC companies in such a way as to promote developmental venture capital investments nationwide and in both urban and rural areas.

SBA also will require SSBICs to provide reports on its administration and use of grant funds as required by OMB Circular A–110, ''Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and other Non-Profit Organizations.'' SBA anticipates that to the extent not inconsistent with these regulations, SSBICs' administration and use of grant funds will be subject to OMB Circular A–110 and to part 31 of the Federal Acquisition Regulations, 48 CFR part 31, ''Contract Cost Principles and Procedures.'' OMB Circular A–110 is optional for use in connection with grants to commercial organizations (some SSBICs are for-profit, others are non-profit). SBA will apply it to SSBICs in order to take advantage of existing and well-known grant administrative procedures and policies to facilitate SBA's orderly administration of grants to SSBICs.

VI. Justification for Immediate Effective Date of Final Rule

The Administrative Procedures Act (''APA'') requires that ''publication or service of a substantive rule shall be made not less than 30 days before its effective date, except * * * as otherwise provided by the agency for good cause found and published with the rule.'' 5 U.S.C. 553(d)(3). SBA finds that good cause exists to make this final rule become effective immediately the same day it is published in the **Federal Register**.

The purpose of this APA provision is to provide interested and affected members of the public sufficient time to adjust their behavior before the rule takes effect. Potential NMVC company and SSBIC applicants have had since January 22, 2001 to consider, digest, and understand these regulations, the vast majority of which have not changed from the form in which they were published on January 22, 2001. Potential applicants and other interested parties also have had two opportunities to participate in notice and comment proceedings concerning these regulations. For these reasons, SBA believes that potential applicants and other interested parties have had ample time to adjust their behavior to comply with these regulations. In addition, SBA believes that potential applicants have a strong interest in seeing this rule get implemented in final form so that they may apply for the benefits of the NMVC program and so that SBA may select applicants and award appropriated funds before such funds expire at the end of this fiscal year.

SBA first published these regulations in the **Federal Register** on January 22, 2001, in the form of an interim final rule. On that same date, SBA made available to the public, via its web site, the application forms for NMVC company designation. SBA has made available to potential SSBIC applicants the appropriate application forms upon request.

Despite the fact that the regulations originally were promulgated as an interim final rule, SBA offered a 60-day comment period that expired on March 23, 2001. SBA received three public comments.

SBA republished these regulations, with several limited substantive and technical changes, as a proposed rule in the **Federal Register** on April 23, 2001. Some of the changes SBA made were the result of its consideration of

comments received on the interim final rule. Again, SBA provided an opportunity for public comment, and SBA received one comment. This final rule implements the regulations as proposed, with the exception of one technical change that arose from a question received from an interested member of the public, and one substantive change that arose from a public comment. Accordingly, SBA believes that interested members of the public have had ample opportunity to participate formally in SBA's rulemaking process as well as to influence informally SBA's development of these governing regulations and administrative procedures.

In addition to the four months since January 22, 2001, when these regulations first were published, potential applicants also will have an additional time period of approximately one week between the effective date of the final rule and SBA's anticipated application deadline. This will allow potential applicants to review their behavior and applications and determine whether they wish or need to make any adjustments before submitting their applications.

SBA also believes, based on its contacts with interested members of the public, that there is stronger interest in the immediate implementation of the NMVC program, than in a further 30-day delay in program implementation. In addition to its formal rulemaking activities, over the past three months SBA officials have talked and met with many potential applicants, investors, and donors of grant matching resources, and other interested parties, to explain the application forms, the regulations, and SBA's proposed administration of the NMVC program. SBA is aware of many potential applicants that have been putting together their application packages, contacting and obtaining commitments from potential investors and donors, and working with counsel on legal documentation, since January 22, 2001.

SBA also believes that interested members of the public are fully aware of the time constraints upon its implementation of the NMVC program during this fiscal year. SBA posted on its web site on January 22, 2001, a preliminary overview of the NMVC program. The overview describes the NMVC program generally and its implementation during SBA's fiscal year 2001 specifically. As a result of this overview and of the many contacts SBA staff have had with interested members of the public, potential applicants are fully aware of the fact that SBA believes its funds for operational assistance grant awards, appropriated to SBA for fiscal year 2001, expire on September 30, 2001. SBA believes that potential applicants are fully aware of the implication of this limitation on SBA's appropriated funds. SBA must evaluate and select applicants for conditional approval, provide time for conditionally approved applicants to raise capital and grant matching resources, and finalize legal documentation and agreements with finally selected applicants, in the time period between the application deadline and September 30, 2001. An additional 30-day delay will only shorten this extremely tight time frame. For these reasons, SBA believes that potential applicants have a stronger interest in the immediate implementation of the NMVC program, than in a further 30-day delay in program implementation.

VII. Regulatory Compliance Section—Compliance With Executive Orders 12866, 12988 and 13132, the Regulatory Flexibility Act (5 U.S.C. 601–612), and the Paperwork Reduction Act (44 U.S.C. Ch. 35)

Compliance With Executive Order 12866

The Office of Management and Budget (OMB) has reviewed this rule as a ''significant'' regulatory action under Executive Order 12866. A regulatory assessment is set forth below.

Low-income communities in the United States face multiple and varied barriers to sustainable growth. But a common obstacle for virtually all such communities is that they are unable to attract sufficient equity capital and technical assistance for starting and expanding businesses. Federal Reserve Board Chair Alan Greenspan has observed that equity capital is crucial to the existence of an innovative and productive business community, especially in lower-income communities. Yet the existing private venture capital industry is heavily concentrated in affluent, high technology regions located in only a handful of states.

In order to promote economic development and address the unmet equity needs of smaller businesses located in low-income areas, Congress passed and President Clinton signed into law the legislation creating the NMVC program. SBA will use these regulations to implement and administer the NMVC program. NMVC companies will be newly formed for-profit investment companies with private management. Their objective will be to create an economic infrastructure in underserved areas. NMVC companies will accomplish this by making equity investments in smaller enterprises, primarily located in low-income geographic areas. SBA anticipates that this type of investing will generate both financial and social returns. The social returns can include creating sustainable jobs at businesses receiving investments from NMVC companies, and encouraging such businesses to provide much-needed new products and services within underserved areas.

SBA estimates that the NMVC program will cost approximately $1 million annually to administer. The cost to the government includes the costs of staff (including benefits) and all other overhead expenses. SBA proposes to select participants for the NMVC program and regulate NMVC operations to ensure that public policy objectives are being met. Toward that end, SBA proposes to require NMVC companies to provide regular performance reports and take part in annual financial examinations.

SBA estimates that it will cost a NMVC company approximately $6,000 to apply for designation as a NMVC company, not including a $5,000 grant issuance fee due in advance at the time of application. This includes the cost of one staff person at a level comparable to a Federal employee at a GS–13 grade level spending 160 hours to complete the application. After receiving designation as a NMVC company, the annual cost to the NMVC company will be based on compliance with the reporting requirements of the program. SBA anticipates that compliance with the reporting requirements of the program will cost approximately $1,500. This includes the cost of one staff person at a level comparable to a Federal employee at a GS–13 grade level spending approximately 40 hours preparing the required performance and financial reports. The costs to NMVC companies and SSBICs that choose to participate in the grant aspect of the program include approximately $1,500 to prepare the initial grant application (approximately 40 hours of work), and approximately $600 annually thereafter to prepare the required quarterly status reports (approximately 16 hours of work). Again, these costs are estimated based upon one staff person at a level comparable to a Federal employee at a GS–13 grade level. There also is a fee payable by the NMVC company each time SBA examines the company. This rule sets forth a base fee for the examination of $3,500.

SBA believes that there are no alternatives to this regulatory action that

could more adequately address the equity needs of the nation's low-income areas. In developing the regulations, application package and reporting materials SBA purposefully followed proven industry practices. Based upon the foregoing, SBA believes that its rule implements the congressionally mandated NMVC program in the most cost effective and efficient manner.

Compliance With Executive Order 12988

SBA certifies that this rule is drafted, to the extent practicable, in accordance with the standards set forth in section 3 of Executive Order 12988.

Compliance With Executive Order 13132

For purposes of Executive Order 13132, SBA has determined that this rule has no federalism implications because the legislation authorizing it addresses private, for-profit concerns (NMVC companies) working directly with entrepreneurs.

Compliance With Regulatory Flexibility Act, 5 U.S.C. 601–612

The NMVC program is expected to result in the creation of approximately 15–20 NMVC companies. The program's impact will be felt to a greater extent on the small businesses that the NMVC companies invest in and assist through this program. However, SBA has determined that this rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601–612.

The legislation creating the NMVC program authorizes $100 million to guarantee debentures to NMVC companies and $30 million for operational assistance grants to NMVC companies and SSBICs. In addition, NMVC companies must raise capital totaling $100 million, and NMVC companies and SSBICs must raise grant matching resources totaling $30 million. Thus, the total funding allocation for the NMVC program, including matching funds raised by NMVC companies and SSBICs, is $260 million. These funds have been authorized for use over a period of five years. Based upon industry practices, it is highly unlikely that the funds will be disbursed in total in one year. A NMVC company's minimum life is 10 years and NMVC companies' investments are typically made during their first five to seven years of existence. Generally, a NMVC company will fund three or at most four businesses in one year out of the 20 to 30 businesses it will fund over its life.

The average size of an investment by a community development company is approximately $300,000. Based upon a total funding allocation of $260 million and an average investment in a small business of $300,000, approximately 867 small businesses will be affected by this program during the lives of the NMVC companies authorized with this legislation. Based upon 1997 Economic Census data, SBA estimates that there are approximately 5 million small businesses in the United States and 867 constitutes less than 1% of those businesses.

Further, NMVC companies must invest in ''smaller enterprises'' which are defined as businesses with a net worth not greater than $6 million and average net income of not greater than $2 million. Based upon an average investment of $300,000, an investment in a business with a net worth of $6 million would equate to 5% of the business's net worth. A 5% investment is not likely to have a significant effect on a small business. Additionally, industry practices indicate that while the average investment in a particular business is $300,000, this amount may not be disbursed all at once. The average investment per round in the industry is approximately $185,000, which is only 3% of the business's net worth.

Compliance with Paperwork Reduction Act, 44 U.S.C. Ch. 35

For purposes of the Paperwork Reduction Act, 44 U.S.C. Ch. 35, the collection of information (''collection'') for this program includes the NMVC program application package and reporting and recordkeeping requirements. SBA previously requested from the Office of Management and Budget (''OMB'') an emergency clearance of this collection. OMB reviewed and approved the collection and assigned OMB control number 3245–0332.

SBA has made the collection available to the public on SBA's web site at http://www.sba.gov/inv and by calling Terri Dennin at (202) 205–6234. SBA already has provided the public with a 60-day comment period on this collection (66 FR 7218). SBA received no comments on the collection.

List of Subjects in 13 CFR Part 108

Community development, Government securities, Grant programs—business, Reporting and recordkeeping requirements, Securities, Small businesses.

For the reasons stated in the preamble, the Small Business Administration adds 13 CFR part 108 to read as follows:

PART 108—NEW MARKETS VENTURE CAPITAL (''NMVC'') PROGRAM

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Authority: 15 U.S.C. 689–689q and Pub. L. 106–554, 114 Stat. 2762A.

Subpart A—Introduction to Part 108

§ 108.10 Description of the New Markets Venture Capital Program.

The New Markets Venture Capital (''NMVC'') Program is a developmental venture capital program for the purpose of promoting economic development and the creation of wealth and job opportunities in low-income geographic areas and among individuals living in such areas. SBA selects and then enters into participation agreements with selected newly formed venture capital companies, and provides leverage in the form of debenture guarantees to such companies to allow them to make equity capital investments in smaller enterprises located in low-income geographic areas. SBA also awards grants to such companies and to Specialized Small Business Investment Companies so that they can provide operational assistance to such smaller enterprises in connection with such investments.

§ 108.20 Legal basis and applicability of this part 108.

The regulations in this part implement Part B of Title III of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 et seq.). All NMVC Companies must comply with all applicable SBA regulations, accounting guidelines and valuation guidelines for NMVC Companies, available from SBA.

§ 108.30 Amendments to Act and regulations.

A NMVC Company is subject to all provisions of the Act and parts 108 and 112 of title 13 of the Code of Federal Regulations.

§ 108.40 How to read this part 108.

(a) *Center headings.* All references in this part to SBA forms, and instructions for their preparation, are to the current issue of such forms (available from Investment Division, SBA). Center headings are descriptive and are used for convenience only. They have no regulatory effect.

(b) *Capitalizing defined terms.* Terms defined in § 108.50 have initial capitalization in this part 108.

(c) ''*You.*'' The pronoun ''you'' as used in this part 108 means a NMVC Company unless otherwise noted.

Subpart B—Definition of Terms Used in This Part 108

§ 108.50 Definition of terms.

The following definitions apply to this part 108:

Act means the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 et seq.).

Affiliate or *Affiliates* has the meaning set forth in § 121.103 of this chapter.

Applicant means any entity submitting an application to SBA for designation as a NMVC Company under this part.

Articles mean articles of incorporation or charter for a Corporate NMVC Company, the partnership agreement or certificate for a Partnership NMVC Company, and the operating agreement or other organizational documents for a LLC NMVC Company.

Assistance or *Assisted* means Financing of or management services rendered to a Small Business by or through a NMVC Company pursuant to the Act and this part.

Associate of a NMVC Company means any of the following:

(1)(i) An officer, director, employee or agent of a Corporate NMVC Company;

(ii) A Control Person, employee or agent of a Partnership NMVC Company;

(iii) A managing member of a LLC NMVC Company;

(iv) An Investment Adviser/Manager of any NMVC Company, including any Person who contracts with a Control Person of a Partnership NMVC Company to be the Investment Adviser/Manager of such NMVC Company; or

(v) Any Person regularly serving a NMVC Company on retainer in the capacity of attorney at law.

(2) Any Person who owns or controls, or who has entered into an agreement to own or control, directly or indirectly, at least 10 percent of any class of stock of a Corporate NMVC Company or 10 percent of the membership interests of an LLC NMVC Company, or a limited partner's interest of at least 10 percent of the partnership capital of a Partnership NMVC Company. However, neither a limited partner in a Partnership NMVC Company nor a non-managing member in an LLC NMVC Company is considered an Associate if such Person is an entity Institutional Investor whose investment in the Partnership, including commitments, represents no more than 33 percent of the capital of the NMVC Company and no more than five percent of such Person's net worth.

(3) Any officer, director, partner (other than a limited partner), manager, agent, or employee of any Associate described in paragraph (1) or (2) of this definition.

(4) Any Person that directly or indirectly Controls, or is Controlled by, or is under Common Control with, a NMVC Company.

(5) Any Person that directly or indirectly Controls, or is Controlled by, or is under Common Control with, any Person described in paragraphs (1) and (2) of this definition.

(6) Any Close Relative of any Person described in paragraphs (1), (2), (4), and (5) of this definition.

(7) Any Secondary Relative of any Person described in paragraphs (1), (2), (4), and (5) of this definition.

(8) Any concern in which—

(i) Any person described in paragraphs (1) through (6) of this definition is an officer; general partner, or managing member; or

(ii) Any such Person(s) singly or collectively Control or own, directly or indirectly, an equity interest of at least 10 percent (excluding interests that such Person(s) own indirectly through ownership interests in the NMVC Company).

(9) Any concern in which any Person(s) described in paragraph (7) of this definition singly or collectively own (including beneficial ownership) a majority equity interest, or otherwise have Control. As used in this paragraph (9), ''collectively'' means together with any Person(s) described in paragraphs (1) though (7) of this definition.

(10) For the purposes of this definition, if any Associate relationship described in paragraphs (1) through (7) of this definition exists at any time within six months before or after the date that a NMVC Company provides Financing, then that Associate relationship is considered to exist on the date of the Financing.

(11) If any NMVC Company has any ownership interest in another NMVC Company, the two NMVC companies are Associates of each other.

Capital Impairment has the meaning set forth in § 108.1830(b).

Central Registration Agent or *CRA* means one or more agents appointed by SBA for the purpose of issuing TCs and performing the functions enumerated in § 108.1620 and performing similar functions for Debentures funded outside the pooling process.

Close Relative of an individual means:

(1) A current or former spouse;

(2) A father, mother, guardian, brother, sister, son, daughter; or

(3) A father-in-law, mother-in-law, brother-in-law, sister-in-law, son-in-law, or daughter-in-law.

Commitment means a written agreement between a NMVC Company and an eligible Small Business that obligates the NMVC Company to provide Financing (except a guarantee) to that Small Business in a fixed or determinable sum, by a fixed or determinable future date. In this context the term ''agreement'' means that there has been agreement on the principal economic terms of the Financing. The

agreement may include reasonable conditions precedent to the NMVC Company's obligation to fund the commitment, but these conditions must be outside the NMVC Company's control.

Common Control means a condition where two or more Persons, either through ownership, management, contract, or otherwise, are under the Control of one group or Person. Two or more NMVC companies are presumed to be under Common Control if they are Affiliates of each other by reason of common ownership or common officers, directors, or general partners; or if they are managed or their investments are significantly directed either by a common independent investment advisor or managerial contractor, or by two or more such advisors or contractors that are Affiliates of each other. This presumption may be rebutted by evidence satisfactory to SBA.

Community Development Finance means debt and equity-type investments in low-income communities.

Conditionally Approved NMVC Company means a company that—

(1) Has applied for participation as a NMVC Company, and

(2) SBA has conditionally approved to participate in the NMVC program for a specified period of time not to exceed two years, subject to the company fulfilling the requirements to be a NMVC Company within that specified period of time.

Control means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a NMVC Company or other concern, whether through the ownership of voting securities, by contract, or otherwise.

Control Person means any Person that controls a NMVC Company, either directly or through an intervening entity. A Control Person includes:

(1) A general partner of a Partnership NMVC Company;

(2) Any Person serving as the general partner, officer, director, or manager (in the case of a limited liability company) of any entity that controls a NMVC Company, either directly or through an intervening entity;

(3) Any Person that—

(i) Controls or owns, directly or through an intervening entity, at least 10 percent of a Partnership NMVC Company or any entity described in paragraphs (1) or (2) of this definition; and

(ii) Participates in the investment decisions of the general partner of such Partnership NMVC Company;

(4) Any Person that controls or owns, directly or through an intervening entity, at least 50 percent of a Partnership NMVC Company or any entity described in paragraphs (1) or (2) of this definition.

Corporate NMVC Company. See definition of NMVC Company in this section.

Debentures means debt obligations issued by NMVC companies pursuant to section 355 of the Act and held or guaranteed by SBA.

Debt Securities are instruments evidencing a loan with an option or any other right to acquire Equity Securities in a Small Business or its Affiliates, or a loan which by its terms is convertible into an equity position. Consideration must be paid for all options that you acquire.

Developmental Venture Capital means capital in the form of Equity Capital Investments in Smaller Enterprises made with a primary objective of fostering economic development in Low-Income Geographic Areas.

Distribution means any transfer of cash or non-cash assets to SBA, its agent or Trustee, or to partners in a Partnership NMVC Company, or to shareholders in a Corporate NMVC Company, or to members in an LLC NMVC Company. Capitalization of Retained Earnings Available for Distribution constitutes a Distribution to the NMVC Company's non-SBA partners, shareholders, or members.

Equity Capital Investments means investments in the form of common or preferred stock, limited partnership interests, options, warrants, or similar equity instruments, including subordinated debt with equity features if such debt provides only for interest payments contingent upon and limited to the extent of earnings. Equity Capital Investments must not require amortization. Equity Capital Investments may be guaranteed by one or more third parties; however, neither Equity Capital Investments nor such guarantee may be collateralized or otherwise secured. Investments classified as Debt Securities are not precluded from qualifying as Equity Capital Investments. Equity Capital Investments may provide for royalty payments only if the royalty payments are based on the earnings of the concern.

Equity Securities means stock of any class in a corporation, stock options, warrants, limited partnership interests in a limited partnership, membership interests in a limited liability company, or joint venture interests.

Financing or *Financed* means outstanding financial assistance provided to a Small Business by a NMVC Company, whether through:

(1) Loans;

(2) Debt Securities;

(3) Equity Securities;

(4) Guarantees; or

(5) Purchases of securities of a Small Business through or from an underwriter (see § 108.825).

Guaranty Agreement means the contract entered into by SBA which is a guarantee backed by the full faith and credit of the United States Government as to timely payment of principal and interest on Debentures and SBA's rights in connection with such guarantee.

Includible Non-Cash Gains means those non-cash gains (as reported on SBA Form 468) that are realized in the form of Publicly Traded and Marketable securities or investment grade debt instruments. For purposes of this definition, investment grade debt instruments means those instruments that are rated ''BBB'' or ''Baa'', or better, by Standard & Poor's Corporation or Moody's Investors Service, respectively. Non-rated debt may be considered to be investment grade if a NMVC Company obtains a written opinion from an investment banking firm acceptable to SBA stating that the non-rated debt instrument is equivalent in risk to the issuer's investment grade debt.

Institutional Investor means:

(1) *Entities.* Any of the following entities if the entity has a net worth (exclusive of unfunded commitments from investors) of at least $1 million, or such higher amount as is specified in this paragraph (1). (See also § 108.230(c)(4) for limitations on the amount of an Institutional Investor's commitment that may be included in Private Capital.)

(i) A State or National bank, trust company, savings bank, or savings and loan association.

(ii) An insurance company.

(iii) A 1940 Act Investment Company or Business Development Company (each as defined in the Investment Company Act of 1940, as amended (15 U.S.C. 8a–1 et seq.).

(iv) A holding company of any entity described in paragraph (l)(i), (ii) or (iii) of this definition.

(v) An employee benefit or pension plan established for the benefit of employees of the Federal government, any State or political subdivision of a State, or any agency or instrumentality of such government unit.

(vi) An employee benefit or pension plan (as defined in the Employee Retirement Income Security Act of 1974, as amended (Public Law 93–406, 88

Stat. 829), excluding plans established under section 401(k) of the Internal Revenue Code of 1986 (26 U.S.C. 401(k)), as amended).

(vii) A trust, foundation or endowment exempt from Federal income taxation under the Internal Revenue Code of 1986, as amended.

(viii) A corporation, partnership or other entity with a net worth (exclusive of unfunded commitments from investors) of more than $10 million.

(ix) A State, a political subdivision of a State, or an agency or instrumentality of a State or its political subdivision.

(x) An entity whose primary purpose is to manage and invest non-Federal funds on behalf of at least three Institutional Investors described in paragraphs (l)(i) through (l)(ix) of this definition, each of whom must have at least a 10 percent ownership interest in the entity.

(xi) Any other entity that SBA determines to be an Institutional Investor.

(2) *Individuals.* (i) Any of the following individuals if he/she is also a permanent resident of the United States:

(A) An individual who is an Accredited Investor (as defined in the Securities Act of 1933, as amended (15 U.S.C. 77a-77aa)) and whose commitment to the NMVC Company is backed by a letter of credit from a State or National bank acceptable to SBA.

(B) An individual whose personal net worth is at least $2 million and at least ten times the amount of his or her commitment to the NMVC Company. The individual's personal net worth must not include the value of any equity in his or her most valuable residence.

(C) An individual whose personal net worth, not including the value of any equity in his or her most valuable residence, is at least $10 million.

(ii) Any individual who is not a permanent resident of the United States but who otherwise satisfies paragraph (2)(i) of this definition provided such individual has irrevocably appointed an agent within the United States for the service of process.

Investment Adviser/Manager means any Person who furnishes advice or assistance with respect to operations of a NMVC Company under a written contract executed in accordance with the provisions of § 108.510.

Lending Institution means a concern that is operating under regulations of a state or Federal licensing, supervising, or examining body, or whose shares are publicly traded and listed on a recognized stock exchange or NASDAQ and which has assets in excess of $500 million; and which, in either case, holds itself out to the public as engaged in the making of commercial and industrial loans and whose lending operations are not for the purpose of financing its own or an Associate's sales or business operations.

Leverage means financial assistance provided to a NMVC Company by SBA through the guaranty of a NMVC Company's Debentures, and any other SBA financial assistance evidenced by a security of the NMVC Company.

Leverageable Capital means Regulatory Capital, excluding unfunded commitments.

LLC NMVC Company. See definition of NMVC Company in this section.

Loan means a transaction evidenced by a debt instrument with no provision for you to acquire Equity Securities.

Loans and Investments means Portfolio securities, assets acquired in liquidation of Portfolio securities, operating concerns acquired, and notes and other securities received, as set forth in the Statement of Financial Position of SBA Form 468.

Low-Income Enterprise means a Smaller Enterprise that, as of the time of the initial Financing, has its Principal Office located in a Low-Income Geographic Area.

Low-Income Geographic Area (''LI Area'') means—

(1) Any population census tract (or in the case of an area that is not tracted for population census tracts, the equivalent county division, as defined by the Bureau of the Census of the United States Department of Commerce for purposes of defining poverty areas), if—

(i) The poverty rate for that census tract is not less than 20 percent;

(ii) In the case of a tract—

(A) That is located within a metropolitan area, 50 percent or more of the households in that census tract have an income equal to less than 60 percent of the area median gross income; or

(B) That is not located within a metropolitan area, the median household income for such tract does not exceed 80 percent of the statewide median household income; or

(C) As determined by the Administrator in accordance with § 108.1940 of this part, a substantial population of Low-Income Individuals reside, an inadequate access to investment capital exists, or other indications of economic distress exist in that census tract; or

(2) Any area located within—

(i) A Historically Underutilized Business Zone (''HUBZone'') as defined in section 3(p) of the Small Business Act and 13 CFR 126.103;

(ii) An Urban Empowerment Zone or Urban Enterprise Community (as designated by the Secretary of the United States Department of Housing and Urban Development); or

(iii) A Rural Empowerment Zone or Rural Enterprise Community (as designated by the Secretary of the United States Department of Agriculture).

Low-Income Individual means an individual whose income (adjusted for family size) does not exceed—

(1) For metropolitan areas, 80 percent of the area median income; and

(2) For nonmetropolitan areas, the greater of—

(i) 80 percent of the area median income, or

(ii) 80 percent of the statewide nonmetropolitan area median income.

Low-Income Investment means an Equity Capital Investment in a Low-Income Enterprise.

Management Expenses has the meaning set forth in § 108.520.

NAICS Manual means the latest issue of the North American Industrial Classification System Manual, prepared by the Office of Management and Budget, and available from the U.S. Government Printing Office, Superintendent of Documents, P.O. Box 371954, Pittsburgh, Pa., 15250–7954.

New Markets Tax Credit program means the tax credit created by the Consolidated Appropriations Act of 2001, Public Law 106–554 (114 Stat. 2762A), enacted December 21, 2000, to be implemented by the Internal Revenue Service, United States Department of Treasury.

New Markets Venture Capital Company or *NMVC Company* means a corporation (Corporate NMVC Company), a limited partnership organized as required by § 108.160 (Partnership NMVC Company), or a limited liability company (LLC NMVC Company) that—

(1) Has been granted final approval by SBA under § 108.390, and

(2) Has entered into a Participation Agreement with SBA. For certain purposes, the Entity General Partner of a Partnership NMVC Company is treated as if it were a NMVC Company (see § 108.160(a)).

1940 Act Company means a NMVC Company which is registered under the Investment Company Act of 1940 (15 U.S.C. 80a-1 *et seq.*).

1980 Act Company means a NMVC Company which is registered under the Small Business Investment Incentive Act of 1980 (Public Law 96–447, 94 Stat. 2275).

Operational Assistance means management, marketing, and other technical assistance that assists a Small Business with its business development.

Original Issue Price means the price paid by the purchaser for securities at the time of issuance.

Participation Agreement means an agreement between SBA and a company to which SBA has granted final approval under § 108.390, that—

(1) Details the company's operating plan and investment criteria; and

(2) Requires the company to make investments in Smaller Enterprises at least 80 percent of which Smaller Enterprises are located in LI Areas.

Partnership NMVC Company. See definition of NMVC Company in this section.

Person means a natural person or legal entity.

Pool means an aggregation of SBA guaranteed Debentures approved by SBA.

Portfolio means the securities representing a NMVC Company's total outstanding Financing of Smaller Enterprises. It does not include idle funds or assets acquired in liquidation of Portfolio securities.

Portfolio Concern means a Small Business Assisted by a NMVC Company.

Principal Office means the location where the greatest number of the concern's employees at any one location perform their work. However, for those concerns whose ''primary industry'' (see 13 CFR 121.107) is service or construction (see 13 CFR 121.201), the determination of principal office excludes the concern's employees who perform the majority of their work at job-site locations to fulfill specific contract obligations.

Private Capital has the meaning set forth in § 108.230.

Publicly Traded and Marketable means securities that are salable without restriction or that are salable within 12 months pursuant to Rule 144 (17 CFR 230.144) of the Securities Act of 1933, as amended, by the holder thereof, and are of a class which is traded on a regulated stock exchange, or is listed in the Automated Quotation System of the National Association of Securities Dealers (NASDAQ), or has, at a minimum, at least two market makers as defined in the relevant sections of the Securities Exchange Act of 1934, as amended (15 U.S.C. 77b *et seq.*), and in all cases the quantity of which can be sold over a reasonable period of time without having an adverse impact upon the price of the stock.

Regulatory Capital means:

(1) *General.* Regulatory Capital means Private Capital, excluding non-cash assets contributed to a NMVC Company, a Conditionally Approved NMVC Company, or an Applicant, and non-cash assets purchased by a Conditionally Approved NMVC Company or an Applicant, unless such assets have been converted to cash or have been approved by SBA for inclusion in Regulatory Capital. For purposes of this definition, sales of contributed non-cash assets with recourse or borrowing against such assets shall not constitute a conversion to cash.

(2) *Exclusion of questionable commitments.* An investor's commitment to a NMVC Company, Conditionally Approved NMVC Company, or Applicant is excluded from Regulatory Capital if SBA determines that the collectability of the commitment is questionable.

(3) *Exclusion of amounts designated for Operational Assistance match.* Regulatory Capital excludes any portion of Private Capital that is designated as matching resources in accordance with § 108.2030(b)(3).

Relevant Venture Capital Finance means Equity Capital Investments in small businesses in low-income communities or benefiting low-income communities.

Retained Earnings Available for Distribution means Undistributed Net Realized Earnings less any Unrealized Depreciation on Loans and Investments (as reported on SBA Form 468), and represents the amount that a NMVC Company may distribute to investors (including SBA) as a profit Distribution, or transfer to Private Capital.

SBA means the Small Business Administration, 409 Third Street, SW., Washington, DC 20416.

Secondary Relative of an individual means:

(1) A grandparent, grandchild, or any other ancestor or lineal descendent who is not a Close Relative;

(2) An uncle, aunt, nephew, niece, or first cousin; or

(3) A spouse of any person described in paragraph (1) or (2) of this definition.

Small Business means a small business concern as defined in section 103(5) of the Act (including its Affiliates), and which meets the criteria applicable to the Small Business Investment Company program as set forth in part 121 of this chapter.

Small Business Investment Company (SBIC) means a Licensee, as that term is defined in § 107.50 of this chapter.

Smaller Enterprise means any Small Business that:

(1) Together with its Affiliates has a net worth of not more than $6.0 million and average net income after Federal income taxes (excluding any carry-over losses) for the preceding two years no greater than $2.0 million; or

(2) Both together with its Affiliates, and by itself, meets the size standard of § 121.201 of this chapter at the time of Financing for the industry in which it is then primarily engaged.

Specialized Small Business Investment Companies (SSBICs) means any Small Business Investment Company that—

(1) Invests solely in small business concerns that contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages; and

(2) Was licensed under section 301(d) of the Small Business Investment Act, as in effect before September 30, 1996.

Trust means the legal entity created for the purpose of holding guaranteed Debentures and the guaranty agreement related thereto, receiving, holding and making any related payments, and accounting for such payments.

Trust Certificate Rate means a fixed rate determined at the time Debentures are pooled.

Trust Certificates (TCs) means certificates issued by SBA, its agent or Trustee and representing ownership of all or a fractional part of a Trust or Pool of Debentures.

Trustee means the trustee or trustees of a Trust.

Undistributed Net Realized Earnings means Undistributed Realized Earnings less Non-cash Gains/Income, each as reported on SBA Form 468.

Unrealized Appreciation means the amount by which a NMVC Company's valuation of each of its Loans and Investments, as determined by its Board of Directors or General Partner(s) in accordance with NMVC Company's valuation policies, exceeds the cost basis thereof.

Unrealized Depreciation means the amount by which a NMVC Company's valuation of each of its Loans and Investments, as determined by its Board of Directors or General Partner(s) in accordance with NMVC Company's valuation policies, is below the cost basis thereof.

Unrealized Gain (Loss) on Securities Held means the sum of the Unrealized Appreciation and Unrealized Depreciation on all of a NMVC Company's Loans and Investments, less estimated future income tax expense or estimated realizable future income tax benefit, as appropriate.

Subpart C—Qualifications for the NMVC Program

Organizing a NMVC Company

§ 108.100 Business form.

A NMVC Company must be a newly formed for-profit entity or, subject to § 108.150, a newly formed for-profit subsidiary of an existing entity. It must be organized under State law solely for the purpose of performing the functions and conducting the activities contemplated under the Act. It may be organized as a corporation (''Corporate NMVC Company''), a limited partnership (''Partnership NMVC Company''), or a limited liability company (''LLC NMVC Company'').

§ 108.110 Qualified management.

An Applicant must show, to the satisfaction of SBA, that its current or proposed management team is qualified and has the knowledge, experience, and capability in Community Development Finance or Relevant Venture Capital Finance, necessary for investing in the types of businesses contemplated by the Act, the regulations in this part and its business plan. In determining whether an Applicant's current or proposed management team has sufficient qualifications, SBA will consider information provided by the Applicant and third parties concerning the background, capability, education, training and reputation of its general partners, managers, officers, key personnel, and investment committee and governing board members. The Applicant must designate at least one individual as the official responsible for contact with SBA.

§ 108.120 Economic development primary mission.

The primary mission of a NMVC Company must be economic development of one or more LI Areas.

§ 108.130 Identified Low Income Geographic Areas.

A NMVC Company must identify the specific LI Areas in which it intends to make Developmental Venture Capital investments and provide Operational Assistance under the NMVC program.

§ 108.140 SBA approval of initial Management Expenses.

A NMVC Company must have its Management Expenses approved by SBA at the time of designation as a NMVC Company. (See § 108.520 for the definition of Management Expenses.)

§ 108.150 Management and ownership diversity requirement.

(a) *Diversity requirement.* You must have diversity between management and ownership in order to be a NMVC Company. To establish diversity, you must meet the requirements in paragraphs (b) and (c) of this section.

(b) *Percentage ownership requirement.* No Person or group of Persons who are Affiliates of one another may own or control, directly or indirectly, more than 70 percent of your Regulatory Capital or your Leverageable Capital.

(c) *Non-affiliation requirement.* At least 30 percent of your Regulatory Capital and Leverageable Capital must be owned and controlled by Persons unaffiliated with your management and unaffiliated with each other, and whose investments are significant in dollar and percentage terms as determined by SBA. Such Persons must not be your Associates (except for their status as your shareholders, limited partners or members) and must not Control, be Controlled by, or be under Common Control with any of your Associates. A single ''acceptable'' Institutional Investor may be substituted for two or three of the three investors who are otherwise required. The following Institutional Investors are ''acceptable'' for this purpose:

(1) Entities whose overall activities are regulated and periodically examined by state, Federal or other governmental authorities satisfactory to SBA;

(2) Entities listed on the New York Stock Exchange;

(3) Entities that are publicly-traded and that meet both the minimum numerical listing standards and the corporate governance listing standards of the New York Stock Exchange:

(4) Public or private employee pension funds;

(5) Trusts, foundations, or endowments, but only if exempt from Federal income taxation; and

(6) Other Institutional Investors satisfactory to SBA.

(d) *Voting requirement.* The investors required for you to satisfy diversity may not delegate their voting rights to any Person who is your Associate, or who Controls, is Controlled by, or is under Common Control with any of your Associates, without prior SBA approval.

(e) *Requirement to maintain diversity.* You must maintain management-ownership diversity while you are a NMVC Company. If, at any time, you no longer have the required management-ownership diversity, you must:

(1) Notify SBA within 10 days; and

(2) Re-establish diversity within six months.

§ 108.160 Special rules for NMVC Companies formed as limited partnerships.

(a) *Entity General Partner.* (1) A general partner which is a corporation, limited liability company or partnership (an ''Entity General Partner'') shall be organized under state law solely for the purpose of serving as the general partner of one or more NMVC companies.

(2) SBA must approve any person who will serve as an officer, director, manager, or general partner of the Entity General Partner. This provision must be stated in an Entity General Partner's Certificate of Incorporation, operating agreement, limited partnership agreement or other similar governing instrument.

(3) An Entity General Partner is subject to the same examination and reporting requirements as a NMVC Company under sections 361 and 362 of the Act. The restrictions and obligations imposed upon a NMVC Company by §§ 108.1810, 108.30, 108.410 through 108.450, 108.470, 108.500, 108.510, 108.585, 108.600, 108.680, 108.690 through 108.692, and 108.1910 apply also to an Entity General Partner of a NMVC Company.

(4) The general partner(s) of your Entity General Partner(s) will be considered your general partner.

(5) If your Entity General Partner is a limited partnership, its limited partners may be considered your Control Person(s) if they meet the definition for Control Person in § 108.50.

(b) *Other requirements for Partnership NMVC Companies.* If you are a Partnership NMVC Company:

(1) You must have a minimum duration of 10 years or two years following the maturity of your last-maturing Leverage security, whichever is longer. After 10 years, if all Leverage has been repaid or redeemed and all amounts due SBA, its agent, or Trustee have been paid, the Partnership NMVC Company may be terminated by a vote of your partners;

(2) None of your general partner(s) may be removed or replaced by your limited partners without prior written approval of SBA;

(3) Any transferee of, or successor in interest to, your general partner shall have only the rights and liabilities of a limited partner pending SBA's written approval of such transfer or succession; and

(4) You must incorporate all the provisions in this paragraph (b) in your limited partnership agreement.

(c) *Obligations of a Control Person.* All Control Persons are bound by the disciplinary provisions of sections 365 and 366 of the Act and by the conflict-of-interest rules under § 108.730. The term NMVC Company, as used in §§ 108.30, 108.460, and 108.680, includes all of the NMVC Company's Control Persons. The conditions

specified in § 108.1810 and § 108.1910 apply to all general partners.

(d) *Liability of general partner for partnership debts to SBA.* Subject to section 365 of the Act, your general partner is not liable solely by reason of its status as a general partner for repayment of any Leverage or debts you owe to SBA unless SBA, in the exercise of reasonable investment prudence, and with regard to your financial soundness, determines otherwise prior to the purchase or guaranty of your Leverage.

(e) *Special Leverage requirement.* Before your first issuance of Leverage, you must furnish SBA with evidence that you qualify as a partnership for tax purposes, either by a ruling from the Internal Revenue Service or by an opinion of counsel.

Capitalizing a NMVC Company

§ 108.200 Adequate capital for NMVC Companies.

You must meet the requirements of §§ 108.200–108.230 in order to qualify for designation as a NMVC Company and to receive Leverage.

§ 108.210 Minimum capital requirements for NMVC Companies.

You must have Regulatory Capital of at least $5,000,000 and Leverageable Capital of at least $500,000 to become a NMVC Company.

§ 108.230 Private Capital for NMVC Companies.

(a) *General.* Private Capital means the contributed capital of a NMVC Company, plus unfunded binding commitments by Institutional Investors (including commitments evidenced by a promissory note) to contribute capital to a NMVC Company.

(b) *Contributed capital.* For purposes of this section, contributed capital means the paid-in capital and paid-in surplus of a Corporate NMVC Company, the members' contributed capital of a LLC NMVC Company, or the partners' contributed capital of a Partnership NMVC Company, in each case subject to the limitations in paragraph (c) of this section.

(c) *Exclusions from Private Capital.* Private Capital does not include:

(1) Funds borrowed by a NMVC Company from any source.

(2) Funds obtained through the issuance of Leverage.

(3) Funds obtained directly from any Federal agency or department.

(4) Any portion of a commitment from an Institutional Investor with a net worth of less than $10 million that exceeds 10 percent of such Institutional Investor's net worth.

(d) *Non-cash capital contributions.* Capital contributions in a form other than cash are excluded from Private Capital.

(e) *Contributions with borrowed funds.* You may not accept any capital contribution made with funds borrowed by a Person seeking to own an equity interest (whether direct or indirect, beneficial or of record) of at least 10 percent of your Private Capital. This exclusion does not apply if:

(1) Such Person's net worth is at least twice the amount borrowed; or

(2) SBA gives its prior written approval of the capital contribution.

Subpart D—Application and Approval Process for NMVC Company Designation

§ 108.300 When and how to apply for designation as a NMVC Company.

(a) *Notice of Funds Availability (''NOFA'').* SBA will publish a NOFA in the **Federal Register**, advising potential applicants of the availability of funds for the NMVC program. An entity may then submit an application for designation as a NMVC Company. When submitting its application, an Applicant must comply with both these regulations and any requirements specified in the NOFA, including submission deadlines. The NOFA may specify limitations, special rules, procedures, and restrictions for a particular funding round.

(b) *Application form.* An Applicant must apply for designation as a NMVC Company using the application packet provided by SBA. Upon receipt of an application, SBA may request clarifying or technical information on the materials submitted as part of the application.

§ 108.310 Contents of application.

Each Applicant must submit a complete application, including the following:

(a) *Amounts.* The Applicant must indicate the amounts of—

(1) Regulatory Capital it proposes to raise;

(2) Binding commitments for contributions in cash or in-kind it proposes to raise, and/or an annuity it proposes to purchase, in accordance with the requirements of § 108.2030, as its matching resources for its Operational Assistance grant award (the aggregate of which must be not less than 30 percent of the Regulatory Capital it proposes to raise under paragraph (a)(1) of this section).

(b) *Comprehensive business plan.* The Applicant must submit a comprehensive business plan covering at least a five-year period, addressing the specific items described in § 108.320, and which demonstrates that the Applicant has the capacity to operate successfully as a NMVC Company.

(c) *New Markets Tax Credit program.* Applicant must address if and to what extent it intends to conform its activities to the New Markets Tax Credit laws. If Applicant plans to seek a New Markets Tax Credit, Applicant also must state the amount of tax credit allocation it intends to seek.

§ 108.320 Contents of comprehensive business plan.

(a) *Executive summary.* The executive summary must include a description of—

(1) The Applicant;

(2) Its strategy for how it proposes to make successful Developmental Venture Capital investments in identified LI Areas;

(3) The markets in the LI Areas it proposes to serve; and

(4) How it intends to work with community organizations in and be accountable to the residents of identified LI Areas in order to facilitate its Developmental Venture Capital investments.

(b) *Capacity, skills, and experience of the management team.* An Applicant must provide information generally as to the background, capability, education, reputation and training of its general partners, managers, officers, key personnel, investment committee and governing board members. The Applicant also must provide information specifically on these individuals' qualifications and reputation in the areas of Community Development Finance and/or Relevant Venture Capital Finance, including the impact of these individuals' activities in these areas.

(c) *Market analysis.* An Applicant must provide an analysis of the LI Areas in which it intends to focus its Developmental Venture Capital investments and Operational Assistance to Smaller Enterprises, demonstrating that the Applicant understands the market and the unmet capital needs in such areas and how its activities will meet these unmet capital needs through Developmental Venture Capital investments and will have a positive economic impact on those areas. The analysis must include a description of the extent of the economic distress in the identified LI Areas. An Applicant also must analyze the extent of the demand in such areas for Developmental Venture Capital investments and any factors or trends that may affect the Applicant's ability to make effective Developmental Venture Capital investments.

(d) *Operational capacity and investment strategies.* An Applicant must submit information concerning its policies and procedures for underwriting and approving its Developmental Venture Capital investments, monitoring its portfolio, and maintaining internal controls and operations.

(e) *Regulatory Capital.* An Applicant must include a detailed description of how it plans to raise its Regulatory Capital. An Applicant must discuss its potential sources of Regulatory Capital, the estimated timing on raising such funds, and the extent of the expressions of interest to commit such funds to the Applicant.

(f) *Plan for providing Operational Assistance.* An Applicant must describe how it plans to use its grant funds to provide Operational Assistance to Smaller Enterprises in which it will make Developmental Venture Capital investments. Its plan must address the types of Operational Assistance it proposes to provide, and how it plans to provide the Operational Assistance through the use of licensed professionals, when necessary, either from its own staff or from outside entities.

(g) *Matching resources for Operational Assistance grant.* An Applicant must include a detailed description of how it plans to obtain binding commitments for cash or in-kind contributions, and/or to purchase an annuity, to match the funds requested from SBA for the Applicant's Operational Assistance grant. If it proposes to obtain commitments for cash or in-kind contributions, it also must estimate the ratio of cash to in-kind contributions (in no event may in-kind contributions exceed 50 percent of the total contributions). Applicant must discuss its potential sources of matching resources, the estimated timing on raising such funds, and the extent of the expressions of interest to commit such funds to the Applicant. Potential sources of matching resources must satisfy the requirements in § 108.2030(b)(1).

(h) *Projected amount of investment in LI Areas.* An Applicant must describe the amount of its total Regulatory Capital and Leverage that it proposes to invest in Smaller Enterprises located in LI Areas, as compared to the amount that it proposes to invest in Small Businesses located outside of LI Areas.

(i) *Projected impact.* An Applicant must describe the criteria and economic measurements to be used to evaluate whether and to what extent it has met the objectives of the NMVC program. It must include:

(1) A description of the extent to which it will concentrate its Developmental Venture Capital investments and Operational Assistance activities in identified LI Areas;

(2) An estimate of the social, economic, and community development benefits to be created within identified LI Areas over the next five years or more as a result of its activities;

(3) A description of the criteria to be used to measure the benefits created as a result of its activities;

(4) A discussion about the amount of such benefits created that it will consider to constitute successfully meeting the objectives of the NMVC program.

(j) *Affiliates and business relationships.* Applicant must submit information regarding the management and financial strength of any parent or holding entity, affiliated firm or entity, or any other firm or entity essential to the success of the Applicant's business plan.

§ 108.330 Grant issuance fee.

An Applicant must pay to SBA a grant issuance fee of $5,000. An Applicant must submit this fee in advance, at the time of application submission. If SBA does not select an Applicant as a Conditionally Approved NMVC Company or designate an Applicant as a NMVC Company, SBA will refund this fee to the Applicant.

Subpart E—Evaluation and Selection of NMVC Companies

§ 108.340 Evaluation and selection—general.

SBA will evaluate and select an Applicant to participate in the NMVC program solely at SBA's discretion, based on SBA's review of the Applicant's application materials, interviews or site visits with the Applicant (if any), and background investigations conducted by SBA and other Federal agencies. SBA's evaluation and selection process is intended to—

(a) Ensure that Applicants are evaluated on a competitive basis and in a fair and consistent manner;

(b) Take into consideration the unique proposals presented by Applicants;

(c) Ensure that each Applicant that SBA designates as a NMVC Company can fulfill successfully the goals of its comprehensive business plan; and

(d) Ensure that SBA selects Applicants in such a way as to promote Developmental Venture Capital investments nationwide and in both urban and rural areas.

§ 108.350 Eligibility and completeness.

SBA will not consider any application that is not complete or that is submitted by an Applicant that does not meet the eligibility criteria described in subpart C of this part. SBA, at its sole discretion, may request from an Applicant additional information concerning eligibility criteria or easily completed portions of the application in order to allow SBA to consider that Applicant's application.

§ 108.360 Evaluation criteria.

SBA will evaluate and select an Applicant for participation in the NMVC program by considering the following criteria—

(a) The quality of the Applicant's comprehensive business plan in terms of meeting the objectives of the NMVC program;

(b) The likelihood that the Applicant will fulfill the goals described in its comprehensive business plan;

(c) The capability of the Applicant's management team;

(d) The strength and likelihood for success of the Applicant's operations and investment strategies;

(e) The need for Developmental Venture Capital investments in the LI Areas in which the Applicant intends to invest;

(f) The extent to which the Applicant will concentrate its activities on serving the LI Areas in which it intends to invest, including the ratio of resources that it proposes to invest in such areas as compared to other areas;

(g) The Applicant's demonstrated understanding of the markets in the LI Areas in which it intends to focus its activities;

(h) The likelihood that and the time frame within which the Applicant will be able to—

(1) Raise the Regulatory Capital it proposes to raise for its investments, and

(2) Obtain the binding commitments for contributions in cash or in-kind and/or an annuity it proposes to obtain as its matching resources for its Operational Assistance grant award;

(i) The strength of the Applicant's proposal to provide Operational Assistance to Smaller Enterprises in which it plans to invest;

(j) The extent to which the activities proposed by the Applicant will promote economic development and the creation of wealth and job opportunities in the LI Areas in which it intends to invest and among individuals living in LI Areas; and

(k) The strength of the Applicant's application compared to applications submitted by other Applicants

intending to invest in the same or proximate LI Areas.

§ 108.370 Conditional approval.

From among the Applicants submitting eligible and complete applications, SBA will select a number of Applicants and will conditionally approve such selected Applicants to participate in the NMVC program. SBA will give each such Conditionally Approved NMVC Company a specific period of time, not to exceed two years, to satisfy the requirements to become a NMVC Company.

§ 108.380 Final approval as a NMVC Company.

(a) *General rule.* With respect to each Conditionally Approved NMVC Company, SBA will either:

(1) Grant final approval to participate in the NMVC program and designate such company as a NMVC Company, if such Conditionally Approved NMVC Company:

(i) Within the specific period of time SBA gave to it when SBA conditionally approved it for participation in the NMVC program, has raised:

(A) The amount of Regulatory Capital set forth in its application, pursuant to § 108.310(a)(1), which must be at least $5,000,000; and

(B) The amount of matching resources for its Operational Assistance grant award set forth in its application, pursuant to § 108.310(a)(2), which must be at least $1,500,000 or 30 percent of the Regulatory Capital it raised, whichever is greater; and

(ii) Enters into a Participation Agreement with SBA; or

(2) Revoke SBA's conditional approval of the company, at which time it is no longer a Conditionally Approved NMVC Company and must not participate in the NMVC program or represent itself as a Conditionally Approved NMVC Company.

(b) *Exception to requirement to raise matching resources.* (1) *General.* At its discretion and based upon a showing of good cause, SBA may consider a Conditionally Approved NMVC Company to have satisfied the requirement in paragraph (a)(1)(i)(B) of this section to raise matching resources in the amount of at least 30 percent of its Regulatory Capital if the Conditionally Approved NMVC Company—

(i) Already has raised at least 20 percent of the total amount of required matching resources; and

(ii) Has a viable plan that reasonably projects its capacity to raise the remainder of the required amount of matching resources.

(2) *Request for exception.* Before the expiration of the time period given to it by SBA to meet the requirements to become a NMVC Company, a Conditionally Approved NMVC Company may submit to SBA a request that SBA grant the exception described in paragraph (b)(1) of this section. Such Conditionally Approved NMVC must present to SBA evidence of good cause for such request, as well as evidence supporting the elements of the exception described in paragraph (b)(1) of this section.

(3) *No applicability to Regulatory Capital.* The exception described in this section applies only to matching resources for the Operational Assistance grant award. Under no circumstances will SBA designate a Conditionally Approved NMVC Company as a NMVC Company if such Conditionally Approved NMVC Company does not raise the required minimum amount of Regulatory Capital within the time period SBA gave it to do so.

Subpart F—Changes in Ownership, Structure, or Control

Changes in Control or Ownership of NMVC Company

§ 108.400 Changes in ownership of 10 percent or more of NMVC Company but no change of Control.

You must obtain SBA's prior written approval for any proposed transfer or issuance of ownership interests that results in the ownership (beneficial or of record) by any Person, or group of Persons acting in concert, of at least 10 percent of any class of your stock, partnership capital or membership interests.

§ 108.410 Changes in Control of NMVC Company (through change in ownership or otherwise).

You must obtain SBA's prior written approval for any proposed transaction or event that results in Control by any Person(s) not previously approved by SBA.

§ 108.420 Prohibition on exercise of ownership or Control rights in NMVC Company before SBA approval.

Without prior written SBA approval, no change of ownership or Control may take effect and no officer, director, employee or other Person acting on your behalf shall:

(a) Register on your books any transfer of ownership interest to the proposed new owner(s);

(b) Permit the proposed new owner(s) to exercise voting rights with respect to such ownership interest (including directly or indirectly procuring or voting any proxy, consent or authorization as to such voting rights at any meeting of shareholders, partners or members);

(c) Permit the proposed new owner(s) to participate in any manner in the conduct of your affairs (including exercising control over your books, records, funds or other assets; participating directly or indirectly in any disposition thereof; or serving as an officer, director, partner, manager, employee or agent); or

(d) Allow ownership or Control to pass to another Person.

§ 108.430 Notification to SBA of transactions that may change ownership or Control.

You must promptly notify SBA as soon as you have knowledge of transactions or events that may result in a transfer of Control or ownership of at least 10 percent of your capital. If there is any doubt as to whether a particular transaction or event will result in such a change, report the facts to SBA.

§ 108.440 Standards governing prior SBA approval for a proposed transfer of Control.

SBA approval is contingent upon full disclosure of the real parties in interest, the source of funds for the new owners' interest, and other data requested by SBA. As a condition of approving a proposed transfer of control, SBA may:

(a) Require an increase in your Regulatory Capital;

(b) Require the new owners or the transferee's Control Person(s) to assume, in writing, personal liability for your Leverage, effective only in the event of their direct or indirect participation in any transfer of Control not approved by SBA; or

(c) Require compliance with any other conditions set by SBA, including compliance with the requirements for minimum capital and management-ownership diversity as in effect at such time for new NMVC Companies.

§ 108.450 Notification to SBA of pledge of NMVC Company's shares.

(a) You must notify SBA in writing, within 30 calendar days, of the terms of any transaction in which:

(1) Any Person, or group of Persons acting in concert, pledges shares of your stock (or equivalent ownership interests) as collateral for indebtedness; and

(2) The shares pledged are at least 10 percent of your Regulatory Capital.

(b) If the transaction creates a change of ownership or Control, you must comply with § 108.400 or § 108.410, as appropriate.

Restrictions on Common Control or Ownership of Two or More NMVC Companies

§ 108.460 Restrictions on Common Control or ownership of two (or more) NMVC Companies.

Without SBA's prior written approval, you must not have an officer, director, manager, Control Person, or owner (with a direct or indirect ownership interest of at least 10 percent) who is also:

(a) An officer, director, manager, Control Person, or owner (with a direct or indirect ownership interest of at least 10 percent) of another NMVC Company; or

(b) An officer or director of any Person that directly or indirectly controls, or is controlled by, or is under Common Control with, another NMVC Company.

Change in Structure of NMVC Company

§ 108.470 SBA approval of merger, consolidation, or reorganization of NMVC Company.

You may not merge, consolidate, change form of organization (corporation or partnership) or reorganize without SBA's prior written approval. Any such merger or consolidation will be subject to § 108.440.

Subpart G—Managing the Operations of a NMVC Company

General Requirements

§ 108.500 Lawful operations under the Act.

You must engage only in the activities contemplated by the Act and in no other activities.

§ 108.502 Representations to the public.

You may not represent or imply to anyone that the SBA, the U.S. Government or any of its agencies or officers has approved any ownership interests you have issued or obligations you have incurred. Be certain to include a statement to this effect in any solicitation to investors. Example: You may not represent or imply that ''SBA stands behind the NMVC Company'' or that ''Your capital is safe because SBA's experts review proposed investments to make sure they are safe for the NMVC Company.''

§ 108.503 NMVC Company's adoption of an approved valuation policy.

(a) *Valuation guidelines.* You must prepare, document and report the valuations of your Loans and Investments in accordance with the Valuation Guidelines for SBICs issued by SBA. These guidelines may be obtained from SBA's Investment Division.

(b) *SBA approval of valuation policy.* You must have a written valuation policy approved by SBA for use in determining the value of your Loans and Investments. You must either:

(1) Adopt without change the model valuation policy set forth in section III of the Valuation Guidelines for SBICs; or

(2) Obtain SBA's prior written approval of an alternative valuation policy.

(c) *Responsibility for valuations.* Your board of directors, managing members, or general partner(s) will be solely responsible for adopting your valuation policy and for using it to prepare valuations of your Loans and Investments for submission to SBA. If SBA reasonably believes that your valuations, individually or in the aggregate, are materially misstated, it reserves the right to require you to engage, at your expense, an independent third party acceptable to SBA to substantiate the valuations.

(d) *Frequency of valuations.* (1) You must value your Loans and Investments at the end of the second quarter of your fiscal year, and at the end of your fiscal year.

(2) On a case-by-case basis, SBA may require you to perform valuations more frequently.

(3) You must report material adverse changes in valuations at least quarterly, within thirty days following the close of the quarter.

(e) *Review of valuations by independent public accountant.* (1) For valuations performed as of the end of your fiscal year, your independent public accountant must review your valuation procedures and the implementation of such procedures, including adequacy of documentation.

(2) The independent public accountant's report on your audited annual financial statements (SBA Form 468) must include a statement that your valuations were prepared in accordance with your approved valuation policy.

§ 108.504 Equipment and office requirements.

(a) *Computer capability.* You must have a personal computer with a modem, and be able to use this equipment to prepare reports (using SBA provided software) and transmit them to SBA. In addition, you must have access to the Internet and the capability to send and receive electronic mail via the Internet.

(b) *Facsimile capability.* You must be able to receive facsimile messages 24 hours per day at your primary office.

(c) *Accessible office.* You must maintain an office that is convenient to the public and is open for business during normal working hours.

§ 108.506 Safeguarding the NMVC Company's assets/Internal controls.

You must adopt a plan to safeguard your assets and monitor the reliability of your financial data, personnel, Portfolio, funds and equipment. You must provide your bank and custodian with a certified copy of your resolution or other formal document describing your control procedures.

§ 108.507 Violations based on false filings and nonperformance of agreements with SBA.

The following shall constitute a violation of this part:

(a) *Nonperformance.* Nonperformance of any of the requirements of any Debenture or of any written agreement with SBA.

(b) *False statement.* In any document submitted to SBA:

(1) Any false statement knowingly made; or

(2) Any misrepresentation of a material fact; or

(3) Any failure to state a material fact. A material fact is any fact that is necessary to make a statement not misleading in light of the circumstances under which the statement was made.

§ 108.509 Employment of SBA officials.

Without SBA's prior written approval, for a period of two years after the date of your most recent issuance of Leverage (or the receipt of any SBA Assistance as defined in part 105 of this chapter), you are not permitted to employ, offer employment to, or retain for professional services, any person who:

(a) Served as an officer, attorney, agent, or employee of SBA on or within one year before such date; and

(b) As such, occupied a position or engaged in activities which, in SBA's determination, involved discretion with respect to the granting of SBA Assistance.

Management and Compensation

§ 108.510 SBA approval of NMVC Company's Investment Adviser/Manager.

You may employ an Investment Adviser/Manager who will be subject to the supervision of your board of directors, managing members, or general partner. If you have Leverage or plan to seek Leverage, you must obtain SBA's prior written approval of the management contract. SBA's approval of an Investment Adviser/Manager for one NMVC Company does not indicate approval of that manager for any other NMVC Company.

(a) *Management contract.* The contract must:

(1) Specify the services the Investment Adviser/Manager will render to you and to the Small Businesses in your Portfolio; and

(2) Indicate the basis for computing Management Expenses.

(b) *Material change to approved management contract.* If there is a material change, both you and SBA must approve such change in advance. If you are uncertain if the change is material, submit the proposed revision to SBA.

§ 108.520 Management Expenses of a NMVC Company.

SBA must approve your initial Management Expenses and any increases in your Management Expenses.

(a) *Definition of Management Expenses.* Management Expenses include:

(1) Salaries;

(2) Office expenses;

(3) Travel;

(4) Business development;

(5) Office and equipment rental;

(6) Bookkeeping; and

(7) Expenses related to developing, investigating and monitoring investments.

(b) Management Expenses do not include services provided by specialized outside consultants, outside lawyers and independent public accountants, if they perform services not generally performed by a venture capital company.

Cash Management by a NMVC Company

§ 108.530 Restrictions on investments of idle funds by NMVC Companies.

(a) *Permitted investments of idle funds.* Funds not invested in Small Businesses must be maintained in:

(1) Direct obligations of, or obligations guaranteed as to principal and interest by, the United States, which mature within 15 months from the date of the investment; or

(2) Repurchase agreements with federally insured institutions, with a maturity of seven days or less. The securities underlying the repurchase agreements must be direct obligations of, or obligations guaranteed as to principal and interest by, the United States. The securities must be maintained in a custodial account at a federally insured institution; or

(3) Certificates of deposit with a maturity of one year or less, issued by a federally insured institution; or

(4) A deposit account in a federally insured institution, subject to a withdrawal restriction of one year or less; or

(5) A checking account in a federally insured institution; or

(6) A reasonable petty cash fund.

(b) *Deposit of funds in excess of the insured amount.* (1) You are permitted to deposit funds in a federally insured institution in excess of the institution's insured amount, but only if the institution is ''well capitalized'' in accordance with the definition set forth in regulations of the Federal Deposit Insurance Corporation, as amended (12 CFR 325.103).

(2) Exception: You may make a temporary deposit (not to exceed 30 days) in excess of the insured amount, in a transfer account established to facilitate the receipt and disbursement of funds or to hold funds necessary to honor Commitments issued.

(c) *Deposit of funds in Associate institution.* A deposit in, or a repurchase agreement with, a federally insured institution that is your Associate is not considered a Financing of such Associate under § 108.730, provided the terms of such deposit or repurchase agreement are no less favorable than those available to the general public.

Borrowing by NMVC Companies From Non-SBA Sources

§ 108.550 Prior approval of secured third-party debt of NMVC companies.

(a) *Definition.* In this section, ''secured third-party debt'' means any non-SBA debt secured by any of your assets, including secured guarantees and other contingent obligations that you voluntarily assume and secured lines of credit.

(b) *General rule.* You must get SBA's written approval before you incur any secured third-party debt or refinance any debt with secured third-party debt, including any renewal of a secured line of credit, increase in the maximum amount available under a secured line of credit, or expansion of the scope of a security interest or lien. For purposes of this paragraph (b), ''expansion of the scope of a security interest or lien'' does not include the substitution of one asset or group of assets for another, provided the asset values (as reported on your most recent annual Form 468) are comparable.

(c) *Conditions for SBA approval.* As a condition of granting its approval under this section, SBA may impose such restrictions or limitations as it deems appropriate, taking into account your historical performance, current financial position, proposed terms of the secured debt and amount of aggregate debt you will have outstanding (including Leverage). SBA will not favorably consider any requests for approval which include a blanket lien on all your assets, or a security interest in your investor commitments in excess of 125 percent of the proposed borrowing.

(d) *Thirty-day approval.* Unless SBA notifies you otherwise within 30 days after it receives your request, you may consider your request automatically approved if:

(1) You are in regulatory compliance;

(2) The security interest in your assets is limited to either those assets being acquired with the borrowed funds or an asset coverage ratio of no more than 2:1;

(3) Your request is for approval of a secured line of credit that would not cause your total outstanding borrowings (not including Leverage) to exceed 50 percent of your Leverageable Capital.

Voluntary Decrease in Regulatory Capital

§ 108.585 Voluntary decrease in NMVC Company's Regulatory Capital.

You must obtain SBA's prior written approval to reduce your Regulatory Capital by more than two percent in any fiscal year. At all times, you must retain sufficient Regulatory Capital to meet the minimum capital requirements in the Act and § 108.210, and sufficient Leverageable Capital to avoid having excess Leverage in violation of section 355(d) of the Act.

Subpart H—Recordkeeping, Reporting, and Examination Requirements for NMVC Companies

Recordkeeping Requirements for NMVC Companies

§ 108.600 General requirement for NMVC Company to maintain and preserve records.

(a) *Maintaining your accounting records.* You must establish and maintain your accounting records using SBA's standard chart of accounts for SBICs, unless SBA approves otherwise. You may obtain this chart of accounts from SBA.

(b) *Location of records.* You must keep the following records at your principal place of business or, in the case of paragraph (b)(3) of this section, at the branch office that is primarily responsible for the transaction:

(1) All your accounting and other financial records;

(2) All minutes of meetings of directors, stockholders, executive committees, partners, or other officials; and

(3) All documents and supporting materials related to your business transactions, except for any items held by a custodian under a written agreement between you and a Portfolio Concern or non-SBA lender, or any

securities held in a safe deposit box, or by a licensed securities broker in an amount not exceeding the broker's per-account insurance coverage.

(c) *Preservation of records.* You must retain all the records that are the basis for your financial reports. Such records must be preserved for the periods specified in this paragraph (c), and must remain accessible for the first two years of the preservation period.

(1) You must preserve for at least 15 years or, in the case of a Partnership NMVC Company or LLC NMVC Company, at least two years beyond the date of liquidation:

(i) All your accounting ledgers and journals, and any other records of assets, asset valuations, liabilities, equity, income, and expenses.

(ii) Your Articles, bylaws, minute books, and NMVC Company application.

(iii) All documents evidencing ownership of the NMVC Company including ownership ledgers, and ownership transfer registers.

(2) You must preserve for at least six years all supporting documentation (such as vouchers, bank statements, or canceled checks) for the records listed in paragraph (b)(1) of this section.

(3) After final disposition of any item in your Portfolio, you must preserve for at least six years:

(i) Financing applications and Financing instruments.

(ii) All loan, participation, and escrow agreements.

(iii) Size status declarations (SBA Form 480).

(iv) Any capital stock certificates and warrants of the Portfolio Concern that you did not surrender or exercise.

(v) All other documents and supporting material relating to the Portfolio Concern, including correspondence.

(4) You may substitute a microfilm or computer-scanned or generated copy for the original of any record covered by this paragraph (c).

(d) *Additional requirement.* You must comply with the recordkeeping and record retention requirements set forth in Circular A–110 of the Office of Management and Budget. (OMB circulars are available from the addresses in 5 CFR 1310.3.)

§ 108.610 Required certifications for Loans and Investments.

For each of your Loans and Investments, you must have the documents listed in this section. You must keep these documents in your files and make them available to SBA upon request.

(a) SBA Form 480, the Size Status Declaration, executed both by you and by the concern you are financing. By executing this document, both parties certify that the concern is a Small Business. For securities purchased from an underwriter in a public offering, you may substitute a prospectus showing that the concern is a Small Business.

(b) SBA Form 652, a certification by the concern you are financing that it will not illegally discriminate (see part 112 of this chapter).

(c) A certification by the concern you are financing of the intended use of the proceeds. For securities purchased from an underwriter in a public offering, you may substitute a prospectus indicating the intended use of proceeds.

(d) For each Low-Income Investment, a certification by the concern you are financing as to the basis for its qualification as a Low-Income Enterprise.

§ 108.620 Requirements to obtain information from Portfolio Concerns.

All the information required by this section is subject to the requirements of § 108.600 and must be in English.

(a) *Information for initial Financing decision.* Before extending any Financing, you must require the applicant to submit such financial statements, plans of operation (including intended use of financing proceeds), cash flow analyses, projections, and such community economic development information about the company, as are necessary to support your investment decision. The information submitted must be consistent with the size and type of the business and the amount of the proposed Financing.

(b) *Updated financial and community economic development information.* (1) The terms of each Financing must require the Portfolio Concern to provide, at least annually, sufficient financial and community economic development information to enable you to perform the following required procedures:

(i) Evaluate the financial condition of the Portfolio Concern for the purpose of valuing your investment;

(ii) Determine the continued eligibility of the Portfolio Concern;

(iii) Verify the use of Financing proceeds; and

(iv) Evaluate the community economic development impact of the Financing.

(2) The president, chief executive officer, treasurer, chief financial officer, general partner, or proprietor of the Portfolio Concern must certify the information submitted to you.

(3) For financial and valuation purposes, you may accept a complete copy of the Federal income tax return filed by the Portfolio Concern (or its proprietor) in lieu of financial statements, but only if appropriate for the size and type of the business involved.

(4) The requirements in this paragraph (b) do not apply when you acquire securities from an underwriter in a public offering (see § 108.825). In that case, you must keep copies of all reports furnished by the Portfolio Concern to the holders of its securities.

(c) *Information required for examination purposes.* You must obtain any information requested by SBA's examiners for the purpose of verifying the certifications made by a Portfolio Concern under § 108.610. In this regard, your Financing documents must contain provisions requiring the Portfolio Concern to give you and/or SBA's examiners access to its books and records for such purpose.

Reporting Requirements for NMVC Companies

§ 108.630 Requirement for NMVC companies to file financial statements and supplementary information with SBA (SBA Form 468).

(a) *Annual filing of Form 468.* For each fiscal year, you must submit to SBA financial statements and supplementary information prepared on SBA Form 468. You must file Form 468 on or before the last day of the third month following the end of your fiscal year, except for the information required under paragraphs (e) and (f) of this section, which must be filed on or before the last day of the fifth month following the end of your fiscal year.

(1) *Audit of Form 468.* An independent public accountant acceptable to SBA must audit the annual Form 468.

(2) *Insurance requirement for public accountant.* Unless SBA approves otherwise, your independent public accountant must carry at least $1,000,000 of Errors and Omissions insurance, or be self-insured and have a net worth of at least $1,000,000.

(b) *Interim filings of Form 468.* When requested by SBA, you must file interim reports on Form 468. SBA may require you to file the entire form or only certain statements and schedules. You must file such reports on or before the last day of the month following the end of the reporting period. When you submit a request for a draw under an SBA Leverage commitment, you must also comply with any applicable filing requirements set forth in § 108.1220.

(c) *Standards for preparation of Form 468.* You must prepare SBA Form 468 in accordance with SBA's Accounting Standards and Financial Reporting

Requirements for Small Business Investment Companies, which you may obtain from SBA.

(d) *Where to file Form 468.* Submit all filings of Form 468 to the Office of New Markets Venture Capital in the Investment Division of SBA.

(e) *Reporting of social, economic, or community development impact information on Form 468.* Your annual filing of SBA Form 468 must include an assessment of the social, economic, or community development impact of each Financing. This assessment must specify the fulltime equivalent jobs created, the impact of the Financing on the revenues and profits of the business and on taxes paid by the business and its employees, and a listing of the number and percentage of employees who reside in LI Areas.

(f) *Reporting of community development information.* For each Financing of a Low-Income Enterprise, your Form 468 must include an assessment of such Financing with respect to:

(1) The social, economic or community development benefits achieved as a result of the Financing;

(2) How and to what extent such benefits fulfilled the goals of your comprehensive business plan and Participation Agreement;

(3) Whether you consider the Financing or the results of the Financing to have fulfilled the objectives of the NMVC program; and

(4) Whether, and if so, how you achieved accountability to the residents of the LI Area in connection with that Financing.

§ 108.640 Requirement to file portfolio financing reports (SBA Form 1031).

For each Financing you make (excluding guarantees), you must submit a Portfolio Financing Report on SBA Form 1031 within 30 days of the closing date.

§ 108.650 Requirement to report portfolio valuations to SBA.

You must determine the value of your Loans and Investments in accordance with § 108.503. You must report such valuations to SBA within 90 days of the end of the fiscal year in the case of annual valuations, and within 30 days following the close of other reporting periods. You must report material adverse changes in valuations at least quarterly, within thirty days following the close of the quarter.

§ 108.660 Other items required to be filed by NMVC Company with SBA.

(a) *Reports to owners.* You must give SBA a copy of any report you furnish to your investors, including any prospectus, letter, or other publication concerning your financial operations or those of any Portfolio Concern.

(b) *Documents filed with SEC.* You must give SBA a copy of any report, application or document you file with the Securities and Exchange Commission.

(c) *Litigation reports.* When you become a party to litigation or other proceedings, you must give SBA a report within 30 days that describes the proceedings and identifies the other parties involved and your relationship to them.

(1) The proceedings covered by this paragraph (c) include any action by you, or by your security holder(s) in a personal or derivative capacity, against an officer, director, Investment Adviser or other Associate of yours for alleged breach of official duty.

(2) SBA may require you to submit copies of the pleadings and other documents SBA may specify.

(3) Where proceedings have been terminated by settlement or final judgment, you must promptly advise SBA of the terms.

(4) This paragraph (c) does not apply to collection actions or proceedings to enforce your ordinary creditors' rights.

(d) *Notification of criminal charges.* If any officer, director, or general partner of the NMVC Company, or any other person who was required by SBA to complete a personal history statement, is charged with or convicted of any criminal offense other than a misdemeanor involving a minor motor vehicle violation, you must report the incident to SBA within 5 calendar days. Such report must fully describe the facts that pertain to the incident.

(e) *Reports concerning Operational Assistance grant funds.* You must comply with all reporting requirements set forth in Circular A–110 of the Office of Management and Budget and any grant award document executed between you and SBA.

(f) *Other reports.* You must file any other reports SBA may require in writing.

§ 108.680 Reporting changes in NMVC Company not subject to prior SBA approval.

(a) *Changes to be reported for post-approval.* This section applies to any changes in your Articles, ownership, capitalization, management, operating area, or investment policies that do not require SBA's prior approval. You must report such changes to SBA within 30 days for post approval.

(b) *Approval by SBA.* You may consider any change submitted under this section to be approved unless SBA notifies you to the contrary within 90 days after receiving it. SBA's approval is contingent upon your full disclosure of all relevant facts and is subject to any conditions SBA may prescribe.

Examinations of NMVC Companies by SBA for Regulatory Compliance

§ 108.690 Examinations.

All NMVC companies must submit to annual examinations by or at the direction of SBA for the purpose of evaluating regulatory compliance.

§ 108.691 Responsibilities of NMVC Company during examination.

You must make all books, records and other pertinent documents and materials available for the examination, including any information required by the examiner under § 108.620(c). In addition, the agreement between you and the independent public accountant performing your audit must provide that any information in the accountant's working papers be made available to SBA upon request.

§ 108.692 Examination fees.

(a) *General.* SBA will assess fees for examinations in accordance with this section. Unless SBA determines otherwise on a case by case basis, SBA will not assess fees for special examinations to obtain specific information.

(b) *Base fee.* A base fee of $3,500 will be assessed, subject to adjustment in accordance with paragraph (c) of this section.

(c) *Adjustments to base fee.* The base fee will be decreased based on the following criteria:

(1) If you have no outstanding regulatory violations at the time of the commencement of the examination and SBA did not identify any violations as a result of the most recent prior examination, you will receive a 15% discount on your base fee; and

(2) If you were fully responsive to the letter of notification of examination (that is, you provided all requested documents and information within the time period stipulated in the notification letter in a complete and accurate manner, and you prepared and had available all information requested by the examiner for on-site review), you will receive a 10% discount on your base fee.

(d) *Delay fee.* If, in the judgment of SBA, the time required to complete your examination is delayed due to your lack of cooperation or the condition of your records, SBA may assess an additional fee of up to $500 per day.

Subpart I—Financing of Small Businesses by NMVC Companies

Determining the Eligibility of a Small Business for NMVC Financing

§ 108.700 Compliance with size standards in part 121 of this chapter as a condition of Assistance.

You are permitted to provide financial assistance and management services only to a Small Business. To determine whether an applicant meets the size standards for a Small Business, you may use either the financial size standards in § 121.301(c)(1) of this chapter or the industry standard covering the industry in which the applicant is primarily engaged, as set forth in § 121.301(c)(2) of this chapter.

§ 108.710 Requirement to finance Low-Income Enterprises.

(a) *Low-Income Enterprise Financings.* At the close of each of your fiscal years—

(1) At least 80 percent of your Portfolio Concerns must be Low-Income Enterprises in which you have an Equity Capital Investment; and

(2) For all Financings you have extended, you must have invested at least 80 percent (in total dollars) in Equity Capital Investments in Low-Income Enterprises.

(b) *Non-compliance with this section.* If you have not reached the percentages required in paragraph (a) of this section at the end of any fiscal year, then you must be in compliance by the end of the following fiscal year. However, you will not be eligible for additional Leverage until such time as you reach the required percentages (see § 108.1120).

§ 108.720 Small Businesses that may be ineligible for financing.

(a) *Relenders or reinvestors.* You are not permitted to finance any business that is a relender or reinvestor. Relenders or reinvestors are businesses whose primary business activity involves, directly or indirectly, providing funds to others, purchasing debt obligations, factoring, or long-term leasing of equipment with no provision for maintenance or repair.

(b) *Passive Businesses.* You are not permitted to finance a passive business.

(1) *Definition.* A business is passive if:

(i) It is not engaged in a regular and continuous business operation (for purposes of this paragraph (b), the mere receipt of payments such as dividends, rents, lease payments, or royalties is not considered a regular and continuous business operation); or

(ii) Its employees are not carrying on the majority of day to day operations, and the company does not provide effective control and supervision, on a day to day basis, over persons employed under contract; or

(iii) It passes through substantially all of the proceeds of the Financing to another entity.

(2) *Exception for pass-through of proceeds to subsidiary.* With the prior written approval of SBA, you may finance a passive business if it is a Small Business and it passes substantially all the proceeds through to one or more subsidiary companies, each of which is an eligible Small Business that is not passive. For the purpose of this paragraph (b) (2), ''subsidiary company'' means a company in which at least 50 percent of the outstanding voting securities are owned by the Financed passive business.

(3) *Exception for certain Partnership NMVC companies.* With the prior written approval of SBA, if you are a Partnership NMVC Company, you may form one or more wholly owned corporations in accordance with this paragraph (b) (3). The sole purpose of such corporation(s) must be to provide Financing to one or more eligible, unincorporated Small Businesses. You may form such corporation(s) only if a direct Financing to such Small Businesses would cause any of your investors to incur unrelated business taxable income under section 511 of the Internal Revenue Code of 1986, as amended (26 U.S.C. 511). Your investment of funds in such corporation(s) will not constitute a violation of § 108.730(a).

(c) *Real Estate Businesses.* (1) You are not permitted to finance:

(i) Any business classified under subsector 5311 (Lessors of Real Estate) of the NAICS Manual; or

(ii) Any business listed under subsector 5312 (Offices of Real Estate Agents and Brokers) unless at least 80 percent of the revenue is derived from non-Affiliate sources.

(2) You are not permitted to finance a business, regardless of NAICS classification, if the Financing is to be used to acquire or refinance real property, unless the Small Business:

(i) Is acquiring an existing property and will use at least 51 percent of the usable square footage for an eligible business purpose; or

(ii) Is building or renovating a building and will use at least 67 percent of the usable square footage for an eligible business purpose; or

(iii) Occupies the subject property and uses at least 67 percent of the usable square footage for an eligible business purpose.

(d) *Project Financing.* You are not permitted to finance a business if:

(1) The assets of the business are to be reduced or consumed, generally without replacement, as the life of the business progresses, and the nature of the business requires that a stream of cash payments be made to the business's financing sources, on a basis associated with the continuing sale of assets. Examples include real estate development projects and oil and gas wells; or

(2) The primary purpose of the Financing is to fund production of a single item or defined limited number of items, generally over a defined production period, and such production will constitute the majority of the activities of the Small Business. Examples include motion pictures and electric generating plants.

(e) *Farm land purchases.* You are not permitted to finance the acquisition of farmland. Farmland means land, which is or is intended to be used for agricultural or forestry purposes, such as the production of food, fiber, or wood, or is so taxed or zoned.

(f) *Public interest.* You are not permitted to finance any business if the proceeds are to be used for purposes contrary to the public interest, including but not limited to activities which are in violation of law, or inconsistent with free competitive enterprise.

(g) *Foreign investment.* (1) *General rule.* You are not permitted to finance a business if:

(i) The funds will be used substantially for a foreign operation; or

(ii) At the time of the Financing or within one year thereafter, more than 49 percent of the employees or tangible assets of the Small Business are located outside the United States (unless you can show, to SBA's satisfaction, that the Financing was used for a specific domestic purpose).

(2) *Exception.* This paragraph (g) does not prohibit a Financing used to acquire foreign materials and equipment or foreign property rights for use or sale in the United States.

(h) *Financing NMVC companies or SBICs.* You are not permitted to provide funds, directly or indirectly, that the Small Business will use:

(1) To purchase stock in or provide capital to a NMVC Company or SBIC; or

(2) To repay an indebtedness incurred for the purpose of investing in a NMVC Company or SBIC.

§ 108.730 Financings which constitute conflicts of interest.

(a) *General rule.* You must not self-deal to the prejudice of a Small Business, the NMVC Company, its shareholders or partners, or SBA. Unless you obtain a prior written exemption

from SBA for special instances in which a Financing may further the purposes of the Act despite presenting a conflict of interest, you must not directly or indirectly:

(1) Provide Financing to any of your Associates, except for a Small Business that satisfies all of the following conditions:

(i) Your Associate relationship with the Small Business is described by paragraph (8) or (9) of the definition of Associate in § 108.50;

(ii) No Person triggering the Associate relationship identified in paragraph (a)(1)(i) of this section is a Close Relative or Secondary Relative of any Person described in paragraph (1), (2), (4), or (5) of the definition of Associate in § 108.50; and

(iii) No single Associate of yours has either a voting interest or an economic interest in the Small Business exceeding 20 percent, and no two or more of your Associates have either a voting interest or an economic interest exceeding 33 percent. Economic interests shall be computed on a fully diluted basis, and both voting and economic interests shall exclude any interest owned through the NMVC Company.

(2) Provide Financing to an Associate of another NMVC Company if one of your Associates has received or will receive any direct or indirect Financing or a Commitment from that NMVC Company or a third NMVC Company (including Financing or Commitments received under any understanding, agreement, or cross dealing, reciprocal or circular arrangement).

(3) Borrow money from:

(i) A Small Business Financed by you;

(ii) An officer, director, or owner of at least a 10 percent equity interest in such business; or

(iii) A Close Relative of any such officer, director, or equity owner.

(4) Provide Financing to a Small Business to discharge an obligation to your Associate or free other funds to pay such obligation. This paragraph (a)(4) does not apply if the obligation is to an Associate Lending Institution and is a line of credit or other obligation incurred in the normal course of business.

(b) *Rules applicable to Associates.* Without SBA' s prior written approval, your Associates must not, directly or indirectly:

(1) Borrow money from any Person described in paragraph (a)(3) of this section.

(2) Receive from a Small Business any compensation in connection with Assistance you provide (except as permitted under § 108.825(c)), or anything of value for procuring, attempting to procure, or influencing your action with respect to such Assistance.

(c) *Applicability of other laws.* You are also bound by any restrictions in Federal or State laws governing conflicts of interest and fiduciary obligations.

(d) *Financings with Associates.* (1) *Financings with Associates requiring prior approval.* Without SBA's prior written approval, you may not Finance any business in which your Associate has either a voting equity interest or total equity interests (including potential interests) of at least five percent, except as otherwise permitted under paragraph (a)(1) of this section.

(2) *Other Financings with Associates.* If you and an Associate provide Financing to the same Small Business, either at the same time or at different times, you must be able to demonstrate to SBA's satisfaction that the terms and conditions are (or were) fair and equitable to you, taking into account any differences in the timing of each party's financing transactions.

(3) *Exceptions to paragraphs (d)(l) and (d)(2) of this section.* A Financing that falls into one of the following categories is exempt from the prior approval requirement in paragraph (d)(1) of this section or is presumed to be fair and equitable to you for the purposes of paragraph (d)(2) of this section, as appropriate:

(i) Your Associate is a Lending Institution that is providing financing under a credit facility in order to meet the operational needs of the Small Business, and the terms of such financing are usual and customary.

(ii) Your Associate invests in the Small Business on the same terms and conditions and at the same time as you.

(iii) Both you and your Associate are NMVC companies.

(e) *Use of Associates to manage Portfolio Concerns.* To protect your investment, you may designate an Associate to serve as an officer, director, or other participant in the management of a Small Business. You must identify any such Associate in your records available for SBA's review under § 108.600. Without SBA's prior written approval, the Associate must not:

(1) Have any other direct or indirect financial interest in the Portfolio Concern that exceeds, or has the potential to exceed, the percentages of the Portfolio Concern's equity set forth in paragraph (a)(1) of this section.

(2) Receive any income or anything of value from the Portfolio Concern unless it is for your benefit, with the exception of director's fees, expenses, and distributions based upon the Associate's ownership interest in the Concern.

(f) *1940 and 1980 Act Companies: SEC exemptions.* If you are a 1940 or 1980 Act Company and you receive an exemption from the Securities and Exchange Commission for a transaction described in this section, you need not obtain SBA's approval of the transaction. However, you must promptly notify SBA of the transaction.

(g) *Restriction on options obtained by NMVC Company's management and employees.* Your employees, officers, directors, managing members or general partners, or the general partners of the management company that is providing services to you or to your general partner, may obtain options in a Financed Small Business only if:

(1) They participate in the Financing on a *pari passu* basis with you; or

(2) SBA gives its prior written approval; or

(3) The options received are compensation for service as a member of the board of directors of the Small Business, and such compensation does not exceed that paid to other outside directors. In the absence of such directors, fees must be reasonable when compared with amounts paid to outside directors of similar companies.

§ 108.740 Portfolio diversification (''overline'' limitation).

(a) Without SBA's prior written approval, you may provide Financing or a Commitment to a Small Business only if the resulting amount of your aggregate outstanding Financings and Commitments to such Small Business and its Affiliates does not exceed 20 percent of the sum of:

(1) Your Regulatory Capital as of the date of the Financing or Commitment; plus

(2) Any permitted Distribution(s) you made during the five years preceding the date of the Financing or Commitment which reduced your Regulatory Capital.

(b) For the purposes of paragraph (a) of this section, you must measure each outstanding Financing at its current cost plus any amount of the Financing that was previously written off.

§ 108.760 How a change in size or activity of a Portfolio Concern affects the NMVC Company and the Portfolio Concern.

(a) *Effect on NMVC Company of a change in size of a Portfolio Concern.* If a Portfolio Concern no longer qualifies as a Small Business you may keep your investment in the concern and:

(1) Subject to the overline limitations of § 108.740, you may provide additional Financing to the concern up to the time it makes a public offering of its securities.

(2) Even after the concern makes a public offering, you may exercise any stock options, warrants, or other rights to purchase Equity Securities which you acquired before the public offering, or fund Commitments you made before the public offering.

(b) *Effect of a change in business activity occurring within one year of NMVC Company's initial Financing.* (1) *Retention of Investment.* Unless you receive SBA's written approval, you may not keep your investment in a Portfolio Concern, small or otherwise, which becomes ineligible by reason of a change in its business activity within one year of your initial investment.

(2) *Request for SBA 's approval to retain investment.* If you request that SBA approve the retention of your investment, your request must include sufficient evidence to demonstrate that the change in business activity was caused by an unforeseen change in circumstances and was not contemplated at the time the Financing was made.

(3) *Additional Financing.* If SBA approves your request to retain an investment under paragraph (b)(2) of this section, you may provide additional Financing to the Portfolio Concern to the extent necessary to protect against the loss of the amount of your original investment, subject to the overline limitations of § 108.740.

(c) *Effect of a change in business activity occurring more than one year after the initial Financing.* If a Portfolio Concern becomes ineligible because of a change in business activity more than one year after your initial Financing you may:

(1) Retain your investment; and

(2) Provide additional Financing to the Portfolio Concern to the extent necessary to protect against the loss of the amount of your original investment, subject to the overline limitations of § 108.740.

Structuring NMVC Company's Financing of Eligible Small Businesses

§ 108.800 Financings in the form of equity interests.

You may not, inadvertently or otherwise:

(a) Become a general partner in any unincorporated business; or

(b) Become jointly or severally liable for any obligations of an unincorporated business.

§ 108.820 Financings in the form of guarantees.

(a) *General rule.* At the request of a Small Business or where necessary to protect your existing investment, you may guarantee the monetary obligation of a Small Business to any non-Associate creditor.

(b) *Exception.* You may not issue a guaranty if:

(1) You would become subject to State regulation as an insurance, guaranty or surety business; or

(2) The amount of the guaranty plus any direct Financings to the Small Business exceed the overline limitations of § 108.740, except that a pledge of the Equity Securities of the issuer or a subordination of your lien or creditor position does not count toward your overline.

(c) *Pledge of NMVC Company's assets as guaranty.* For purposes of this section, a guaranty with recourse only to specific asset(s) you have pledged is equal to the fair market value of such asset(s) or the amount of the debt guaranteed, whichever is less.

§ 108.825 Purchasing securities from an underwriter or other third party.

(a) *Securities purchased through or from an underwriter.* You may purchase the securities of a Small Business through or from an underwriter if:

(1) You purchase such securities within 90 days of the date the public offering is first made;

(2) Your purchase price is no more than the original public offering price; and

(3) The amount paid by you for the securities (less ordinary and reasonable underwriting charges and commissions) has been, or will be, paid to the Small Business, and the underwriter certifies in writing that this requirement has been met.

(b) *Recordkeeping requirements.* You must keep records available for SBA's inspection which show the relevant details of the transaction, including, but not limited to, date, price, commissions, and the underwriter's certifications required under paragraphs (a)(3) and (c) of this section.

(c) *Underwriter's requirements.* The underwriter must certify whether it is your Associate. You may pay reasonable and customary commissions and expenses to an Associate underwriter for the portion of an offering that you purchase.

(d) *Securities purchased from another NMVC Company or from SBA.* You may purchase from, or exchange with, another NMVC Company, Portfolio securities (or any interest therein). Such purchase or exchange may only be made on a non-recourse basis. You may not have more than one-third of your total assets (valued at cost) invested in such securities. If you have previously sold Portfolio securities (or any interest therein) on a recourse basis, you shall include the amount for which you may be contingently liable in your overline computation.

(e) *Purchases of securities from other non-issuers.* You may purchase securities of a Small Business from a non-issuer not previously described in this section if such acquisition is a reasonably necessary part of the overall sound Financing of the Small Business.

Limitations on Disposition of Assets

§ 108.885 Disposition of assets to NMVC Company's Associates.

Except with SBA's prior written approval, you are not permitted to dispose of assets (including assets acquired in liquidation) to any Associate. As a prerequisite to such approval, you must demonstrate that the proposed terms of disposal are at least as favorable to you as the terms obtainable elsewhere.

Subpart J—SBA Financial Assistance for NMVC Companies (Leverage)

General Information About Obtaining Leverage

§ 108.1100 Type of Leverage and application procedures.

(a) *Type of Leverage available.* You may apply for Leverage from SBA in the form of a guarantee of your Debentures.

(b) *Applying for Leverage.* The Leverage application process has two parts. You must first apply for SBA's conditional commitment to reserve a specific amount of Leverage for your future use. You may then apply to draw down Leverage against the commitment. See §§ 108.1200 through 108.1240.

(c) *Where to send your application.* Send all Leverage applications to SBA, Investment Division Office of New Markets Venture Capital, 409 Third Street, SW., Washington, DC 20416.

§ 108.1120 General eligibility requirement for Leverage.

To be eligible for Leverage, you must be in compliance with the Act, the regulations in this part, and your Participation Agreement.

§ 108.1130 Leverage fees payable by NMVC Company.

There is no fee for the issuance of Debentures by a NMVC Company.

§ 108.1140 NMVC Company's acceptance of SBA remedies under § 108.1810.

If you issue Leverage, you automatically agree to the terms and conditions in § 108.1810 as it exists at the time of issuance. The effect of these terms and conditions is the same as if they were fully incorporated in the terms of your Leverage.

Maximum Amount of Leverage for Which a NMVC Company Is Eligible

§ 108.1150 Maximum amount of Leverage for a NMVC Company.

The face amount of a NMVC Company's outstanding Debentures may not exceed 150 percent of its Leverageable Capital.

Conditional Commitments by SBA To Reserve Leverage for a NMVC Company

§ 108.1200 SBA's Leverage commitment to a NMVC Company—application procedure, amount, and term.

(a) *General.* Under the provisions in §§ 108.1200 through 108.1240, you may apply for SBA's conditional commitment to reserve a specific amount and type of Leverage for your future use. You may then apply to draw down Leverage against the commitment.

(b) *Applying for a Leverage commitment.* SBA will notify you when it is accepting requests for Leverage commitments. Upon receipt of your request, SBA will send you a complete application package.

(c) *Limitations on the amount of a Leverage commitment.* The amount of a Leverage commitment must be a multiple of $5,000. SBA, in its discretion, may determine a minimum dollar amount for Leverage commitments. Any such minimum amounts will be published in Notices in the **Federal Register** from time to time.

(d) *Term of Leverage commitment.* SBA's Leverage commitment will automatically lapse on the expiration date stated in the commitment letter issued to you by SBA.

§ 108.1220 Requirement for NMVC Company to file financial statements at the time of request for a draw.

(a) If you submit a request for a draw against SBA's Leverage commitment more than 90 days since your submission of an annual Form 468 or a Form 468 (Short Form), you must:

(1) Give SBA a financial statement on Form 468 (Short Form); and

(2) File a statement of no material adverse change in your financial condition since your last filing of Form 468.

(b) You will not be eligible for a draw if you are not in compliance with this section.

§ 108.1230 Draw-downs by NMVC Company under SBA's Leverage commitment.

(a) *NMVC Company's authorization of SBA to guarantee securities.* By submitting a request for a draw against SBA's Leverage commitment, you authorize SBA, or any agent or trustee SBA designates, to guarantee your Debenture and to sell it with SBA's guarantee.

(b) *Limitations on amount of draw.* The amount of a draw must be a multiple of $5,000. SBA, in its discretion, may determine a minimum dollar amount for draws against SBA's Leverage commitments. Any such minimum amounts will be published in Notices in the **Federal Register** from time to time.

(c) *Effect of regulatory violations on NMVC Company's eligibility for draws.* (1) *General rule.* You are eligible to make a draw against SBA's Leverage commitment only if you are in compliance with all applicable provisions of the Act and SBA regulations (i.e., no unresolved statutory or regulatory violations) and your Participation Agreement.

(2) *Exception to general rule.* If you are not in compliance, you may still be eligible for draws if:

(i) SBA determines that your outstanding violations are of non-substantive provisions of the Act or regulations or your Participation Agreement and that you have not repeatedly violated any non-substantive provisions; or

(ii) You have agreed with SBA on a course of action to resolve your violations and such agreement does not prevent you from issuing Leverage.

(d) *Procedures for funding draws.* You may request a draw at any time during the term of the commitment. With each request, submit the following documentation:

(1) A statement certifying that there has been no material adverse change in your financial condition since your last filing of SBA Form 468 (see also § 108.1220 for SBA Form 468 filing requirements).

(2) If your request is submitted more than 30 days following the end of your fiscal year, but before you have submitted your annual filing of SBA Form 468 (Long Form) in accordance with § 108.630(a), a preliminary unaudited annual financial statement on SBA Form 468 (Short Form).

(3) A statement certifying that to the best of your knowledge and belief, you are in compliance with all provisions of the Act and SBA regulations (i.e., no unresolved regulatory or statutory violations) and your Participation Agreement, or a statement listing any specific violations you are aware of. Either statement must be executed by one of the following:

(i) An officer of the NMVC Company;

(ii) An officer of a corporate general partner of the NMVC Company;

(iii) An individual who is authorized to act as or for a general partner of the NMVC Company; or

(iv) An individual who is authorized to act as or for a member-manager of the NMVC Company.

(4) A statement that the proceeds are needed to fund one or more particular Small Businesses or to provide liquidity for your operations. If required by SBA, the statement must include the name and address of each Small Business, and the amount and anticipated closing date of each proposed Financing.

(e) *Reporting requirements after drawing funds.* (1) Within 30 calendar days after the actual closing date of each Financing funded with the proceeds of your draw, you must file an SBA Form 1031 confirming the closing of the transaction.

(2) If SBA required you to provide information concerning a specific planned Financing under paragraph (d)(4) of this section, and such Financing has not closed within 60 calendar days after the anticipated closing date, you must give SBA a written explanation of the failure to close.

(3) If you do not comply with this paragraph (e), you will not be eligible for additional draws. SBA may also determine that you are not in compliance with the terms of your Leverage under § 108.1810.

§ 108.1240 Funding of NMVC Company's draw request through sale to third-party.

(a) *NMVC Company's authorization of SBA to arrange sale of securities to third-party.* By submitting a request for a draw of Debenture Leverage, you authorize SBA, or any agent or trustee SBA designates, to enter into any agreements (and to bind you to such agreements) necessary to accomplish:

(1) The sale of your Debenture to a third-party at a rate approved by SBA; and

(2) The purchase of your security from the third-party and the pooling of your security with other securities with the same maturity date.

(b) *Sale of Debentures to a third-party.* If SBA arranges for the sale of your Debenture to a third-party, the sale price may be an amount discounted from the face amount of the Debenture.

Funding Leverage by use of SBA Guaranteed Trust Certificates (''TCs'')

§ 108.1600 SBA authority to issue and guarantee Trust Certificates.

(a) *Authorization.* Section 356 of the Act authorizes SBA to issue TCs and to guarantee the timely payment of the principal and interest thereon. Any guarantee by SBA of such TC is limited

to the principal and interest due on the Debentures in any Trust or Pool backing such TC. The full faith and credit of the United States is pledged to the payment of all amounts due under the guarantee of any TC.

(b) *SBA authority to arrange public or private fundings of Leverage.* SBA in its discretion may arrange for public or private financing under its guarantee authority. Such financing arranged by SBA may be accomplished by the sale of individual Debentures, aggregations of Debentures, or Pools or Trusts of Debentures.

(c) *Pass-through provisions.* TCs shall provide for a pass-through to their holders of all amounts of principal and interest paid on the Debentures in the Pool or Trust against which they are issued.

(d) *Formation of a Pool or Trust holding Leverage Securities.* SBA shall approve the formation of each Pool or Trust. SBA may, in its discretion, establish the size of the Pools and their composition, the interest rate on the TCs issued against Trusts or Pools, fees, discounts, premiums and other charges made in connection with the Pools, Trusts, and TCs, and any other characteristics of a Pool or Trust it deems appropriate.

§ 108.1610 Effect of prepayment or early redemption of Leverage on a Trust Certificate.

(a) The rights, if any, of a NMVC Company to prepay any Debenture is established by the terms of such security, and no such right is created or denied by the regulations in this part.

(b) SBA's rights to purchase or prepay any Debenture without premium are established by the terms of the Guaranty Agreement relating to the Debenture.

(c) Any prepayment of a Debenture pursuant to the terms of the Guaranty Agreement relating to such security shall reduce the SBA guarantee of timely payment of principal and interest on a TC in proportion to the amount of principal that such prepaid Debenture represents in the Trust or Pool backing such TC.

(d) SBA shall be discharged from its guarantee obligation to the holder or holders of any TC, or any successor or transferee of such holder, to the extent of any such prepayment. whether or not such successor or transferee shall have notice of any such prepayment.

(e) Interest on prepaid Debentures shall accrue only through the date of prepayment.

(f) In the event that all Debentures constituting a Trust or Pool are prepaid, the TCs backed by such Trust or Pool shall be redeemed by payment of the unpaid principal and interest on the TCs; provided, however, that in the case of the prepayment of a Debenture pursuant to the provisions of the Guaranty Agreement relating to the Debenture, the CRA shall pass through pro rata to the holders of the TCs any such prepayments including any prepayment penalty paid by the obligor NMVC Company pursuant to the terms of the Debenture.

§ 108.1620 Functions of agents, including Central Registration Agent, Selling Agent and Fiscal Agent.

(a) *Agents.* SBA may appoint or cause to be appointed agent(s) to perform functions necessary to market and service Debentures or TCs pursuant to this part.

(1) *Selling Agent.* As a condition of guaranteeing a Debenture, SBA may cause each NMVC Company to appoint a Selling Agent to perform functions that include, but are not limited to:

(i) Selecting qualified entities to become pool or Trust assemblers (''Poolers'').

(ii) Receiving guaranteed Debentures as well as negotiating the terms and conditions of sales or periodic offerings of Debentures and/or TCs on behalf of NMVC companies.

(iii) Directing and coordinating periodic sales of Debentures and/or TCs.

(iv) Arranging for the production of Offering Circulars, certificates, and such other documents as may be required from time to time.

(2) *Fiscal Agent.* SBA shall appoint a Fiscal Agent to:

(i) Establish performance criteria for Poolers.

(ii) Monitor and evaluate the financial markets to determine those factors that will minimize or reduce the cost of funding Debentures.

(iii) Monitor the performance of the Selling Agent, Poolers, CRA, and the Trustee.

(iv) Perform such other functions as SBA, from time to time, may prescribe.

(3) *Central Registration Agent.* Pursuant to a contract entered into with SBA, the CRA, as SBA's agent, will do the following with respect to the Pools or Trust Certificates for the Debentures:

(i) Form an SBA-approved Pool or Trust;

(ii) Issue the TCs in the form prescribed by SBA;

(iii) Transfer the TCs upon the sale of original issue TCs in any secondary market transaction;

(iv) Receive payments from NMVC companies;

(v) Make periodic payments as scheduled or required by the terms of the TCs, and pay all amounts required to be paid upon prepayment of Debentures;

(vi) Hold, safeguard, and release all Debentures constituting Trusts or Pools upon instructions from SBA;

(vii) Remain custodian of such other documentation as SBA shall direct by written instructions;

(viii) Provide for the registration of all pooled Debentures, all Pools and Trusts, and all TCs;

(ix) Perform such other functions as SBA may deem necessary to implement the provisions of this section.

(b) *Functions.* Either SBA or an agent appointed by SBA may perform the function of locating purchasers, and negotiating and closing the sale of Debentures and TCs. Nothing in the regulations in this part shall be interpreted to prevent the CRA from acting as SBA's agent for this purpose.

§ 108.1630 SBA regulation of Brokers and Dealers and disclosure to purchasers of Leverage or Trust Certificates.

(a) *Brokers and Dealers.* Each broker, dealer, and Pool or Trust assembler approved by SBA pursuant to these regulations shall either be regulated by a Federal financial regulatory agency, or be a member of the National Association of Securities Dealers (NASD), and shall be in good standing in respect to compliance with the financial, ethical, and reporting requirements of such body. They also shall be in good standing with SBA as determined by the SBA Associate Administrator for Investment (see paragraph (c) of this section) and shall provide a fidelity bond or insurance in such amount as SBA may require.

(b) *Suspension and/or termination of Broker or Dealer.* SBA shall exclude from the sale and all other dealings in Debentures or TCs any broker or dealer:

(1) If such broker's or dealer's authority to engage in the securities business has been revoked or suspended by a supervisory agency. When such authority has been suspended, SBA will suspend such broker or dealer for the duration of such suspension by the supervisory agency.

(2) If such broker or dealer has been indicted or otherwise formally charged with a misdemeanor or felony bearing on its fitness, such broker or dealer may be suspended while the charge is pending. Upon conviction, participation may be terminated.

(3) If such broker or dealer has suffered an adverse final civil judgment holding that such broker or dealer has committed a breach of trust or violation of law or regulation protecting the integrity of business transactions or relationships, participation in the

market for Debentures or TCs may be terminated.

(c) *Termination/suspension proceedings.* A broker's or dealer's participation in the market for Debentures or TCs will be conducted in accordance with part 134 of this chapter. SBA may, for any of the reasons stated in paragraphs (b)(1) through (b)(3) of this section, suspend the privilege of any broker or dealer to participate in this market. SBA shall give written notice at least ten (10) business days prior to the effective date of such suspension. Such notice shall inform the broker or dealer of the opportunity for a hearing pursuant to part 134 of this chapter.

§ 108.1640 SBA access to records of the CRA, Brokers, Dealers and Pool or Trust assemblers.

The CRA and any broker, dealer and Pool or Trust assembler operating under the regulations in this part shall make all books, records and related materials associated with Debentures and TCs available to SBA for review and copying purposes. Such access shall be at such party's primary place of business during normal business hours.

Miscellaneous

§ 108.1700 Transfer by SBA of its interest in a NMVC Company's Leverage security.

Upon such conditions and for such consideration as it deems reasonable, SBA may sell, assign, transfer, or otherwise dispose of any Debenture held by or on behalf of SBA. Upon notice by SBA, a NMVC Company will make all payments of principal and interest as shall be directed by SBA. A NMVC Company will be liable for all damage or loss which SBA may sustain by reason of such disposal, up to the amount of the NMVC Company's liability under such security, plus court costs and reasonable attorney's fees incurred by SBA.

§ 108.1710 SBA authority to collect or compromise its claims.

SBA may, upon such conditions and for such consideration as it deems reasonable, collect or compromise all claims relating to obligations held or guaranteed by SBA, and all legal or equitable rights accruing to SBA.

§ 108.1720 Characteristics of SBA's guarantee.

If SBA agrees to guarantee a NMVC Company's Debentures, such guarantee will be unconditional, irrespective of the validity, regularity or enforceability of the Debentures or any other circumstances that might constitute a legal or equitable discharge or defense of a guarantor. Pursuant to its guarantee, SBA will make timely payments of principal and interest on the Debentures.

Subpart K—NMVC Company's Noncompliance With Terms of Leverage

§ 108.1810 Events of default and SBA's remedies for NMVC Company's noncompliance with terms of Debentures.

(a) *Applicability of this section.* By issuing Debentures, you automatically agree to the terms, conditions and remedies in this section, as in effect at the time of issuance and as if fully set forth in the Debentures.

(b) *Automatic events of default.* The occurrence of one or more of the events in this paragraph (b) causes the remedies in paragraph (c) of this section to take effect immediately.

(1) *Insolvency.* You become equitably or legally insolvent.

(2) *Voluntary assignment.* You make a voluntary assignment for the benefit of creditors without SBA's prior written approval.

(3) *Bankruptcy.* You file a petition to begin any bankruptcy or reorganization proceeding, receivership, dissolution or other similar creditors' rights proceeding, or such action is initiated against you and is not dismissed within 60 days.

(c) *SBA remedies for automatic events of default.* Upon the occurrence of one or more of the events in paragraph (b) of this section:

(1) Without notice, presentation or demand, the entire indebtedness evidenced by your Debentures, including accrued interest, and any other amounts owed SBA with respect to your Debentures, is immediately due and payable; and

(2) You automatically consent to the appointment of SBA or its designee as your receiver under section 363(c) of the Act.

(d) *Events of default with notice.* For any occurrence (as determined by SBA) of one or more of the events in this paragraph (d), SBA may avail itself of one or more of the remedies in paragraph (e) of this section.

(1) *Fraud.* You commit a fraudulent act that causes detriment to SBA's position as a creditor or guarantor.

(2) *Fraudulent transfers.* You make any transfer or incur any obligation that is fraudulent under the terms of 11 U.S.C. 548.

(3) *Willful conflicts of interest.* You willfully violate § 108.730.

(4) *Willful non-compliance.* You willfully violate one or more of the substantive provisions of the Act or any substantive regulation promulgated under the Act or any substantive provision of your Participation Agreement.

(5) *Repeated Events of Default.* At any time after being notified by SBA of the occurrence of an event of default under paragraph (f) of this section, you engage in similar behavior that results in another occurrence of the same event of default.

(6) *Transfer of Control.* You willfully violate § 108.410, and as a result of such violation you undergo a transfer of Control.

(7) *Non-cooperation under paragraph (h) of this section.* You fail to take appropriate steps, satisfactory to SBA, to accomplish any action SBA may have required under paragraph (h) of this section.

(8) *Non-notification of Events of Default.* You fail to notify SBA as soon as you know or reasonably should have known that any event of default exists under this section.

(9) *Non-notification of defaults to others.* You fail to notify SBA in writing within ten days from the date of a declaration of an event of default or nonperformance under any note, debenture or indebtedness of yours, issued to or held by anyone other than SBA.

(e) *SBA remedies for events of default with notice.* Upon written notice to you of the occurrence (as determined by SBA) of one or more of the events in paragraph (d) of this section:

(1) SBA may declare the entire indebtedness evidenced by your Debentures, including accrued interest. and/or any other amounts owed SBA with respect to your Debentures, immediately due and payable; and

(2) SBA may avail itself of any remedy available under the Act, specifically including institution of proceedings for the appointment of SBA or its designee as your receiver under section 363 (c) of the Act.

(f) *Events of default with opportunity to cure.* For any occurrence (as determined by SBA) of one or more of the events in this paragraph (f), SBA may avail itself of one or more of the remedies in paragraph (g) of this section.

(1) *Excessive Management Expenses.* Without the prior written consent of SBA, you incur Management Expenses in excess of those permitted under §§ 108.510 and 108.520.

(2) *Improper Distributions.* You make any Distribution to your shareholders or partners, except with the prior written consent of SBA, other than:

(i) Distributions permitted under § 108.585; and

(ii) Payments from Retained Earnings Available for Distribution based on either the shareholders' or members' pro-rata interests or the provisions for profit distributions in your partnership agreement, as appropriate.

(3) *Failure to make payment.* Unless otherwise approved by SBA, you fail to make timely payment of any amount due under any security or obligation of yours that is issued to, held or guaranteed by SBA.

(4) *Failure to maintain Regulatory Capital.* You fail to maintain the minimum Regulatory Capital required under these regulations or, without the prior written consent of SBA, you reduce your Regulatory Capital except as permitted by § 108.585.

(5) *Capital Impairment.* You have a condition of Capital Impairment as determined under § 108.1830.

(6) *Cross-default.* An obligation of yours that is greater than $100,000 becomes due or payable (with or without notice) before its stated maturity date, for any reason including your failure to pay any amount when due. This provision does not apply if you pay the amount due within any applicable grace period or contest the payment of the obligation in good faith by appropriate proceedings.

(7) *Nonperformance.* You violate or fail to perform one or more of the terms and conditions of any security or obligation of yours that is issued to, held or guaranteed by SBA, or of any agreement (including your Participation Agreement) with or conditions imposed by SBA in its administration of the Act and the regulations promulgated under the Act.

(8) *Noncompliance.* Except as otherwise provided in paragraph (d) (5) of this section, SBA determines that you have violated one or more of the substantive provisions of the Act or any substantive regulation promulgated under the Act.

(9) *Failure to maintain diversity.* You fail to maintain diversity between management and ownership as required by § 108.150.

(g) *SBA remedies for events of default with opportunity to cure.* (1) Upon written notice to you of the occurrence (as determined by SBA) of one or more of the events of default in paragraph (f) of this section, and subject to the conditions in paragraph (g)(2) of this section:

(i) SBA may declare the entire indebtedness evidenced by your Debentures, including accrued interest, and/ or any other amounts owed SBA with respect to your Debentures, immediately due and payable; and

(ii) SBA may avail itself of any remedy available under the Act, specifically including institution of proceedings for the appointment of SBA or its designee as your receiver under section 363(c) of the Act.

(2) SBA may invoke the remedies in paragraph (g)(l) of this section only if:

(i) It has given you at least 15 days to cure the default(s); and

(ii) You fail to cure the default(s) to SBA's satisfaction within the allotted time.

(h) *Repeated non-substantive violations.* If you repeatedly fail to comply with one or more of the non-substantive provisions of the Act or any non-substantive regulation promulgated under the Act, SBA, after written notification to you and until you cure such condition to SBA's satisfaction, may deny you additional Leverage and/ or require you to take such actions as SBA may determine to be appropriate under the circumstances.

(i) *Consent to removal of officers, directors, or general partners and/or appointment of receiver.* The Articles of each NMVC Company must include the following provisions as a condition to the purchase or guarantee by SBA of Leverage. Upon the occurrence of any of the events specified in paragraphs (d)(1) through (d)(6) or (f)(1) through (f)(3) of this section as determined by SBA, SBA shall have the right, and you consent to SBA's exercise of such right:

(1) With respect to a Corporate NMVC Company, upon written notice, to require you to replace, with individuals approved by SBA, one or more of your officers and/or such number of directors of your board of directors as is sufficient to constitute a majority of such board; or

(2) With respect to a Partnership NMVC Company or an LLC NMVC Company, upon written notice, to require you to remove the person(s) responsible for such occurrence and/or to remove the general partner or manager of the NMVC Company, which general partner or manager shall then be replaced in accordance with NMVC Company's Articles by a new general partner or manager approved by SBA; and/or

(3) With respect to a Corporate or Partnership or LLC NMVC Company, to obtain the appointment of SBA or its designee as your receiver under section 363(c) of the Act for the purpose of continuing your operations. The appointment of a receiver to liquidate a NMVC Company is not within such consent, but is governed instead by the relevant provisions of the Act.

Computation of NMVC Company's Capital Impairment

§ 108.1830 NMVC Company's Capital Impairment definition and general requirements.

(a) *Significance of Capital Impairment condition.* If you have a condition of Capital Impairment, you are not in compliance with the terms of your Leverage. As a result, SBA has the right to impose the applicable remedies for noncompliance in § 108.1810(g).

(b) *Definition of Capital Impairment condition.* You have a condition of Capital Impairment if your Capital Impairment Percentage, as computed in § 108.1840, exceeds 70 percent.

(c) *Quarterly computation requirement and procedure.* You must determine whether you have a condition of Capital Impairment as of the end of each fiscal quarter. You must notify SBA promptly if you are capitally impaired.

(d) *SBA's right to determine NMVC Company's Capital Impairment condition.* SBA may make its own determination of your Capital Impairment condition at any time.

§ 108.1840 Computation of NMVC Company's Capital Impairment Percentage.

(a) *General.* This section contains the procedures you must use to determine your Capital Impairment Percentage. You must compare your Capital Impairment Percentage to the maximum permitted under § 108.1830(b) to determine whether you have a condition of Capital Impairment.

(b) *Preliminary impairment test.* If you satisfy the preliminary impairment test, your Capital Impairment Percentage is zero and you do not have to perform any more procedures in this section. Otherwise, you must continue with paragraph (c) of this section. You satisfy the test if the following amounts are both zero or greater:

(1) The sum of Undistributed Net Realized Earnings, as reported on SBA Form 468, and Includible Non-Cash Gains.

(2) Unrealized Gain (Loss) on Securities Held.

(c) *How to compute your Capital Impairment Percentage.* (1) If you have an Unrealized Gain on Securities Held, compute your Adjusted Unrealized Gain using paragraph (d) of this section. If you have an Unrealized Loss on Securities Held, continue with paragraph (c)(2) of this section.

(2) Add together your Undistributed Net Realized Earnings, your Includible Non-cash Gains, and either your Unrealized Loss on Securities Held or your Adjusted Unrealized Gain.

(3) If the sum in paragraph (c)(2) of this section is zero or greater, your Capital Impairment Percentage is zero.

(4) If the sum in paragraph (c)(2) of this section is less than zero, drop the negative sign, divide by your Regulatory Capital (excluding Treasury Stock), and multiply by 100. The result is your Capital Impairment Percentage.

(d) *How to compute your Adjusted Unrealized Gain.* (1) Subtract Unrealized Depreciation from Unrealized Appreciation. This is your ''Net Appreciation''.

(2) Determine your Unrealized Appreciation on Publicly Traded and Marketable securities. This is your ''Class I Appreciation''.

(3) Determine your Unrealized Appreciation on securities that are not Publicly Traded and Marketable and meet the following criteria, which must be substantiated to the satisfaction of SBA (this is your ''Class 2 Appreciation''):

(i) The Small Business that issued the security received a significant subsequent equity financing by an investor whose objectives were not primarily strategic and at a price that conclusively supports the Unrealized Appreciation;

(ii) Such financing represents a substantial investment in the form of an arm's length transaction by a sophisticated new investor in the issuer's securities; and

(iii) Such financing occurred within 24 months of the date of the Capital Impairment computation, or the Small Business' pre-tax cash flow from operations for its most recent fiscal year was at least 10 percent of the Small Business' average contributed capital for such fiscal year.

(4) Perform the appropriate computation from the table in § 107.1840(d)(4) of this chapter.

(5) Reduce the gain computed in paragraph (d) (4) of this section by your estimate of related future income tax expense. Subject to any adjustment required by paragraph (d)(6) of this section, the result is your Adjusted Unrealized Gain for use in paragraph (c)(2) of this section.

(6) If any securities that are the source of either Class 1 or Class 2 Appreciation are pledged or encumbered in any way, you must reduce the Adjusted Unrealized Gain computed in paragraph (d)(5) of this section by the amount of the related borrowing or other obligation, up to the amount of the Unrealized Appreciation on the securities.

Subpart L—Ending Operations as a NMVC Company

§ 108.1900 Termination of participation as a NMVC Company.

You may not terminate your participation as a NMVC Company without SBA's prior written approval. Your request for approval must be accompanied by an offer of immediate repayment of all of your outstanding Leverage (including any prepayment penalties thereon), or by a plan satisfactory to SBA for the orderly liquidation of the NMVC Company.

Subpart M—Miscellaneous

§ 108.1910 Non-waiver of SBA's rights or terms of Leverage security.

SBA's failure to exercise or delay in exercising any right or remedy under the Act or the regulations in this part does not constitute a waiver of such right or remedy. SBA's failure to require you to perform any term or provision of your Leverage does not affect SBA's right to enforce such term or provision. Similarly, SBA's waiver of, or failure to enforce, any term or provision of your Leverage or of any event or condition set forth in § 108.1810 does not constitute a waiver of any succeeding breach of such term or provision or condition.

§ 108.1920 NMVC Company's application for exemption from a regulation in this part 108.

(a) *General.* You may file an application in writing with SBA to have a proposed action exempted from any procedural or substantive requirement, restriction, or prohibition to which it is subject under this part, unless the provision is mandated by the Act. SBA may grant an exemption for such applicant, conditionally or unconditionally, provided the exemption would not be contrary to the purposes of the Act.

(b) *Contents of application.* Your application must be accompanied by supporting evidence that demonstrates to SBA's satisfaction that:

(1) The proposed action is fair and equitable; and

(2) The exemption requested is reasonably calculated to advance the best interests of the NMVC program in a manner consistent with the policy objectives of the Act and the regulations in this part.

§ 108.1930 Effect of changes in this part 108 on transactions previously consummated.

The legality of a transaction covered by the regulations in this part is governed by the regulations in this part in effect at the time the transaction was consummated, regardless of later changes. Nothing in this part bars SBA enforcement action with respect to any transaction consummated in violation of provisions applicable at the time, but no longer in effect.

§ 108.1940 Procedures for designation of additional Low-Income Geographic Areas

(a) *General.* On its own initiative or upon written request by a Person which addresses the relevant factor(s) set forth in paragraph (b) of this section, SBA may consider whether to designate additional census tracts (or equivalent county divisions) as LI Areas.

(b) *Criteria.* SBA will consider one or more of the following factors in determining whether to designate a particular census tract (or equivalent county division) as an additional LI Area:

(1) A substantial number of Low-Income Individuals reside in that census tract (or equivalent county division).

(2) As adequately supported by studies or other analyses or reliable data, that census tract (or equivalent county division) has a pattern of unmet needs for investment capital.

(3) As adequately supported by studies or other analyses or reliable data, that census tract (or equivalent county division) has indications of economic distress.

(c) *Procedure for designation.* (1) If SBA decides to consider the designation of an additional LI Area, SBA will publish in the **Federal Register** a notice that it is considering such designation. SBA will advise the public that it will consider any comments supporting or opposing the designation, submitted within a specified time period.

(2) In making a final decision on whether to designate a particular census tract (or equivalent county division) as an additional LI Area, SBA will consider evidence submitted by any requester, SBA's own research, any public comments submitted, and any other information deemed relevant by SBA.

(3) If SBA designates a particular census tract (or equivalent county division) as an additional LI Area, SBA will publish a notice in the **Federal Register** and, if appropriate, will amend this part to include the additional LI Area.

Subpart N—Requirements and Procedures for Operational Assistance Grants to NMVC Companies and SSBICs

§ 108.2000 Operational Assistance Grants to NMVC Companies and SSBICs.

(a) *NMVC Companies.* Regulations governing Operational Assistance grants

to NMVC Companies may be found in subparts D and E of this part.

(b) *SSBICs.* (1) *Notice of Funds Availability (''NOFA'').* SBA will publish a NOFA in the **Federal Register**, advising SSBICs of the availability of funds for Operational Assistance grants to SSBICs. This NOFA will be the same as the NOFA described in § 108.300(a), or will be published simultaneously with that NOFA. An SSBIC may submit an application for an Operational Assistance grant only during the time period specified for such purpose in the NOFA.

(2) *Eligibility.* An SSBIC is eligible to apply for an Operational Assistance grant if:

(i) It intends to increase its Regulatory Capital, as in effect on December 21, 2000, and to make Developmental Venture Capital investments in the amount of such increase;

(ii) It intends to raise binding commitments for contributions in cash or in-kind, and/or to purchase an annuity, in an amount not less than 30 percent of the intended increase in its Regulatory Capital described in paragraph (b)(2)(i) of this section; and

(iii) It has a plan describing how it intends to use the requested grant funds to provide Operational Assistance to Smaller Enterprises in which it has made or expects to make Developmental Venture Capital investments.

(3) *Application requirements.* (i) *How to apply.* An SSBIC must apply for an Operational Assistance grant using the application packet provided by SBA. Upon receipt of an application, SBA may request clarifying or technical information on the materials submitted as part of the application.

(ii) *Grant issuance fee.* An SSBIC must pay to SBA a grant issuance fee of $5,000. An SSBIC must submit this fee in advance, at the time of application submission. If SBA does not award a grant to the SSBIC, SBA will refund this fee to the SSBIC.

(4) *Contents of Application.* Each application must contain the information specified in the application packet provided by SBA, including the following information:

(i) *Amounts.* An SSBIC must specify the amount of Operational Assistance grant funds it seeks from SBA and the amount of Regulatory Capital it intends to raise after December 21, 2000.

(ii) *Plan.* An SSBIC must submit a plan addressing the following issues:

(A) *Plan for providing Operational Assistance.* The SSBIC must describe how it plans to use its grant funds to provide Operational Assistance to Smaller Enterprises in which it will make Developmental Venture Capital investments. Its plan must address the types of Operational Assistance it proposes to provide, and how it plans to provide the Operational Assistance through the use of licensed professionals, when necessary, either from its own staff or from outside entities.

(B) *Matching resources for Operational Assistance grant.* The SSBIC must include a detailed description of how it plans to obtain binding commitments for contributions in cash or in-kind, and/or to purchase an annuity, to match the funds requested from SBA for the SSBIC's Operational Assistance grant. If it proposes to obtain commitments for cash or in-kind contributions, it also must estimate the ratio of cash to in-kind contributions (in no event may in-kind contributions exceed 50 percent of the total contributions). The SSBIC must discuss its potential sources of matching resources, the estimated timing on raising such match, and the extent of the expressions of interest to commit such match to the SSBIC.

(C) *Projected amount of investment in LI Areas.* The SSBIC must describe the amount of Developmental Venture Capital investments it intends to make.

(D) *Track record of management team in obtaining public policy results through investments.* The SSBIC must provide information concerning the past track record of the SSBIC in making investments that have had a demonstrable impact on the socially or economically disadvantaged businesses targeted by the SSBIC program (for example, new businesses created, jobs created, or wealth created). Such information might include case studies or examples of the SSBIC's successful Financings.

(E) *Market analysis.* The SSBIC must provide an analysis of the LI Areas in which it intends to makes its Developmental Venture Capital investments and provide its Operational Assistance to Smaller Enterprises, demonstrating that the SSBIC understands the market and the unmet capital needs in such areas and how its activities will meet these unmet capital needs through Developmental Venture Capital investments and have a positive economic impact on those areas. The analysis must include a description of the extent of the economic distress in the identified LI Areas. The SSBIC also must analyze the extent of the demand in such areas for Developmental Venture Capital investments and any factors or trends that may affect the SSBIC's ability to make effective Developmental Venture Capital investments.

(F) *Regulatory Capital.* The SSBIC must include a detailed description of how it plans to raise its Regulatory Capital. The SSBIC must discuss its potential sources of Regulatory Capital, the estimated timing on raising such funds, and the extent of the expressions of interest to commit such funds to the SSBIC.

(G) *Projected impact.* The SSBIC must describe the criteria and economic measurements to be used to evaluate whether and to what extent it has met the objectives of the NMVC program. It must include:

(*1*) An estimate of the social, economic, and community development benefits to be created within identified LI Areas over the next five years or more as a result of its activities;

(*2*) A description of the criteria to be used to measure the benefits created as a result of its activities;

(*3*) A discussion about the amount of such benefits created that it will consider to constitute successfully meeting the objectives of the NMVC program.

(5) *Evaluation and selection.* SBA's evaluation and selection process is intended to ensure that SSBIC requests are evaluated on a competitive basis and in a fair and consistent manner. SBA will evaluate and select SSBICs for an Operational Assistance grant award solely at SBA's discretion, by considering the following criteria:

(i) The strength of the SSBIC's application, including the strength of its proposal to provide Operational Assistance to Smaller Enterprises in which it intends to invest;

(ii) The SSBIC's regulatory compliance status and past track record in being able to accomplish program goals through its investment activity;

(iii) The likelihood that and the time frame within which the SSBIC will be able to raise the Regulatory Capital it intends to raise and obtain the matching resources described in paragraph (b)(4)(ii)(B) of this section;

(iv) The need for Developmental Venture Capital investments in the LI Areas in which the SSBIC intends to invest;

(v) The SSBIC's demonstrated understanding of the markets in the LI Areas in which it intends to invest;

(vi) The extent to which the activities proposed by the SSBIC will promote economic development and the creation of wealth and job opportunities in the LI Areas in which it intends to invest and among individuals living in LI Areas;

(vii) The likelihood that the SSBIC will fulfill the goals described in its

application and meet the objectives of the NMVC program; and

(viii) The strength of the SSBIC's application compared to applications submitted by other SSBICs intending to invest in the same or proximate LI Areas.

(6) *Grant award.* An SSBIC selected for an Operational Assistance grant award will receive a grant award only if it increases its Regulatory Capital and raises the amount of matching resources set forth in its application, pursuant to paragraph (b)(4)(i) of this section, which must be at least the amount required in § 108.2030(d)(2), by a date established by SBA.

§ 108.2010 Restrictions on use of Operational Assistance grant funds.

(a) *Restrictions applicable only to SSBICs.* An SSBIC that receives an Operational Assistance grant must use both grant funds awarded by SBA and its matching resources only to provide Operational Assistance in connection with a Low-Income Investment made by the SSBIC with Regulatory Capital raised after December 21, 2000.

(b) *Restrictions applicable to NMVC Companies and SSBICs.* A NMVC Company or a SSBIC that receives an Operational Assistance grant must not use either grant funds awarded by SBA or its matching resources for ''general and administrative expense,'' as defined in the Federal Acquisition Regulations, ''Contract Cost Principles and Procedures,'' 48 CFR 31.001.

§ 108.2020 Amount of Operational Assistance grant.

(a) *Amount of grant to NMVC Company.* NMVC Companies are eligible for an Operational Assistance grant award equal to the amount of matching resources raised by the NMVC Company in accordance with §§ 108.380(a)(1)(i)(B) and 108.2030.

(b) *Amount of grant to SSBIC.* SSBICs are eligible for an Operational Assistance grant award equal to the amount of matching resources raised by the SSBIC in accordance with §§ 108.2000 and 108.2030.

(c) *Pro rata reductions.* In the event that the total amount of funds available to SBA for purposes of making Operational Assistance grant awards to NMVC Companies and SSBICs is not sufficient to award grants in the amounts described in paragraphs (a) and (b) of this section, SBA will make pro rata reductions in the amounts otherwise awarded to each such NMVC Company and SSBIC.

§ 108.2030 Matching requirements.

(a) *General.* All Operational Assistance grant funds SBA awards to an NMVC Company or a SSBIC must be matched on a dollar for dollar basis with funds or other resources raised by the NMVC Company or SSBIC.

(b) *Allowable sources.* (1) Any source other than SBA is an allowable source of matching resources for an Operational Assistance grant award.

(2) Neither a NMVC Company nor a SSBIC may use funds or other resources that it has used to satisfy a legal requirement for obtaining funds under any other Federal program, to satisfy the matching resources requirements described in this part.

(3) A portion of Private Capital may be designated as matching resources if the designated funds are used to purchase an annuity pursuant to paragraph (c)(2)(iv) of this section or are otherwise segregated in a manner acceptable to SBA.

(c) *Type and form of matching resources.* (1) Matching resources may come from cash contributions or in-kind contributions. In-kind contributions cannot exceed 50 percent of the total amount of match raised by the NMVC Company or SSBIC.

(2) Matching resources may be in the form of:

(i) Cash;

(ii) In-kind contributions;

(iii) Binding commitments for cash or in-kind contributions that may be payable over a multiyear period acceptable to SBA (but not to exceed five years); and/or

(iv) An annuity, purchased with funds other than Regulatory Capital, from an insurance company acceptable to SBA and that may be payable over a multiyear period acceptable to SBA (but not to exceed five years).

(d) *Amount of matching resources.*

(1) *NMVC Companies.* The amount of matching resources required of an NMVC Company is set forth in § 108.380(a)(1)(i)(B).

(2) *SSBICs.* The amount of matching resources required of an SSBIC is 30 percent of the increase in its Regulatory Capital since December 21, 2000, as set forth in its application pursuant to § 108.2000(b)(4)(i), with which it has made or will make Low-Income Investments.

§ 108.2040 Reporting and recordkeeping requirements.

(a) *NMVC Companies.* Policies governing reporting, record retention, and recordkeeping requirements applicable to NMVC Companies may be found in subpart H of this part.

(b) *SSBICs.* An SSBIC receiving an Operational Assistance grant award must comply with all reporting, record retention and recordkeeping requirements set forth in Circular A–110 of the Office of Management and Budget and any grant award document executed between SBA and the SSBIC, as well as the reporting requirements in § 108.630(f) and the filing requirement in § 108.640.

Dated: May 8, 2001.

John Whitmore,

Acting Administrator.

[FR Doc. 01–12501 Filed 5–22–01; 8:45 am]

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Wednesday,
May 23, 2001

Part III

Department of the Interior

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 870

Abandoned Mine Land (AML) Fee Collection and Coal Production Reporting on the OSM–1 Form; Final Rule

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 870

RIN 1029–AB95

Abandoned Mine Land (AML) Fee Collection and Coal Production Reporting on the OSM–1 Form

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Final rule.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (we or OSM) is revising its regulations governing Abandoned Mine Land (AML) reclamation fee reporting to allow for the electronic filing of the information required on the OSM–1 Form.

EFFECTIVE DATE: June 22, 2001.

FOR FURTHER INFORMATION CONTACT: Mr. Sean Spillane, Office of Surface Mining Reclamation and Enforcement, Denver Federal Center, Building 20, Room B–2005, Denver, Colorado 80225; Telephone 303–236–0330, Ext 278. E-mail: sspillan@osmre.gov. Additional information concerning OSM and related documents may be found on OSM's Internet home page at *www.osmre.gov* under Financial Management.

SUPPLEMENTARY INFORMATION:

I. Background Information.
II. How Does This Final Rule Change Reporting Requirements?
III. Procedural Matters and Certifications.

I. Background Information

Why Are We Publishing This Rule?

On October 21, 1998, the Government Paperwork Elimination Act (GPEA), Pub. L. 105–277, Title XVII, was signed into law. GPEA requires agencies, by October 21, 2003, to provide for (1) the option of electronic maintenance, submission, or disclosure of information, when practicable as a substitute for paper; and (2) the use and acceptance of electronic signatures, when practicable. GPEA § 1707 specifies that ''[e]lectronic records submitted or maintained in accordance with procedures developed under this title, or electronic signatures or other forms of electronic authentication used in accordance with such procedures, shall not be denied legal effect, validity, or enforceability because such records are in electronic form.''

In compliance with GPEA, we published a proposed rule on February 15, 2000 (65 FR 7706), which would allow a coal operator (or the entity reporting for the operator) the option of electronically filing information required by OSM's Abandoned Mine Land (AML) Reclamation Program.

What Is the AML Reclamation Program?

Title IV of the Surface Mining Control and Reclamation Act of 1977 (SMCRA) created the Abandoned Mine Reclamation Fund (fund) in response to concern over extensive environmental damage caused by past coal mining activities. Money from the fund is used to reclaim abandoned and inadequately reclaimed mining areas where there is no continuing reclamation responsibility by any person under state or federal law. The fund is financed by a reclamation fee assessed on every ton of coal produced at the rate of 35 cents per ton of surface mined coal, 15 cents per ton of underground mined coal, and 10 cents per ton for lignite. The reclamation fee must be paid to OSM once every calendar quarter.

The authority to collect the reclamation fee at the above rate is due to expire in 2004. After that date, the fee will be established and collected at a rate sufficient to allow the Secretary to transfer from the fund to the United Mine Workers of America Combined Benefit Fund the sum necessary to fulfill the responsibilities under section 402(h) of SMCRA.

OSM administers the AML program and fund. Reclamation is accomplished through grants to approved state and tribal AML reclamation programs. These AML reclamation programs are implemented through regulations in 30 CFR subchapter R and through implementing guidelines published in the **Federal Register** on March 6, 1980 (45 FR 27123), and revised on December 30, 1996 (45 FR 68777). Currently, 23 states and 3 Indian tribes have approved AML reclamation programs.

How Is the AML Fee Reported Under the Current Regulations?

Sections 402(a) and (b) of SMCRA, 30 U.S.C. 1232(a) and (b), require companies to pay a reclamation fee on coal production no later than 30 days after the end of each calendar quarter. SMCRA and the implementing regulations also require all operators of coal mining operations to submit a statement identifying:

(1) The permittee;
(2) The operator in addition to the permittee;
(3) The owner of the coal;
(4) The person purchasing the coal;
(5) The amount of coal sold, used, or transferred during the calendar quarter;
(6) The type of coal;
(7) The method of coal removal;
(8) The preparation plant, tipple, or loading point for the coal;
(9) The permit number required under section 506 of SMCRA; and
(10) The Mine Safety and Health Administration identification number.

Each quarterly report must also contain a notification of any changes in the information required by section 402(c) of SMCRA since the date of the preceding quarterly report. The accuracy of the report must be sworn to by the operator and notarized. The operator is responsible for the information provided and subject to the sanctions provided for in section 402(d)(1) of SMCRA. See 30 U.S.C. 1232(c) and 30 CFR 870.15.

What Options Were Considered for Electronic Filing?

The proposed rule published on February 15, 2000, contained rule language which would have revised our regulations to allow a coal operator (or the entity reporting for the operator) the option of filing the OSM–1 Form electronically. Because of the notary requirement in section 402(c) of SMCRA, the proposed rule also required the operator to print out and maintain on file, a properly notarized paper copy of the OSM–1 Form for review by OSM's Fee Compliance auditors.

In order to further simplify the process and to make it easier for the operator to store records electronically, we reopened the comment period on January 22, 2001 (66 FR 6511) and presented additional options for consideration. In the reopening notice, we asked for comments on an option which would allow the operator to electronically submit the OSM–1 Form and include a statement made under penalty of perjury that the information contained in the form is true and correct. The statement would not have to be notarized but it would have to be electronically signed, dated, and transmitted to OSM as part of the OSM–1 Form.

In the reopening notice, we also solicited comments on whether we should issue a final rule which would provide the operator with two alternative electronic filing methods in addition to the existing paper process. The electronic filing methods would be the one contained in the proposed rule which requires the operator to maintain on file a properly notarized paper copy of the OSM–1 Form submitted electronically, or in the alternative, the electronic filing method contained in the reopening notice which requires the operator to submit an electronically

signed and dated statement made under penalty of perjury.

II. How Does This Final Rule Change Reporting Requirements?

No comments were received on either the proposed rule or on the reopening notice. Therefore, based on the options contained in the proposed rule and in the reopening notice, we are adopting a final rule which will allow the operator to: (1) Submit a properly notarized paper copy of the OSM–1 Form as is currently authorized by regulation, (2) submit the OSM–1 Form electronically while maintaining a properly notarized paper copy of the identical form, or (3) submit the OSM–1 Form electronically with an electronically signed and dated statement made under penalty of perjury that the information contained in the form is true and correct.

How Will the Electronic Submission Process Work?

Under current procedures, when the OSM–1 Form is mailed to a respondent, the majority of the information on the OSM–1 Form (i.e., company name, address, contact person, telephone number, permit number, MSHA ID, etc.) is already pre-printed on the OSM–1 before it is mailed to the respondent, thus reducing the time to complete the form. We have developed a computer-based electronic form that also contains the same information.

The computer-based electronic form may be accessed at the OSM website *www.osmre.gov/finance.htm.* Companies can log in and complete the OSM–1 Form on-line. Access to the website will be controlled by User ID and password which will be used as the method of electronic signature. When initially accessing the website, companies can down-load encryption software which is free. The data which is encrypted can be read only by the company and OSM and the data submitted by the company cannot be changed by unauthorized persons. A file transfer protocol (FTP) version of the electronic OSM–1 Form allows companies with a large number of reporting permits to automate their filing process by transferring their data report files directly from their computer to OSM. The FTP process uses a form of electronic signature called a Public Key Infrastructure (PKI). PKI is a system for encrypting, decrypting, signing and verifying the data transferred electronically. With PKI, the company (user) can obtain a free download of the software for a private signing key. With this key, the user creates a digital signature on an electronic file or encrypts the data. OSM, as the recipient of the file, employs the public key to validate the signature made with the private key or decrypts the data. The two keys are mathematically linked and form a unique pair. Only the public key can validate the signature made with the associated private key(s). This process also verifies that the file has not been altered since its encryption. The companies that use FTP will also need a user identification and password which can be obtained from the OSM website at *www.osmre.gov/finance.htm.* This will enable them to print their OSM–1 report from the website after their data is transferred.

Section 870.17(b)—Partial Electronic Transmission

Under § 870.17(b), the operator (or entity reporting for the operator) only needs to access the electronic version of the OSM–1 Form, update changes, add missing information, and send it back to OSM. However, because of the notary requirement in section 402(c) of SMCRA, this method of filing also requires the operator to print out and maintain on file, a properly notarized paper copy of the identical OSM–1 Form for review by OSM's Fee Compliance auditors.

We had hoped to implement a system by which the operator could electronically transmit the OSM–1 Form as described above, and also electronically sign and notarize it prior to sending it to OSM. This would have eliminated the need to print out and maintain a properly notarized paper copy of the form. We determined, however, that while electronic notarization is legal, the majority of states have not enacted laws governing its use, and the infrastructure required to electronically notarize and transmit a document is not readily available nationwide. As the means to electronically notarize a document become readily available, we will review our regulations and process to determine whether there is a need to modify our system to accept electronic notarization.

Section 870.17(c)—Complete Electronic Transmission

Under § 870.17(c), the operator (or entity reporting for the operator) can electronically submit the OSM–1 Form and include a statement made under penalty of perjury that the information contained in the OSM–1 Form is true and correct. The statement does *not* have to be notarized but it does have to be electronically signed, dated, and transmitted to OSM as part of the OSM–1 Form.

The authority for filing the form without notarization is found in 28 U.S.C. 1746. Section 1746 provides in part:

> Wherever, under any law of the United States or under any rule, regulation, order, or requirement made pursuant to law, any matter is required or permitted to be supported, evidenced, established, or proved by the sworn declaration, verification, certificate, statement, oath, or affidavit, in writing of the person making the same (other than a deposition, or an oath of office, or an oath required to be taken before a specified official other than a notary public), such matter may, with like force and effect, be supported, evidenced, established, or proved by the unsworn declaration, certificate, verification, or statement, in writing of such person which is subscribed by him, as true under penalty of perjury, and dated, in substantially the following form:
>
> * * * * *
>
> (2) If executed within the United States, its territories, possessions, or commonwealths: ''I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)''.

It was the intent of Congress in enacting the provisions of 28 U.S.C. 1746 to spare people the cost and inconvenience of notarizing a document. Its use in conjunction with the electronic filing of the OSM–1 Form allows us to further simplify the filing process for the operator. It also makes it possible for the operator to store records electronically since it is no longer necessary, as in the other two methods, to maintain on file, a properly notarized paper copy of the OSM–1 Form. Under GPEA § 1707, an electronic record of the OSM–1 Form with the unsworn statement made under penalty of perjury is sufficient.

When Can I Start To File the OSM–1 Form Electronically?

This rule is effective on June 22, 2001. We will accept electronic filings of the OSM–1 form after that date.

III. Procedural Matters and Certifications

1. Executive Order 12866—Regulatory Planning and Review

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

a. This rule will not have an effect of $100 million or more on the economy. It will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or state, local, or tribal governments or communities.

Approximately 1,021 respondents submit the OSM–1 Form covering more than 3,900 permits 4 times a year. The

proposed rule will give respondents the option of submitting the reports electronically. Because electronic filing under the proposed rule is optional and because the requirement to file the information already exists, any increase in costs that may result is expected to be negligible.

b. This rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. The rule merely provides the option of transmitting the required information electronically.

c. This rule does not alter the budgetary effects of entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients.

d. This rule does not raise novel legal or policy issues.

2. Regulatory Flexibility Act

The Department of the Interior certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This determination is based on the findings that the additions to the rule will not significantly change costs to industry and will not affect state or local governments. Furthermore, the rule produces no adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States enterprises to compete with foreign-based enterprises in domestic or export markets. Use of the electronic filing method for the OSM–1 Form is an option available to industry and it may reduce the cost of reporting.

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:

a. Does not have an annual effect on the economy of $100 million or more for the reasons stated above.

b. Will not cause a major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions because the rule does not impose new requirements on the coal mining industry or consumers.

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

4. Unfunded Mandates

This rule does not impose an unfunded mandate on state, local, or tribal governments or the private sector of more than $100 million per year. The rule does not have a significant or unique effect on state, local, or tribal governments or the private sector. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531, *et seq.*) is not required.

5. Executive Order 12630—Takings

In accordance with Executive Order 12630, the rule does not have takings implications. This determination is based on the fact that the rule will not have an impact on the use or value of private property and so, does not result in significant costs to the government.

6. Executive Order 13132—Federalism

This 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 previously stated, the rule will provide coal operators with the option of electronically filing reports which they are currently required to file in paper form with OSM. States are not involved in the process.

7. Executive Order 12988—Civil Justice Reform

In accordance with Executive Order 12988, the Office of the Solicitor has determined that this rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order.

8. Paperwork Reduction Act

The information collection authority for this rulemaking has been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned clearance number 1029–0063.

9. National Environmental Policy Act

OSM has reviewed this rule and determined that it is categorically excluded from the National Environmental Policy Act process in accordance with the Departmental Manual 516 DM 2, Appendix 1.10.

List of Subjects in 30 CFR Part 870

Incorporation by reference, Reporting and record keeping requirements, Surface mining, Underground mining.

Dated: May 16, 2001.

Piet de Witt,

Acting Assistant Secretary for Land and Minerals Management.

For the reasons set forth in the preamble, 30 CFR Part 870 is amended as set forth below.

PART 870—ABANDONED MINE RECLAMATION FUND—FEE COLLECTION AND COAL PRODUCTION REPORTING.

1. The authority citation for Part 870 is revised to read as follows:

Authority: 28 U.S.C. 1746, 30 U.S.C. 1201 *et seq.*, and Pub. L. 105–277.

2. Section 870.15 is amended as follows:

a. In paragraph (b), remove the first sentence and add three new sentences in its place; and

b. Revise paragraph (d)(1)(iv) to read as follows:

§ 870.15 Reclamation fee payments.

* * * * *

Each operator must use mine report Form OSM–1 (or any approved successor form) to report the tonnage of coal sold, used, or transferred. The report must also include the name and address of any person or entity who, in a given quarter, is the owner of 10 percent or more of the mineral estate for a given permit, and any entity or individual who, in a given quarter, purchases ten percent or more of the production from a given permit during the applicable quarter. The operator can file a report under this section either in paper format or in electronic format as specified in § 870.17. * * *

* * * * *

(d) * * *

(1) * * *

(iv) Use OSM's approved form or approved electronic form to report coal tonnage sold, used, or for which ownership was transferred, to the address indicated in the Instructions for Completing the OSM–1 Form.

* * * * *

3. Section 870.17 is added to read as follows:

§ 870.17 Filing the OSM–1 Form electronically.

You, the operator, may submit a quarterly electronic OSM–1 Form in place of a quarterly paper OSM–1 Form. Submitting the OSM–1 Form electronically is optional. If you submit your form electronically, you must use a methodology and medium approved by OSM, and do one of the following:

(a) Maintain a properly notarized paper copy of the identical OSM–1

Form for review and approval by OSM's Fee Compliance auditors. (This is needed to comply with the notary requirement in the Act.); or

(b) Submit an electronically signed and dated statement made under penalty of perjury that the information contained in the OSM–1 Form is true and correct.

[FR Doc. 01–13057 Filed 5–22–01; 8:45 am]

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LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with ''P L U S'' (Public Laws Update Service) on 202–523–6641. This list is also available online at http://www.nara.gov/fedreg.

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H.R. 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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