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# Federal Register

12–14–01 Friday
Vol. 66 No. 241 Dec. 14, 2001
Pages 64735–64908

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# Presidential Documents

**Title 3—**

## The President

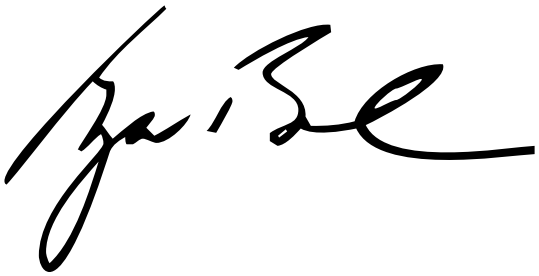
**Memorandum of December 7, 2001**

## Certification Related to Northern Ireland Under Section 405 of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001

**Memorandum for the Secretary of State**

Pursuant to section 405 of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001, as enacted in Public Law 106–113, I hereby certify that: (i) training or exchange programs conducted by the Federal Bureau of Investigation or other Federal law enforcement agencies for the Police Service of Northern Ireland (PSNI) or PSNI members are necessary to improve the professionalism of policing in Northern Ireland and advance the peace process in Northern Ireland; (ii) such programs will include in the curriculum a significant human rights component; (iii) vetting procedures have been established in the Departments of State and Justice, and any other appropriate Federal agency, to ensure that training or exchange programs do not include PSNI members who there are substantial grounds for believing have committed or condoned violations of internationally recognized human rights, including any role in the murder of Patrick Finucane or Rosemary Nelson or other violence or serious threat of violence against defense attorneys in Northern Ireland; and (iv) the Governments of the United Kingdom and Republic of Ireland are committed to assisting in the full implementation of the recommendations contained in the Patten Commission report issued September 9, 1999.

You are authorized and directed to transmit this certification to the appropriate congressional committees and to publish it in the **Federal Register**.



THE WHITE HOUSE,
*Washington, December 7, 2001.*

[FR Doc. 01–31023
Filed 12–13–01; 8:45 am]
Billing code 4710–10–M

# Rules and Regulations

Federal Register

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

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## NUCLEAR REGULATORY COMMISSION

### 10 CFR Parts 20, 30, 32, 34, 40, 50, and 51

**RIN 3150–AG92**

### Minor Errors in Regulatory Text; Correction

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Final rule; correcting amendments.

**SUMMARY:** The Nuclear Regulatory Commission (NRC) is publishing this final rule to make a number of minor corrections to its regulations. This rule is necessary to correct omissions, typographical errors, and erroneous citations and references that appear in the NRC's regulations.

**EFFECTIVE DATE:** December 14, 2001.

**FOR FURTHER INFORMATION CONTACT:** Michael T. Lesar, Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone 301–415–7163, e-mail *mtl@nrc.gov.*

**SUPPLEMENTARY INFORMATION:** This rule is necessary to correct omissions, typographical errors, and erroneous citations and references that appear in Title 10, Chapter I of the Code of Federal Regulations. This rule also corrects an omission of text in a final rulemaking that was originally published on April 12, 1999 (64 FR 17506)(Radiological Criteria for License Termination of Uranium Recovery Facilities).

Because these amendments involve minor corrections to existing regulations, the NRC has determined that notice and comment under the Administrative Procedure Act 5 U.S.C. 553(b)(A) and (B) is unnecessary and that good cause exists to dispense with such notice and comment. For these reasons, good cause also exists to dispense with the usual 30-day delay in the effective date. Therefore, the amendments are effective upon their publication in the **Federal Register**.

**Environmental Impact: Categorical Exclusion**

The NRC has determined that this final rule is the type of action described in categorical exclusion 10 CFR 51.22(c)(2). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this final rule.

**Paperwork Reduction Act Statement**

This final rule contains no information collection requirements and, therefore, is not subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

**Regulatory Analysis**

A regulatory analysis has not been prepared for this final rule because the final rule makes corrections to the regulations.

**Backfit Analysis**

The NRC has determined that these amendments do not involve any provision which would impose backfits as defined in 10 CFR 50.109(a)(1); therefore, a backfit analysis need not be prepared.

**List of Subjects**

*10 CFR Part 20*

Byproduct material, Criminal penalties, Licensed material, Nuclear materials, Nuclear power plants and reactors, Occupational safety and health, Packaging and containers, Radiation protection, Reporting and recordkeeping requirements, Source material, Special nuclear material, Waste treatment and disposal.

*10 CFR Part 30*

Byproduct material, Criminal penalties, Government contracts, Intergovernmental relations, Isotopes, Nuclear materials, Radiation protection, Reporting and recordkeeping requirements.

*10 CFR Part 32*

Byproduct material, Criminal penalties, Labeling, Nuclear materials, Radiation protection, Reporting and recordkeeping requirements.

*10 CFR Part 34*

Criminal penalties, Packaging and containers, Radiation protection, Radiography, Reporting and recordkeeping requirements, Scientific equipment, Security measures.

*10 CFR Part 40*

Criminal penalties, Government contracts, Hazardous materials transportation, Nuclear materials, Reporting and recordkeeping requirements, Source material, Uranium.

*10 CFR Part 50*

Antitrust, Classified information, Criminal penalties, Fire protection, Intergovernmental relations, Nuclear power plants and reactors, Radiation protection, Reactor siting criteria, Reporting and recordkeeping requirements.

*10 CFR Part 51*

Administrative practice and procedure, Environmental impact statement, Nuclear materials, Nuclear power plants and reactors, Reporting and recordkeeping requirements.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 552 and 553, the NRC is adopting the following amendments to 10 CFR Parts 20, 30, 32, 34, 50, and 51.

## PART 20—STANDARDS FOR PROTECTION AGAINST RADIATION

1. The authority citation for Part 20 continues to read as follows:

**Authority:** Secs. 53, 63, 65, 81, 103, 104, 161, 182, 186, 68 Stat. 930, 933, 935, 936, 937, 948, 953, 955, as amended, sec. 1701, 106 Stat. 2951, 2952, 2953 (42 U.S.C. 2073, 2093, 2095, 2111, 2133, 2134, 2201, 2232, 2236, 2297f), secs. 201, as amended, 202,206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846).

**§ 20.2103 [Amended]**

2. In § 20.2103(b)(3), the reference to ''§ 20.1703(a)(3)(i) and (ii)'' is revised to read ''§ 20.1703(c)(1) and (2)''.

**§ 20.2201 [Amended]**

3. In § 20.2201(c), the reference to ''§ 73.67 (e)(3)(vi)'' is revised to read ''§ 73.67(e)(3)(vii)''.

## PART 30—RULES OF GENERAL APPLICABILITY TO DOMESTIC LICENSING OF BYPRODUCT MATERIAL

4. The authority citation for Part 30 continues to read as follows:

**Authority:** Secs. 81, 82, 161, 182, 183, 186, 68 Stat. 935, 948, 953, 954, 955, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2111, 2112, 2201, 2232, 2233, 2236, 2282); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846).

Section 30.7 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 as amended by Pub. L. 102–486, sec. 2902, 106 Stat. 3123, (42 U.S.C. 5851). Section 30.34(b) also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 30.61 also issued under sec. 187, 68 Stat. 955 (42 U.S.C. 2237).

**§ 30.37 [Amended]**

5. In § 30.37(a), ''Form 314'' is revised to read ''Form 313''.

## PART 32—SPECIFIC DOMESTIC LICENSES TO MANUFACTURE OR TRANSFER CERTAIN ITEMS CONTAINING BYPRODUCT MATERIAL

6. The authority citation for Part 32 continues to read as follows:

**Authority:** Secs. 81, 161, 182, 183, 68 Stat. 935, 948, 953, 954, as amended (42 U.S.C. 2111, 2201, 2232, 2233); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841).

**§ 32.21 [Amended]**

7. In § 32.21(a)(2), the reference to ''§ 32.27(a)(2)'' is revised to read ''§ 32.72(a)(2)''.

## PART 34—LICENSES FOR INDUSTRIAL RADIOGRAPHY AND RADIATION SAFETY REQUIREMENTS FOR INDUSTRIAL RADIOGRAPHIC OPERATIONS

8. The authority citation for Part 34 continues to read as follows:

**Authority:** Secs. 81, 161, 182, 183, 68 Stat. 935, 948, 953, 954, as amended (42 U.S.C. 2111, 2201, 2232, 2233); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841).

Section 34.45 also issued under sec. 206, 88 Stat. 1246, (42 U.S.C. 5846).

**§ 34.53 [Amended]**

9. In § 34.53, ''(a) and (b)'' is inserted after § 20.1902.

## PART 40—DOMESTIC LICENSING OF SOURCE MATERIAL

10. The authority citation for Part 40 continues to read as follows:

**Authority:** Secs. 62, 63, 64, 65, 81, 161, 182, 183, 186, 68 Stat. 932, 933, 935, 948, 953, 954, 955, as amended, secs. 11e(2), 83, 84, Pub. L. 95–604, 92 Stat. 3033, as amended, 3039, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2014(e)(2), 2092, 2093, 2094, 2095, 2111, 2113, 2114, 2201, 2232, 2233, 2236, 2282); sec. 274, Pub. L. 86–373, 73 Stat. 688 (42 U.S.C. 2021); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); sec. 275, 92 Stat. 3021, as amended by Pub. L. 97–415, 96 Stat. 2067 (42 U.S.C. 2022); sec. 193, 104 Stat. 2835, as amended by Pub. L. 104–134, 110 Stat. 1321, 1321–349 (42 U.S.C. 2243).

Section 40.7 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Section 40.31(g) also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Section 40.46 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 40.71 also issued under sec. 187, 68 Stat. 955 (42 U.S.C. 2237).

**§ 40.42 [Amended]**

11. In § 40.42(j)(2), insert ''or, for uranium milling (uranium and thorium recovery) facilities, Criterion 6(6) of Appendix A to this part.'' after ''Subpart E''.

12. In § 40.42, paragraphs (k)(3)(i) and (ii), insert ''or, for uranium milling (uranium and thorium recovery) facilities, Criterion 6(6) of Appendix A to this part;'' after ''Subpart E''.

## PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

13. The authority citation for Part 50 is revised to read as follows:

**Authority:** Secs. 102, 103, 104, 105, 161, 182, 183, 186, 189, 68 Stat. 936, 938, 948, 953, 954, 955, 956, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2132, 2133, 2134, 2135, 2201, 2232, 2233, 2239, 2282); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846).

Section 50.7 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951, as amended by Pub. L. 102–486, sec. 2902, 106 Stat. 3123 (42 U.S.C. 5851). Section 50.10 also issued under secs. 101, 185, 68 Stat. 936, 955, as amended (42 U.S.C. 2131, 2235); sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.13, 50.54(dd), and 50.103 also issued under sec. 108, 68 Stat. 939, as amended (42 U.S.C. 2138). Sections 50.23, 50.35, 50.55, and 50.56 also issued under sec. 185, 68 Stat. 955 (42 U.S.C. 2235). Sections 50.33a, 50.55a and Appendix Q also issued under sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.34 and 50.54 also issued under Pub. L. 97–415, 96 Stat. 2073 (42 U.S.C. 2239). Section 50.78 also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Sections 50.80—50.81 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Appendix F also issued under sec. 187, 68 Stat. 955 (42 U.S.C. 2237).

**§ 50.49 [Amended]**

14. In § 50.49(b)(2), the phrase ''(i) through (iii) of paragraph (b)(1)'' is revised to read ''(b)(1)(i)(A) through (C)''.

**§ 50.59 [Amended]**

15. In § 50.59(b), in the last sentence, insert the words ''of nuclear fuel,'' between the words ''possession'' and ''but''.

## PART 51—ENVIRONMENTAL PROTECTION REGULATIONS FOR DOMESTIC LICENSING AND RELATED REGULATORY FUNCTIONS

16. The authority citation for Part 51 continues to read as follows:

**Authority:** Sec. 161, 68 Stat. 948, as amended, sec. 1701, 106 Stat. 2951, 2952, 2953, (42 U.S.C. 2201, 2297f); secs. 201, as amended, 202, 88 Stat. 1242, as amended, 1244 (42 U.S.C. 5841, 5842). Subpart A also issued under National Environmental Policy Act of 1969, secs. 102, 104, 105, 83 Stat. 853–854, as amended (42 U.S.C. 4332, 4334, 4335); and Pub. L. 95–604, Title II, 92 Stat. 3033–3041; and sec. 193, Pub. L. 101–575, 104 Stat. 2835 (42 U.S.C. 2243). Sections 51.20, 51.30, 51.60, 51.80. and 51.97 also issued under secs. 135, 141, Pub. L. 97–425, 96 Stat. 2232, 2241, and sec. 148, Pub. L. 100–203, 101 Stat. 1330–223 (42 U.S.C. 10155, 10161, 10168). Section 51.22 also issued under sec. 274, 73 Stat. 688, as amended by 92 Stat. 3036–3038 (42 U.S.C. 2021) and under Nuclear Waste Policy Act of 1982, sec. 121, 96 Stat. 2228 (42 U.S.C. 10141). Sections 51.43, 51.67, and 51.109 also under Nuclear Waste Policy Act of 1982, sec. 114(f), 96 Stat. 2216, as amended (42 U.S.C. 10134(f)).

**Part 51, Appendix B to Subpart A [Amended]**

17. In Part 51, Subpart A, Appendix B, in Table B–1 under the heading ''Uranium Fuel Cycle and Waste Management,'' across from the subheading under, ''Issue'', ''Offsite Radiological Impact (Collective Effects)'' under the subheading ''Findings'', in the first sentence, insert the word ''excepted,'' between the words ''disposal'' and ''is''.

Dated at Rockville, Maryland, this 7th day of December, 2001.

For the Nuclear Regulatory Commission.

**Michael T. Lesar,**

*Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration.*

[FR Doc. 01–30832 Filed 12–13–01; 8:45 am]

BILLING CODE 7590–01–P

## SMALL BUSINESS ADMINISTRATION

### 13 CFR Part 120

**RIN 3245–AE68**

### Business Loans and Development Company Loans

**AGENCY:** Small Business Administration (SBA).

**ACTION:** Withdrawal of direct final rule.

**SUMMARY:** The SBA is withdrawing the direct final rule published on November 14, 2001 (66 FR 56985) implementing various changes in the Business Loan Program enacted by the Small Business Reauthorization Act of 2000. Pending further evaluation SBA will publish a new rule.

**DATES:** The direct final rule published at 66 FR 56985, November 14, 2001 is withdrawn, as of December 14, 2001.

**FOR FURTHER INFORMATION CONTACT:** James W. Hammersley, Director, Office of Loan Programs, Office of Financial Assistance, (202) 205–6490.

**SUPPLEMENTARY INFORMATION:** The SBA published a direct final rule on November 14, 2001, (66 FR 56985), which incorporated changes to SBA rules concerning loan guaranty and loan amounts, minimum guaranteed dollar amount of 7(a) loans, percentages of financing which can be guaranteed by SBA, guarantee fees paid by lenders, real estate occupancy rules, and borrower prepayment penalties. Subsequent to the publication of the direct final rule, SBA has decided to withdraw it and reconsider portions of the rule. After such reconsideration, SBA will publish a new rule at an early date.

### List of Subjects in 13 CFR Part 120

Loan program—business, Small businesses.

**Authority:** 15 U.S.C. 634(b)(6), 636(a) and (h), 696(3), and 697(a)(2).

**Hector V. Barreto,**

*Administrator.*

[FR Doc. 01–30842 Filed 12–13–01; 8:45 am]

BILLING CODE 8025–01–P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Part 39

**[Docket No. 2000–NM–68–AD; Amendment 39–12488; AD 2001–22–09]**

**RIN 2120–AA64**

### Airworthiness Directives; Bombardier Model CL–600–2B19 Series Airplanes

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Final rule; correction.

**SUMMARY:** This document corrects information in an existing airworthiness directive (AD) that applies to certain Bombardier Model CL–600–2B19 series airplanes. That AD currently requires repetitive eddy current inspections for cracking of the main landing gear (MLG) main fittings, and replacement with a new or serviceable MLG, if necessary. That AD also requires servicing the MLG shock struts; inspecting the MLG shock struts for nitrogen pressure, visible chrome dimension, and oil leakage; and performing corrective actions, if necessary. This document corrects an error that resulted in the omission of the AD and amendment numbers in the ''Product Identification'' section of the AD. This correction is necessary to ensure that the correct AD and amendment numbers are specified.

**DATES:** Effective December 4, 2001.

The incorporation by reference of certain publications listed in the regulations was approved previously by the Director of the Federal Register as of December 4, 2001,(66 FR 54658, October 30, 2001).

**FOR FURTHER INFORMATION CONTACT:** Serge Napoleon, Aerospace Engineer, ANE–171, FAA, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York 11581; telephone (516) 256–7512; fax (516) 568–2716.

**SUPPLEMENTARY INFORMATION:** On October 22, 2001, the Federal Aviation Administration (FAA) issued airworthiness directive (AD) 2001–22–09, amendment 39–12488 (66 FR 54658, October 30, 2001), which applies to certain Bombardier Model CL–600–2B19 series airplanes. A correction of the rule was published in the **Federal Register** on November 26, 2001 (66 FR 58931). That AD requires repetitive eddy current inspections for cracking of the main landing gear (MLG) main fittings, and replacement with a new or serviceable MLG, if necessary. That AD also requires servicing the MLG shock struts; inspecting the MLG shock struts for nitrogen pressure, visible chrome dimension, and oil leakage; and performing corrective actions, if necessary. The actions specified by that AD are intended to prevent failure of the MLG main fitting, which could result in collapse of the MLG upon landing. The actions are intended to address the identified unsafe condition.

### Need for the Correction

The FAA inadvertently omitted the AD and amendment numbers from the ''Product Identification'' section of the AD. As a result, we have determined that a correction to AD 2001–22–09 is necessary. The correction will correctly add the AD and amendment numbers in the ''Product Identification'' section of the AD.

### Correction of Publication

This document corrects the error and correctly adds the AD as an amendment to section 39.13 of the Federal Aviation Regulations (14 CFR 39.13).

The AD is reprinted in its entirety for the convenience of affected operators. The effective date of the AD remains December 4, 2001.

Since this action only adds the omitted AD and amendment numbers, it has no adverse economic impact and imposes no additional burden on any person. Therefore, the FAA has determined that notice and public procedures are unnecessary.

### List of Subject in 14 CFR Part 39

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

### Adoption of the Correction

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 [Corrected]**

2. Section 39.13 is amended by correctly adding the following airworthiness directive (AD):

**2001–22–09 Bombardier:** Amendment 39–12488. Docket 2000–NM–68–AD.

*Applicability:* Model CL–600–2B19 series airplanes, certificated in any category, having serial numbers 7003 and subsequent, and equipped with a main landing gear (MLG) main fitting having part number (P/N)

17064–101, 17064–102, 17064–103, or 17064–104.

**Note 1:** This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (g) 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 failure of MLG main fitting, which could result in collapse of the MLG upon landing, accomplish the following:

**Inspection and Replacement**

(a) Prior to the accumulation of 1,500 total flight cycles, or within 150 flight cycles after December 4, 2001, the effective date of this AD, whichever occurs later: Perform an eddy current inspection to detect cracking of the MLG main fittings, in accordance with Part B of the Accomplishment Instructions of Bombardier Alert Service Bulletin A601R–32–079, Revision D, dated December 1, 2000. If any cracking is found, prior to further flight, replace the cracked fitting with a new or serviceable fitting in accordance with the alert service bulletin. Repeat the inspection thereafter at intervals not to exceed 500 flight cycles.

**Servicing the Shock Struts**

(b) Prior to the accumulation of 1,500 total flight cycles since the date of manufacture, or within 500 flight cycles after the effective date of this AD, whichever occurs later: Perform a servicing (Oil and Nitrogen) of the MLG shock struts (left and right main landing shock struts), in accordance with Part C (for airplanes on the ground) or Part D (for airplanes on jacks) of the Accomplishment Instructions of Bombardier Alert Service Bulletin A601R–32–079, Revision D, dated December 1, 2000.

**Other Inspections**

(c) Within 500 flight cycles after completing the actions required by paragraph (b) of this AD: Perform an inspection of the MLG left and right shock struts for nitrogen pressure, visible chrome dimension, and oil leakage, in accordance with Part E of the Accomplishment Instructions of Bombardier Alert Service Bulletin A601R–32–079, Revision D, dated December 1, 2000. Thereafter, repeat the inspection at intervals not to exceed 500 flight cycles.

**Corrective Actions for Certain Inspections**

(d) If the chrome extension dimension of the shock strut pressure reading is outside the limits specified in the Airplane Maintenance Manual, Task 32–11–05–220–801, or any oil leakage is found: Prior to further flight, service the MLG shock strut in accordance with Part C (for airplanes on the ground) or Part D (for airplanes on jacks) of the Accomplishment Instructions of Bombardier Alert Service Bulletin A601R–32–079, Revision D, dated December 1, 2000.

**Extension of the Repetitive Interval**

(e) After the effective date of this AD: After a total of five consecutive inspections of the MLG shock struts that verify that the shock struts are serviced properly, and a total of five consecutive eddy current inspections of the MLG main fitting has been accomplished that verify there is no cracking of the main fitting, in accordance with Bombardier Alert Service Bulletin A601R–32–079, Revision D, dated December 1, 2000, the repetitive interval for the eddy current inspections required by paragraph (a) of this AD may be extended from every 500 flight cycles to every 1,000 flight cycles.

**Reporting Requirement**

(f) Within 30 days after each inspection and servicing required by paragraphs (a), (b), and (c) of this AD, report all findings, positive or negative, to: Bombardier Aerospace, Regional Aircraft, CRJ Action Desk, fax number 514–855–8501. Information collection requirements contained in this AD have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2120–0056.

**Alternative Methods of Compliance**

(g) 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**

(h) 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.

**Incorporation by Reference**

(i) The actions shall be done in accordance with Bombardier Alert Service Bulletin A601R–32–079, Revision D, dated December 1, 2000. This incorporation by reference was approved previously by the Director of the Federal Register as of December 4, 2001 (66 FR 54658, October 30, 2001). Copies may be obtained from Bombardier, Inc., Canadair, Aerospace Group, P.O. Box 6087, Station Centre-ville, Montreal, Quebec H3C 3G9, Canada. Copies may be inspected 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; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

**Note 3:** The subject of this AD is addressed in Canadian airworthiness directive CF–1999–32R1, dated January 22, 2001.

**Effective Date**

(j) The effective date of this amendment remains December 4, 2001.

Issued in Renton, Washington, on December 7, 2001.

**Kalene C. Yanamura,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 01–30863 Filed 12–13–01; 8:45 am]

BILLING CODE 4910–13–U

## DEPARTMENT OF THE TREASURY

## Internal Revenue Service

## 26 CFR Part 301

**[TD 8969]**

**RIN 1545–AW37**

## Payment by Credit Card and Debit Card

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Final regulations and removal of temporary regulations.

**SUMMARY:** This document contains final regulations authorizing the Commissioner to accept payment of internal revenue taxes by credit card or debit card and limit the use and disclosure of information relating to payment of taxes by credit card and debit card. Additionally, the final regulations provide that payments of tax by check or money order should be made payable to the United States Treasury. The final regulations reflect changes to the law made by the Taxpayer Relief Act of 1997 and affect persons who pay their tax liabilities by credit card, debit card, check, or money order.

**DATES:** *Effective Date:* These final regulations are effective December 14, 2001.

*Applicability Date:* For dates of applicability, see § 301.6311–2(h).

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

**SUPPLEMENTARY INFORMATION:**

### Background

This document contains final regulations amending the Procedure and Administration Regulations (26 CFR part 301) under sections 6103 and 6311 of the Internal Revenue Code (Code). The final regulations reflect the

amendment of sections 6103 and 6311 by section 1205 of the Taxpayer Relief Act of 1997, Public Law 105–34 (111 Stat. 788) (TRA 1997); section 4003(k) of the Tax and Trade Relief Extension Act of 1998, Public Law 105–277 (112 Stat. 2681) (TREA 1998); and section 3703 of the Internal Revenue Service Restructuring and Reform Act of 1998, Public Law 105–206 (112 Stat. 685) (RRA 1998).

On December 15, 1998, the IRS and Treasury published temporary regulations (TD 8793) in the **Federal Register** (63 FR 68995). A notice of proposed rulemaking (REG–111435–98) cross-referencing the temporary regulations was published on the same day in the **Federal Register** (63 FR 69031). (References herein to the proposed regulations shall be to the temporary regulations.) No public hearing was requested or held. Two written comment letters were received. After consideration of the comments, the proposed regulations are adopted as revised by this Treasury decision, and the corresponding temporary regulations are removed. The comments and revisions are discussed below.

**Explanation of Provisions**

Section 301.6311–1 currently provides that checks or money orders should be made payable to the Internal Revenue Service. Section 3703 of RRA 1998 states that the Secretary of the Treasury shall establish such rules, regulations, and procedures as are necessary to allow payment of taxes by check or money order payable to the United States Treasury. The amendment to § 301.6311–1 accordingly provides that checks and money orders should be made payable to the United States Treasury.

As amended by section 1205 of TRA 1997, section 6311(a) provides that it shall be lawful for the Secretary of the Treasury to receive payment for internal revenue taxes by any commercially acceptable means that the Secretary deems appropriate, to the extent and under the conditions provided in regulations prescribed by the Secretary. The legislative history accompanying TRA 1997 explains that commercially acceptable means include ''electronic funds transfers, including those arising from credit cards, debit cards, and charge cards.'' H.R. Conf. Rep. No. 105–220, at 652 (1997). The current regulations under § 301.6311–1 permit payment of taxes by checks, drafts drawn on financial institutions, or money orders. The final regulations add payments by credit cards (which includes charge cards) and debit cards to the acceptable methods of payment under section 6311. Section 6302 and the regulations thereunder remain the authority for forms of payment by electronic funds transfer other than payment by credit card or debit card.

Only credit cards or debit cards approved by the Commissioner may be used for payment of internal revenue taxes under section 6311, only the types of tax liabilities specified by the Commissioner may be paid by credit card or debit card, and all such payments must be made in the manner and in accordance with the forms, instructions, and procedures prescribed by the Commissioner. The Commissioner has entered into contracts with third party service providers who will process the credit and debit card transactions. The Commissioner may not impose any fee on persons making payment of taxes by credit card or debit card. However, other persons participating in the program, including third party service providers who process credit or debit card transactions, are not prohibited from charging fees.

The final regulations provide, as required by section 6311(d)(3), that the payment of taxes by credit card or debit card is subject to the error resolution procedures of section 161 of the Truth in Lending Act (TILA) (15 U.S.C. 1666), section 908 of the Electronic Fund Transfer Act (EFTA) (15 U.S.C. 1693f), or any similar provisions of state or local law. The payment, however, is subject to the error resolution procedures of these statutes only for the purpose of resolving errors relating to the credit card or debit card account, and not for the purpose of resolving any errors, disputes, or adjustments relating to the underlying tax liability. These provisions ensure that any disputes concerning the merits of the tax liability will be resolved in the traditional administrative and judicial forums (e.g., by filing a petition in Tax Court or by paying the disputed tax and filing a claim for refund), and will not be raised in any dispute with the card issuer, financial institution, or other person participating in the credit card or debit card transaction.

As authorized by section 6311(d)(3)(E), the final regulations permit the Commissioner to return funds erroneously received due to errors relating to the credit card or debit card account by arranging for a credit to the taxpayer's account with the issuer of the credit card or debit card or other appropriate financial institution or person. Returns of funds through credit card or debit card account credits, however, are available only to correct errors relating to the credit card or debit card account, and not to refund overpayments of taxes.

The final regulations also provide the procedures required under sections 6103(k)(9) and 6311(e) with respect to the use and disclosure of information relating to payment of taxes by credit card and debit card. Section 1205(c)(1) of TRA 1997 (as amended by section 6012(b)(2) of RRA 1998) added section 6103(k)(9), which authorizes the IRS to disclose returns and return information to financial institutions and others to the extent necessary for the administration of section 6311. Section 6103(k)(9) further provides that disclosures of information for purposes other than to accept payments by check or money order (for example, to accept payment by credit card or debit card) shall be made only to the extent authorized by written procedures promulgated by the Secretary. Section 6311(e) provides that no person shall use or disclose any information relating to credit card or debit card transactions obtained pursuant to section 6103(k)(9), except to the extent authorized by written procedures promulgated by the Secretary.

Pursuant to section 6311(e), the final regulations provide that information received by any person in connection with the payment of tax by credit card or debit card shall be treated as confidential by all persons who receive such information, whether such information is received from the IRS or from any other person, including the taxpayer. IRS personnel are authorized to disclose to card issuers, financial institutions, and other persons information necessary to process the tax payment or to bill or collect the amount charged or debited (for example, to resolve billing errors).

The final regulations set forth the limited purposes and activities for which such information may be used or disclosed by card issuers, financial institutions, and other persons. The permitted purposes and activities principally involve credit card and debit card processing, billing, collection, account servicing, account transfers, internal business records, legal compliance, and legal proceedings. The final regulations expressly prohibit the selling of information, the sharing of information with credit bureaus, or the use of information for any marketing purpose. Any person who uses or discloses information in violation of section 6311(e) is subject to civil liability for damages under section 7431(a)(2). See section 7431(h), added by section 1205(c)(2) of TRA 1997 (as amended by section 6012(b)(3) of RRA 1998).

**Summary of Comments**

Commentators recommended that the final regulations be amended to permit the IRS to compensate private sector companies for the services they provide in connection with the payment of taxes by credit and debit card. However, section 6311(d)(2) prohibits the payment of such compensation. Thus, the final regulations do not adopt this recommendation.

Commentators also recommended that the final regulations incorporate by reference the applicable regulations and staff commentaries adopted by the Federal Reserve Board under the provisions of TILA and EFTA referenced in the final regulations. The final regulations do not adopt this recommendation because the references in section 6311 and the final regulations to section 161 of TILA and section 908 of EFTA are sufficient to make the Federal Reserve Board regulations and other legal guidance under section 161 of TILA and section 908 of EFTA applicable to the payment of taxes by credit card or debit card, except as explicitly excepted in sections 6311(d)(3)(A) and (C).

Commentators also recommended a clarification of § 301.6311–2T(c)(2) of the temporary regulations, which provides that the United States has a lien for the guaranteed amount of a transaction upon all the assets of the institution making the guarantee if the United States is not duly paid after the taxpayer tenders a payment of taxes by credit card or debit card. The commentators note that the mere tendering of payment by credit card or debit card is not sufficient for the United States to have a lien. Rather, the parties involved in the transaction must also follow the applicable procedures required to authorize the transaction and to obtain the guarantee. Thus, the commentators recommended that language be added to the final regulations to provide that the United States will not have a lien unless the parties involved follow the procedures required to authorize the transaction and obtain a guarantee.

Under the temporary regulations, the financial institution must expressly guarantee the payment in order for the United States to have a lien on the assets of the institution making the guarantee. The financial institution's express guarantee will arise only if the applicable procedures necessary to authorize the transaction and obtain the guarantee are properly followed. Additional language in the final regulations is therefore unnecessary.

One commentator questioned the use of the term *commercial transactions* in § 301.6311–2T(d)(2)(D). The commentator recommended removing the word *commercial* because, in general, TILA does not apply to *commercial* transactions. The final regulations adopt this recommendation by replacing § 301.6311–2T(d)(2)(D) in the final regulations with a provision covering other types of errors similar to the ones explicitly covered by error resolution procedures in the final regulations.

One commentator recommended clarification of § 301.6311–2T(g)(3)(i), which prohibits use or disclosure of information relating to credit and debit card transactions for purposes related to the *sale or exchange* of such information separate from the underlying receivable or account. The commentator stated that this provision conflicts with other provisions in the temporary regulations that specifically permit an exchange of credit and debit card information to process credit and debit card transactions and resolve billing errors without a sale or exchange of the underlying receivable or account. The commentator's concern stems from an ambiguity created by the use of the term *exchange.* To avoid confusion, the final regulations replace *exchange* with *transfer for consideration.*

**Explanation of Other Revisions**

Other changes to the final regulations include the following. First, the final regulations clarify that sending receipts or confirmation of a transaction to the taxpayer, including secured electronic transmissions and facsimiles, is a permissible disclosure. See § 301.6311–2(g)(1)(i)(E). Second, the final regulations clarify that disclosure of information necessary to complete a transaction by the taxpayer with a state or local government agency (for example, to pay state or local tax by credit card or debit card) is a permissible disclosure when explicitly authorized by the taxpayer. This allows a taxpayer to make a state or local tax payment immediately after making a federal tax payment without requiring the taxpayer to reenter information (for example, name and Taxpayer Identification Number). See § 301.6311–2(g)(1)(i)(F). Third, the final regulations provide that the term *tax* as used in these final regulations includes interest, penalties, additional amounts, and additions to tax. See § 301.6311–2(a)(1). The temporary regulations did not refer to *additional amounts.*

**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 final regulations, and because these final regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Code, the notice of proposed rulemaking preceding these final regulation 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 these final regulations is R. Bradley Taylor of the Office of Associate Chief Counsel, Procedure and Administration (Administrative Provisions and Judicial Practice Division).

**List of Subjects in 26 CFR Part 301**

Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Penalties, Reporting and recordkeeping requirements.

**Adoption of Amendments to the Regulations**

Accordingly, 26 CFR part 301 is amended as follows:

## PART 301—PROCEDURE AND ADMINISTRATION

**Paragraph** 1. The authority citation for part 301 is amended by adding entries in numerical order to read in part as follows:

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

Section 301.6103(k)(9)–1 also issued under 26 U.S.C. 6103(k)(9) and 26 U.S.C. 6103(q). * * *

Section 301.6311–2 also issued under 26 U.S.C. 6311. * * *

**Par. 2.** Section 301.6103(k)(9)–1 is added to read as follows:

**§ 301.6103(k)(9)–1 Disclosure of returns and return information relating to payment of tax by credit card and debit card.**

Officers and employees of the Internal Revenue Service may disclose to card issuers, financial institutions, or other persons such return information as the Commissioner deems necessary in connection with processing credit card and debit card transactions to effectuate payment of tax as authorized by

§ 301.6311–2. Officers and employees of the Internal Revenue Service may disclose such return information to such persons as the Commissioner deems necessary in connection with billing or collection of the amounts charged or debited, including resolution of errors relating to the credit card or debit card account as described in § 301.6311–2(d).

**§ 301.6103(k)(9)–1T [Removed]**

**Par. 3.** Section 301.6103(k)(9)–1T is removed.

**§ 301.6311–1 [Amended]**

**Par. 4.** In section 301.6311–1, paragraph(a)(1)(i) is amended by removing the language ''Internal Revenue Service'' from the third sentence and adding the language ''United States Treasury'' in its place.

**Par. 5.** Section 301.6311–2 is added to read as follows:

**§ 301.6311–2 Payment by credit card and debit card.**

(a) *Authority to receive*—(1) *Payments by credit card and debit card.* Internal revenue taxes may be paid by credit card or debit card as authorized by this section. Payment of taxes by credit card or debit card is voluntary on the part of the taxpayer. Only credit cards or debit cards approved by the Commissioner may be used for this purpose, only the types of tax liabilities specified by the Commissioner may be paid by credit card or debit card, and all such payments must be made in the manner and in accordance with the forms, instructions and procedures prescribed by the Commissioner. All references in this section to *tax* also include interest, penalties, additional amounts, and additions to tax.

(2) *Payments by electronic funds transfer other than payments by credit card and debit card.* Provisions relating to payments by electronic funds transfer other than payments by credit card and debit card are contained in section 6302 and the Treasury Regulations promulgated pursuant to section 6302.

(3) *Definitions*—(i) *Credit card* means any credit card as defined in section 103(k) of the Truth in Lending Act (15 U.S.C. 1602(k)), including any credit card, charge card, or other credit device issued for the purpose of obtaining money, property, labor, or services on credit.

(ii) *Debit card* means any accepted card or other means of access as defined in section 903(1) of the Electronic Fund Transfer Act (15 U.S.C. 1693a(1)), including any debit card or similar device or means of access to an account issued for the purpose of initiating electronic fund transfers to obtain money, property, labor, or services.

(b) *When payment is deemed made.* A payment of tax by credit card or debit card shall be deemed made when the issuer of the credit card or debit card properly authorizes the transaction, provided that the payment is actually received by the United States in the ordinary course of business and is not returned pursuant to paragraph (d)(3) of this section.

(c) *Payment not made*—(1) *Continuing liability of taxpayer.* A taxpayer who tenders payment of taxes by credit card or debit card is not relieved of liability for such taxes until the payment is actually received by the United States and is not required to be returned pursuant to paragraph (d)(3) of this section. This continuing liability of the taxpayer is in addition to, and not in lieu of, any liability of the issuer of the credit card or debit card or financial institution pursuant to paragraph (c)(2) of this section.

(2) *Liability of financial institutions.* If a taxpayer has tendered a payment of internal revenue taxes by credit card or debit card, the credit card or debit card transaction has been guaranteed expressly by a financial institution, and the United States is not duly paid, then the United States shall have a lien for the guaranteed amount of the transaction upon all the assets of the institution making such guarantee. The unpaid amount shall be paid out of such assets in preference to any other claims whatsoever against such guaranteeing institution, except the necessary costs and expenses of administration and the reimbursement of the United States for the amount expended in the redemption of the circulating notes of such institution.

(d) *Resolution of errors relating to the credit card or debit card account*—(1) *In general.* Payments of taxes by credit card or debit card shall be subject to the applicable error resolution procedures of section 161 of the Truth in Lending Act (15 U.S.C. 1666), section 908 of the Electronic Fund Transfer Act (15 U.S.C. 1693f), or any similar provisions of state or local law, for the purpose of resolving errors relating to the credit card or debit card account, but not for the purpose of resolving any errors, disputes or adjustments relating to the underlying tax liability.

(2) *Matters covered by error resolution procedures.* (i) The error resolution procedures of paragraph (d)(1) of this section apply to the following types of errors—

(A) An incorrect amount posted to the taxpayer's account as a result of a computational error, numerical transposition, or similar mistake;

(B) An amount posted to the wrong taxpayer's account;

(C) A transaction posted to the taxpayer's account without the taxpayer's authorization; and

(D) Other similar types of errors that would be subject to resolution under section 161 of the Truth in Lending Action (15 U.S.C. 1666), section 908 of the Electronic Fund Transfer Act (15 U.S.C. 1693f, or similar provisions of state or local law.

(ii) An error described in paragraph (d)(2)(i) of this section may be resolved only through the procedures referred to in paragraph (d)(1) of this section and cannot be a basis for any claim or defense in any administrative or court proceeding involving the Commissioner or the United States.

(3) *Return of funds pursuant to error resolution procedures.* Notwithstanding section 6402, if a taxpayer is entitled to a return of funds pursuant to the error resolution procedures of paragraph (d)(1) of this section, the Commissioner may, in the Commissioner's sole discretion, effect such return by arranging for a credit to the taxpayer's account with the issuer of the credit card or debit card or any other financial institution or person that participated in the transaction in which the error occurred.

(4) *Matters not subject to error resolution procedures.* The error resolution procedures of paragraph (d)(1) of this section do not apply to any error, question, or dispute concerning the amount of tax owed by any person for any year. For example, these error resolution procedures do not apply to determine a taxpayer's entitlement to a refund of tax for any year for any reason, nor may they be used to pay a refund. All such matters shall be resolved through administrative and judicial procedures established pursuant to the Internal Revenue Code and the rules and regulations thereunder.

(5) *Section 170 of the Truth in Lending Act not applicable.* Payments of taxes by credit card or debit card are not subject to section 170 of the Truth in Lending Act (15 U.S.C. 1666i) or to any similar provision of state or local law.

(e) *Fees or charges.* The Internal Revenue Service may not impose any fee or charge on persons making payment of taxes by credit card or debit card. This section does not prohibit the imposition of fees or charges by issuers of credit cards or debit cards or by any other financial institution or person participating in the credit card or debit card transaction. The Internal Revenue

Service may not receive any part of any fees that may be charged.

(f) *Authority to enter into contracts.* The Commissioner may enter into contracts related to receiving payments of tax by credit card or debit card if such contracts are cost beneficial to the Government. The determination of whether the contract is cost beneficial shall be based on an analysis appropriate for the contract at issue and at a level of detail appropriate to the size of the Government's investment or interest. The Commissioner may not pay any fee or charge or provide any other monetary consideration under such contracts for such payments.

(g) *Use and disclosure of information relating to payment of taxes by credit card and debit card.* Any information or data obtained directly or indirectly by any person other than the taxpayer in connection with payment of taxes by a credit card or debit card shall be treated as confidential, whether such information is received from the Internal Revenue Service or from any other person (including the taxpayer).

(1) No person other than the taxpayer shall use or disclose such information except as follows—

(i) Card issuers, financial institutions, or other persons participating in the credit card or debit card transaction may use or disclose such information for the purpose and in direct furtherance of servicing cardholder accounts, including the resolution of errors in accordance with paragraph (d) of this section. This authority includes the following—

(A) Processing the credit card or debit card transaction, in all of its stages through and including the crediting of the amount charged on account of tax to the United States Treasury;

(B) Billing the taxpayer for the amount charged or debited with respect to payment of the tax liability;

(C) Collecting the amount charged or debited with respect to payment of the tax liability;

(D) Returning funds to the taxpayer in accordance with paragraph (d)(3) of this section;

(E) Sending receipts or confirmation of a transaction to the taxpayer, including secured electronic transmissions and facsimiles; and

(F) Providing information necessary to make a payment to state or local government agencies, as explicitly authorized by the taxpayer (e.g., name, address, taxpayer identification number).

(ii) Card issuers, financial institutions or other persons participating in the credit card or debit card transaction may use and disclose such information for the purpose and in direct furtherance of any of the following activities—

(A) Assessment of statistical risk and profitability;

(B) Transfer of receivables or accounts or any interest therein;

(C) Audit of account information;

(D) Compliance with federal, state, or local law; and

(E) Cooperation in properly authorized civil, criminal, or regulatory investigations by federal, state, or local authorities.

(2) Notwithstanding the provisions of paragraph (g)(1) of this section, use or disclosure of information relating to credit card and debit card transactions for purposes related to any of the following is not authorized—

(i) Sale of such information (or transfer of such information for consideration) separate from a sale of the underlying account or receivable (or transfer of the underlying account or receivable for consideration);

(ii) Marketing for any purpose, such as, marketing tax-related products or services, or marketing any product or service that targets those who have used a credit card or debit card to pay taxes; and

(iii) Furnishing such information to any credit reporting agency or credit bureau, except with respect to the aggregate amount of a cardholder's account, with the amount attributable to payment of taxes not separately identified.

(3) Use and disclosure of information other than as authorized by this paragraph (g) may result in civil liability under sections 7431(a)(2) and (h).

(h) Effective date. This section applies to payments of taxes made on and after December 14, 2001.

**§ 301.6311–2T [Removed]**

**Par. 6.** Section 301.6311–2T is removed.

**Robert E. Wenzel,**

*Deputy Commissioner of Internal Revenue.*

Approved: December 10, 2001.

**Mark Weinberger,**

*Acting Assistant Secretary of the Treasury.*

[FR Doc. 01–30934 Filed 12–13–01; 8:45 am]

BILLING CODE 4830–01–P

## PENSION BENEFIT GUARANTY CORPORATION

## 29 CFR Parts 4022 and 4044

## Benefits Payable in Terminated Single-Employer Plans; Allocation of Assets in Single-Employer Plans; Interest Assumptions for Valuing and Paying Benefits

**AGENCY:** Pension Benefit Guaranty Corporation.

**ACTION:** Final rule.

**SUMMARY:** The Pension Benefit Guaranty Corporation's regulations on Benefits Payable in Terminated Single-Employer Plans and Allocation of Assets in Single-Employer Plans prescribe interest assumptions for valuing and paying benefits under terminating single-employer plans. This final rule amends the regulations to adopt interest assumptions for plans with valuation dates in January 2002. Interest assumptions are also published on the PBGC's Web site (*http://www.pbgc.gov*).

**EFFECTIVE DATE:** January 1, 2002.

**FOR FURTHER INFORMATION CONTACT:** Harold J. Ashner, Assistant General Counsel, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005, 202–326–4024. (TTY/TDD users may call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4024.)

**SUPPLEMENTARY INFORMATION:** The PBGC's regulations prescribe actuarial assumptions—including interest assumptions—for valuing and paying plan benefits of terminating single-employer plans covered by title IV of the Employee Retirement Income Security Act of 1974. The interest assumptions are intended to reflect current conditions in the financial and annuity markets.

Three sets of interest assumptions are prescribed: (1) A set for the valuation of benefits for allocation purposes under section 4044 (found in Appendix B to part 4044), (2) a set for the PBGC to use to determine whether a benefit is payable as a lump sum and to determine lump-sum amounts to be paid by the PBGC (found in Appendix B to part 4022), and (3) a set for private-sector pension practitioners to refer to if they wish to use lump-sum interest rates determined using the PBGC's historical methodology (found in Appendix C to part 4022).

Accordingly, this amendment (1) adds to Appendix B to part 4044 the interest assumptions for valuing benefits for allocation purposes in plans with valuation dates during January 2002, (2)

adds to Appendix B to part 4022 the interest assumptions for the PBGC to use for its own lump-sum payments in plans with valuation dates during January 2002, and (3) adds to Appendix C to part 4022 the interest assumptions for private-sector pension practitioners to refer to if they wish to use lump-sum interest rates determined using the PBGC's historical methodology for valuation dates during January 2002.

For valuation of benefits for allocation purposes, the interest assumptions that the PBGC will use (set forth in Appendix B to part 4044) will be 5.80 percent for the first 25 years following the valuation date and 4.25 percent thereafter. These interest assumptions (in comparison with those in effect for December 2001) reflect a 5-year increase in the period during which the initial rate applies (from a period of 20 years following the valuation date to a period of 25 years following the valuation date). The initial rate, in effect during the 25-year period, represents a decrease (from the initial rate in effect for December 2001) of 0.30 percent. The ultimate rate, in effect thereafter, represents a decrease (from the ultimate rate in effect for December 2001) of 2.00 percent.

The interest assumptions that the PBGC will use for its own lump-sum payments (set forth in Appendix B to part 4022) will be 4.50 percent for the period during which a benefit is in pay status, and 4.00 percent during any years preceding the benefit's placement in pay status. These interest assumptions are unchanged from those in effect for December 2001.

For private-sector payments, the interest assumptions (set forth in Appendix C to part 4022) will be the same as those used by the PBGC for determining and paying lump sums (set forth in Appendix B to part 4022).

The PBGC has determined that notice and public comment on this amendment are impracticable and contrary to the public interest. This finding is based on the need to determine and issue new interest assumptions promptly so that the assumptions can reflect, as accurately as possible, current market conditions.

Because of the need to provide immediate guidance for the valuation and payment of benefits in plans with valuation dates during January 2002, the PBGC finds that good cause exists for making the assumptions set forth in this amendment effective less than 30 days after publication.

The PBGC has determined that this action is not a ''significant regulatory action'' under the criteria set forth in Executive Order 12866.

Because no general notice of proposed rulemaking is required for this amendment, the Regulatory Flexibility Act of 1980 does not apply. See 5 U.S.C. 601(2).

**List of Subjects**

*29 CFR Part 4022*

Employee benefit plans, Pension insurance, Pensions, Reporting and recordkeeping requirements.

*29 CFR Part 4044*

Employee benefit plans, Pension insurance, Pensions.

In consideration of the foregoing, 29 CFR parts 4022 and 4044 are amended as follows:

## PART 4022—BENEFITS PAYABLE IN TERMINATED SINGLE-EMPLOYER PLANS

1. The authority citation for part 4022 continues to read as follows:

**Authority:** 29 U.S.C. 1302, 1322, 1322b, 1341(c)(3)(D), and 1344.

2. In appendix B to part 4022, Rate Set 99, as set forth below, is added to the table. (The introductory text of the table is omitted.)

**Appendix B to Part 4022—Lump Sum Interest Rates For PBGC Payments**

* * * * *

| Rate set | For plans with a valuation date | | Immediate annuity rate (percent) | Deferred annuities (percent) | | | | |
|---|---|---|---|---|---|---|---|---|
| | On or after | Before | | $i_1$ | $i_2$ | $i_3$ | $n_1$ | $n_2$ |
| * | * | | * | * | * | * | * | * |
| 99 | 1–1–02 | 2–1–02 | 4.50 | 4.00 | 4.00 | 4.00 | 7 | 8 |

3. In appendix C to part 4022, Rate Set 99, as set forth below, is added to the table. (The introductory text of the table is omitted.)

**Appendix C to Part 4022—Lump Sum Interest Rates For Private-Sector Payments**

* * * * *

| Rate set | For plans with a valuation date | | Immediate annuity rate (percent) | Deferred annuities (percent) | | | | |
|---|---|---|---|---|---|---|---|---|
| | On or after | Before | | $i_1$ | $i_2$ | $i_3$ | $n_1$ | $n_2$ |
| * | * | | * | * | * | * | * | * |
| 99 | 1–1–02 | 2–1–02 | 4.50 | 4.00 | 4.00 | 4.00 | 7 | 8 |

## PART 4044—ALLOCATION OF ASSETS IN SINGLE-EMPLOYER PLANS

4. The authority citation for part 4044 continues to read as follows:

**Authority:** 29 U.S.C. 1301(a), 1302(b)(3), 1341, 1344, 1362.

5. In appendix B to part 4044, a new entry, as set forth below, is added to the table. (The introductory text of the table is omitted.)

**Appendix B to Part 4044—Interest Rates Used to Value Benefits**

* * * * *

| For valuation dates occurring in the month— | The values of $i_t$ are: | | | | | |
|---|---|---|---|---|---|---|
| | $i_t$ | for t = | $i_t$ | for t = | $i_t$ | for t = |
| * * * | * | | * | | * | * |
| January 2002 | .0580 | 1–25 | .0425 | >25 | N/A | N/A |

Issued in Washington, DC, on this 11th day of December 2001.

**Steven A. Kandarian,**

*Executive Director, Pension Benefit Guaranty Corporation.*

[FR Doc. 01–30963 Filed 12–13–01; 8:45 am]

**BILLING CODE 7708–01–P**

## DEPARTMENT OF THE INTERIOR

## Office of Surface Mining Reclamation and Enforcement

## 30 CFR Part 918

**[SPATS No. LA–020–FOR]**

## Louisiana Regulatory Program

**AGENCY:** Office of Surface Mining Reclamation and Enforcement, Interior.

**ACTION:** Final rule; approval of amendment.

**SUMMARY:** The Office of Surface Mining Reclamation and Enforcement (OSM) is approving an amendment to the Louisiana regulatory program (Louisiana program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Louisiana proposed to add standards for measuring revegetation success on pastureland. Louisiana intends to revise the Louisiana program to be consistent with the corresponding Federal regulations and to improve operational efficiency.

**EFFECTIVE DATE:** December 14, 2001.

**FOR FURTHER INFORMATION CONTACT:** Michael C. Wolfrom, Director, Tulsa Field Office, Office of Surface Mining, 5100 East Skelly Drive, Suite 470, Tulsa, Oklahoma 74135–6548. Telephone: (918) 581–6430. Internet: mwolfrom@osmre.gov.

**SUPPLEMENTARY INFORMATION:**

I. Background on the Louisiana Program
II. Submission of the Amendment
III. Director's Findings
IV. Summary and Disposition of Comments
V. Director's Decision
VI. Procedural Determinations

### I. Background on the Louisiana Program

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its State program includes, among other things, ''* * * a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of this Act * * *; and rules and regulations consistent with regulations issued by the Secretary pursuant to this Act.'' See 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the Louisiana program on October 10, 1980. You can find background information on the Louisiana program, including the Secretary's findings and the disposition of comments in the October 10, 1980, **Federal Register** (45 FR 67340). You can find later actions concerning the Louisiana program at 30 CFR 918.15 and 918.16.

### II. Submission of the Amendment

By letter dated June 1, 2001 (Administrative Record No. LA–365.04), Louisiana sent us an amendment to its program under SMCRA and the Federal regulations at 30 CFR 732.17(b). Louisiana sent the amendment in response to our letters dated March 24, 1999, and August 16, 2000, that we sent to Louisiana under 30 CFR 732.17 (Administrative Record Nos. LA–365 and LA–365.01, respectively).

We announced receipt of the amendment in the June 27, 2001, **Federal Register** (66 FR 34137). In the same document, we opened the public comment period and provided an opportunity for a public hearing or meeting on the adequacy of the amendment. The public comment period closed on July 27, 2001. Because no one requested a public hearing or meeting, we did not hold one.

During our review of the amendment, we identified concerns relating to sampling procedures; data submission and analysis; data forms for ground cover and whole release area harvesting; example uses of sample adequacy formulas for ground cover and hay production measurements; statistical analysis on whole release area harvesting; and acceptable plant species for permanent ground cover. We notified Louisiana of these concerns by letter dated August 20, 2001 (Administrative Record No. LA–365.10).

By letter dated October 10, 2001 (Administrative Record No. LA–365.11), Louisiana sent revisions to its program amendment. Because the revisions merely clarified certain provisions of Louisiana's amendment, we did not reopen the public comment period.

### III. Director's Findings

Following, under SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17, are the Director's findings concerning the amendment to the Louisiana program.

Louisiana submitted revegetation success guidelines that describe the standards and procedures for determining revegetation success on pastureland. The Federal regulations at 30 CFR 816.116(a)(1) require that each regulatory authority select revegetation success standards and statistically valid sampling techniques for measuring revegetation success and include them in its approved regulatory program. Louisiana developed its revegetation success guidelines for pastureland to satisfy this requirement. The guidelines for pastureland include revegetation success standards and statistically valid sampling techniques for measuring revegetation success of reclaimed pastureland in accordance with Louisiana's counterpart to 30 CFR 816.116. Louisiana's standards, criteria, and parameters for revegetation success on pastureland reflect the extent of cover, species composition, and soil stabilization required in the Federal regulations at 30 CFR 816.111. As required by the Federal regulations at 30 CFR 816.116(a)(2) and (b), Louisiana's revegetation success standards include criteria representative of unmined lands in the area being reclaimed to evaluate the appropriate vegetation parameters of ground cover and production suitable to the approved postmining land use of pastureland. Louisiana's guidelines specify the procedures and techniques to be used for sampling, measuring, and analyzing vegetation parameters. Ground cover and production suitable to the approved postmining land use of pastureland is considered equal to the approved success standard when they are not less than 90 percent of the success standard. Sampling techniques for measuring success use a 90-percent statistical confidence interval. We find

that use of these procedures and techniques will ensure consistent, objective collection of vegetation data.

For the above reasons, we find that the revegetation success standards and statistically valid sampling techniques for measuring revegetation success contained in Louisiana's revegetation success guidelines for pastureland satisfy the requirements of 30 CFR 816.116(a)(1).

## IV. Summary and Disposition of Comments

*Federal Agency Comments*

On June 12, 2001, under section 503(b) of SMCRA and 30 CFR 732.17(h)(11)(i) of the Federal regulations, we requested comments on the amendment from various Federal agencies with an actual or potential interest in the Louisiana program (Administrative Record No. LA–365.05). The Natural Resources Conservation Service (NRCS) responded on July 10, 2001 (Administrative Record No. LA–365.08) with extensive comments on the technical adequacy of the amendment. These comments are discussed below.

A. The NRCS recommends that Louisiana delete the word ''density'' from its introductory language at A.2. concerning ''ground cover'' because Louisiana does not use the term ''ground cover density'' in the remainder of its revegetation guidelines for pastureland.

We disagree with the NRCS's comment. The Federal regulation at 30 CFR 701.5 defines ground cover as ''the area of ground covered by the combined aerial parts of the vegetation and the litter that is produced naturally onsite, expressed as a percentage of the total area of measurement.'' Louisiana definition of ground cover at § 105 is substantively identical to the Federal definition. The addition of the word ''density'' to the phrase ''ground cover'' does not in any way change the regulatory definition of ground cover. Furthermore, because this is an introductory paragraph rather than a detailed requirement for revegetation standards and methods, we believe the use of the word ''density'' is of no consequence.

B. The NRCS states that Louisiana should change the scientific name for Kudzu found at B.2.f. As proposed, Louisiana uses the name *Pueraria lobata*. The NRCS recommends that Louisiana change it to *Pueraria montana* var. *lobata*.

We recognize that the NRCS promotes the use of the scientific name of the species of plants listed in the NRCS plants database. However, *Pueraria lobata* is the accepted scientific name for Kudzu listed in ''Common Weeds of the United States'' by the USDA in 1971, and in the current 1995 volume of the Southern Weed Science Society. Furthermore, Louisiana gives both the scientific and common names. Thus, we find Louisiana's use of the scientific name *Pueraria lobata* acceptable.

C. The NRCS states that, at C.1.c. concerning success standards and measurement frequency, it is unclear whether adequate sample size still needs to be documented when the initial mean is greater than or equal to the standard. The NRCS maintains that even though initial sampling results in a mean that is greater than the standard, documentation that the mean is from an adequate sample should still be required.

Section D.3.a. of Louisiana's guidelines gives the detailed requirements for determining sample adequacy for ground cover data. Specifically, it requires a minimum number of samples in a multi-stage sampling procedure where sample adequacy is calculated after the minimum samples are collected. This requirement is further clarified in Appendix F: Example Use of Sample Adequacy Formula for Ground Cover Measurements, where it is clearly stated that the sample adequacy requirements must be fulfilled before a comparison to the standard can be made. Thus, we find that Louisiana's guidelines are clear that an adequate sample size needs to be documented prior to comparing the sample mean with the standard.

D. The NRCS expressed concern about the provision at C.2.a., which provides that the success standard for production of hay on pastureland shall be 90 percent of an approved reference area if a reference area is established, or 90 percent of the estimated yield found in the NRCS parish soil survey at Appendix K. The NRCS states that most of the species listed in Appendix L, which contains a list of acceptable plant species for ground cover, do not have production estimates in the soil survey found in Appendix K, and existing reference areas that have these species are rare. The NRCS also states that species such as buffalograss and the gama grasses listed do not have the production potential of a bermudagrass stand under a high level of management.

Louisiana's guidelines specify that forage production will use the standards of yields found in the NRCS parish soil survey in Appendix K. Because the only species listed in the survey are common bermudagrass, improved bermudagrass, bahiagrass, coastal bermudagrass, pensacola bahiagrass, and tall fescue, the reclaimed pasture will need to be seeded to one of these species in order to have a valid comparison to the standard. Once the production standard is selected, the presence of other planted or volunteer species in the pasture will in no way change the production standard for comparison. If it is determined that the operator could not meet the production standard due to an overabundance of acceptable volunteer species that were not as productive as the approved seed mix, then the operator would have to manage the stand to increase the cover of the approved species and decrease the cover of the acceptable species until the standard could be met.

Louisiana allows in its determination of ground cover that up to 15 percent of that cover can be volunteer species that are acceptable based on the list provided in Appendix L. Because this list is for the purposes of ground cover, no production rates for the species listed are required.

E. The NRCS expressed concern that the phrase, ''similar plant species and diversity,'' found at C.3.a.i. is too vague. The NRCS asks how the terms ''similar'' and ''diversity'' will be determined, and points out that there are several different methods to define these terms.

We disagree with this comment. The word ''similar'' is a commonly used term, and we do not believe further definition is required. Furthermore, Louisiana must use the entire list of factors at C.3.a. when determining the similarity of the reference area to the reclaimed area. This is a qualitative assessment based on the expertise and judgement of the Louisiana program consistent with factors cited in the scientific literature for the establishment of reference areas for this purpose.

The word ''diversity'' is defined at C.1.b. Louisiana's guidelines provide that ground cover must consist of the species mixture approved in the original permit or an approved acceptable species mixture as recommended by the NRCS for use in that area. Furthermore, no more than 15% of the stand can be approved species not listed in the permit. The Federal regulations at 30 CFR 816.111 require vegetative diversity as a performance standard for plant establishment. Louisiana has established a qualitative standard for diversity. This is consistent with the Federal regulations, which allows a qualitative standard for diversity.

F. The NRCS states that the use of the phrases, ''proposed mined release area,'' ''mined test area,'' ''reclaimed area,'' and ''pastureland area'' at C.3.a.ii., iv., v., and ix. is confusing. The NRCS suggests that if all these terms are meant

to denote pastureland in the reclaimed area, Louisiana should use the same term. If they are not meant to mean the same thing, the NRCS states that Louisiana should more clearly define them.

Louisiana proposes nine factors to be evaluated in order to determine if an unmined reference area is representative of a reclaimed area. Based on a simple reading of the terms in the context presented, it is clear that all the above phrases refer to the reclaimed area. We do not believe additional clarification is necessary.

G. The NRCS points out that D.2.a. describes three sampling methods in which a sample is defined as a single point, a single point frame, or a transect. Further, the provision at D.4.a. requires a minimum of 100 samples be taken. The NRCS expressed concern that the level of effort required for each of the methods is very different, and asks if this is what Louisiana intended. If not, the NRCS recommends that Louisiana clarify the provision at D.4.a.

We agree with this comment. In a letter dated August 20, 2001 (Administrative Record No. LA–365.10), we informed Louisiana that, while a minimum sample size of 100 may be appropriate for the pin sampling technique, a sample size of 100 seems excessive for the point frame and line intercept sampling techniques.

On October 10, 2001 (Administrative Record No. LA–365.11), Louisiana revised section D. by removing D.3. concerning representative test plots, redesignating D.4. as D.3., and revising the provision at redesignated D.3. to specify that the minimum sample size depends upon the results of the first stage of a multi-staged sampling procedure. We find that the revisions to section D. are appropriate, and resolve the NRCS's concerns.

H. The NRCS states that, at section D.4. concerning sample adequacy, it is unclear if sample adequacy will be determined for the reference area when using a reference area for comparison to the reclaimed site. The NRCS also states that the sample adequacy equations in this section do not account for Beta error.

Section C.3.a. concerning reference area requirements states that either statistically adequate subsampling or whole plot harvesting may be used to determine yields. Thus, sample adequacy must be determined for reference areas. Furthermore, the Federal regulations at 30 CFR 816.116(a)(2) require that the sampling techniques for measuring success will use a 90% statistical confidence interval (i.e. one-sided test with a 0.10 alpha error). Neither SMCRA not the Federal regulations require consideration of Beta error.

I. The NRCS recommends that, in Appendix A: Selection of Random Sampling Sites, Louisiana revise the last sentence of the second paragraph by replacing the word, ''axes'' with the phrase, ''grid intervals.''

We find that Louisiana's use of the term ''axes'' as a reference line to a coordinate system is acceptable.

J. The NRCS points out that the example found in Appendix F: Example Use of Sample Adequacy Formula for Ground Cover Measurements shows only ten transects sampled, when the minimum required by D.4.a. is 100. The NRCS states Louisiana should consider reducing the number of minimum samples for transects to between 15 and 30. The NRCS also expressed concern that the calculations shown in the example are incorrect.

We agree with this comment. As stated above in the response to comment G., we informed Louisiana in our August 20, 2001, letter, that the example calculations for determining sample adequacy for ground cover in the appendices need to reflect the appropriate required minimum sample size. We further informed Louisiana that in Appendix F, the mean value in the last calculation of sample adequacy needs to be changed from 72.48 to 74.8.

In its October 10, 2001, letter, Louisiana revised the provision at redesignated D.3. to specify that the minimum sample size depends upon the results of the first stage of a multi-staged sampling procedure. Louisiana further revised the mean value in the last calculation of sample adequacy. We find that the revisions to section D.3. and Appendix F are appropriate, and resolve the NRCS's concerns.

K. Finally, the NRCS recommends that Louisiana change the names of several species found in Appendix L.

We agree with this comment. In our August 20, 2001, letter, we recommended that Louisiana correct several of the scientific and common names found in Appendix L. In its October 10, 2001, letter, Louisiana made the revisions we recommended. We find that the revisions Louisiana made are appropriate, and resolve the NRCS's concerns.

*Environmental Protection Agency (EPA)*

Under 30 CFR 732.17(h)(11)(ii), we are required to obtain the written concurrence of the EPA for those provisions of the program amendment that relate to air or water quality standards issued under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*). However, none of the revisions that Louisiana proposed to make in this amendment pertain to air or water quality standards. Therefore, we did not ask the EPA for its concurrence.

Under 30 CFR 732.17(h)(11)(i), we requested comments on the amendment from the EPA (Administrative Record No. LA–365.05). The EPA did not respond to our request.

*State Historical Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (ACHP)*

Under 30 CFR 732.17(h)(4), we are required to request comments from the SHPO and ACHP on amendments that may have an effect on historic properties. On June 12, 2001, we requested comments on Louisiana's amendment (Administrative Record No. LA–365.05), but neither responded to our request.

*Public Comments*

We asked for public comments on the amendment, but did not receive any.

## V. Director's Decision

Based on the above findings, we approve the amendment as sent to us by Louisiana on June 1, 2001, and as revised on October 10, 2001.

We approve the revegetation success standards for pastureland that Louisiana proposed with the provision that they be published in identical form to the revegetation success standards for pastureland sent to and reviewed by OSM and the public.

To implement this decision, we are amending the Federal regulations at 30 CFR Part 918, which codify decisions concerning the Louisiana program. We find that good cause exists under 5 U.S.C. 553(d)(3) to make this final rule effective immediately. Section 503(a) of SMCRA requires that the State's program demonstrate that the State has the capability of carrying out the provisions of the Act and meeting its purposes. Making this rule effective immediately will expedite that process.

## VI. Procedural Determinations

*Executive Order 12866—Regulatory Planning and Review*

This rule is exempted from review by the Office of Management and Budget under Executive Order 12866.

*Executive Order 12630—Takings*

This rule does not have takings implications. This determination is based on the analysis performed for the counterpart Federal regulations.

*Executive Order 13132—Federalism*

This rule does not have federalism implications. SMCRA delineates the roles of the Federal and State governments with regard to the regulation of surface coal mining and reclamation operations. One of the purposes of SMCRA is to ''establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations.'' Section 503(a)(1) of SMCRA requires that State laws regulating surface coal mining and reclamation operations be ''in accordance with'' the requirements of SMCRA, and section 503(a)(7) requires that State programs contain rules and regulations ''consistent with'' regulations issued by the Secretary under SMCRA.

*Executive Order 12988—Civil Justice Reform*

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments because each program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

*Executive Order 13211—Regulations That Significantly Affect the Supply, Distribution, or Use of Energy*

On May 18, 2001, the President issued Executive Order 13211 which requires agencies to prepare a Statement of Energy Effects for a rule that is (1) considered significant under Executive Order 12866, and (2) likely to have a significant adverse effect on the supply, distribution, or use of energy. Because this rule is exempt from review under Executive Order 12866, and because it is not expected to have a significant adverse effect on the supply, distribution, or use of energy, a Statement of Energy Effects is not required.

*National Environmental Policy Act*

Section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that a decision on a proposed State regulatory program provision does not constitute a major Federal action within the meaning of section 102(2)(C) of the National Environmental Policy Act (NEPA) (42 U.S.C. 4332(2)(C)). A determination has been made that such decisions are categorically excluded from the NEPA process (516 DM 8.4.A).

*Paperwork Reduction Act*

This rule does not contain information collection requirements that require approval by the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

*Regulatory Flexibility Act*

The Department of the Interior has determined 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.*). The State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

*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.

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

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

This determination is based upon the fact that the State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation was not considered a major rule.

*Unfunded Mandates*

This rule will not impose a cost of $100 million or more in any given year on any governmental entity or the private sector.

**List of Subjects in 30 CFR Part 918**

Intergovernmental relations, Surface mining, Underground mining.

November 14, 2001.

**Ervin J. Barchenger,**

*Acting Regional Director, Mid-Continent Regional Coordinating Center.*

For the reasons set out in the preamble, 30 CFR Part 918 is amended as set forth below:

## PART 918—LOUISIANA

1. The authority citation for Part 918 continues to read as follows:

**Authority:** 30 U.S.C. 1201 *et seq.*

2. Section 918.15 is amended in the table by adding a new entry in chronological order by ''Date of final publication'' to read as follows:

**§ 918.15 Approval of Louisiana regulatory program amendments.**

* * * * *

| Original amendment submission date | Date of final publication | Citation/description |
|---|---|---|
| * | * | * * * * * |
| June 1, 2001 | 12/14/01 | Revegetation Success Standards for Pastureland |

[FR Doc. 01–30895 Filed 12–13–01; 8:45 am]
BILLING CODE 4310–05–P

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 52

**[WI109–01–7339a, FRL–7115–7]**

## Approval and Promulgation of Air Quality Implementation Plans; Wisconsin; Automobile Refinishing Operations

**AGENCY:** Environmental Protection Agency.

**ACTION:** Direct final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving a February 1, 2001, request from Wisconsin to revise its State Implementation Plan (SIP) for ozone. This rule revises Wisconsin's regulations to control volatile organic compound emissions from automobile refinishing operations. In addition, on July 31, 2001, Wisconsin submitted a SIP revision that, among other things, renumbers a portion of the regulations submitted on February 1, 2001. EPA acted on the majority of the July 31, 2001 submittal in our approval of the state's one-hour ozone attainment demonstration. We are addressing the renumbering portion of that submittal with this action.

**DATES:** This rule is effective on February 12, 2002, unless EPA receives adverse written comments by January 14, 2002. If EPA receives adverse comments, EPA will publish a timely withdrawal of the rule in the **Federal Register** and inform the public that the rule will not take effect.

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

Please contact Kathleen D'Agostino at (312) 886–1767 before visiting the Region 5 office.

**FOR FURTHER INFORMATION CONTACT:** Kathleen D'Agostino, Environmental Engineer, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–1767.

**SUPPLEMENTARY INFORMATION:**

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I. What action is EPA taking?
II. Why did Wisconsin adopt regulations for automobile refinishing operations?
III. Why is EPA taking this action?
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### I. What Action Is EPA Taking?

EPA is approving revisions to Wisconsin's regulations to control volatile organic compound (VOC) emissions from automobile refinishing operations.

### II. Why Did Wisconsin Adopt Regulations for Automobile Refinishing Operations?

Section 182(b)(1)(A) of the Clean Air Act (the Act) required states with ozone nonattainment areas classified as moderate or above to submit plans to reduce VOC emissions by at least 15 percent from 1990 baseline levels. As part of Wisconsin's 15 percent plan, the state chose to adopt rules to reduce VOC emissions from automobile refinishing operations. EPA approved Wisconsin's rules in a February 12, 1996 **Federal Register** document (61 FR 5306). Subsequently, EPA promulgated National Volatile Organic Compound Emission Standards for Automobile Refinish Coatings (40 CFR part 59, subpart B) in a September 11, 1998 **Federal Register** document (63 FR 48806).

Wisconsin's February 1, 2001 submittal revises the state's automobile refinishing regulations to ensure consistency with the Federal rules. In addition, Wisconsin's revisions exempt automobile refinishing sources from permitting requirements, if they emit less than 1,666 pounds of VOC per month, prior to entering any control equipment (slightly less than 10 tons per year). This is lower than the threshold of 40 tons per year for VOCs set by Federal permitting requirements.[1] Wisconsin has also repealed the emission limitation for cleanup solvents for non-plastic substrates. The low VOC solvent required to comply with Wisconsin's original rule did not allow a source to clean or prepare the surface adequately to accept a primer coating. As a result, vehicles needed to be repainted to achieve an acceptable finish.

### III. Why Is EPA Taking This Action?

EPA is approving Wisconsin's rule revisions because they are consistent with the Act and consistent with EPA's national rule for automobile refinish coatings, as promulgated on September 11, 1998. EPA's rule does not contain an emission limit for cleanup solvent for non-plastic substrates, and repainting inadequately prepared surfaces is counterproductive. The emission level used to exempt automobile refinishing operations from permitting requirements is consistent with other VOC source category exemption levels, and nothing the state is proposing is less stringent than Federal permitting requirements. EPA is incorporating a section of the automobile refinishing regulations that became effective on September 1, 2001, because portions of that rule had to be renumbered.

### IV. Is This Action Final, or May I Still Submit Comments?

EPA is publishing this action without prior proposal, because EPA views this as a noncontroversial revision and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, EPA is proposing to approve the SIP revision should adverse written comments be filed. This action will be effective without further notice unless EPA receives relevant adverse written comments by January 14, 2002. Should the Agency receive such comment, we will publish a final rule informing the public that this action will not take effect. Any parties interested in commenting on this action should do so at this time. If we do not receive comments, this action will be effective on February 12, 2002.

### V. What Administrative Requirements Did EPA Consider?

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. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). 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

[1] Alternately, if a VOC is listed as a hazardous air pollutant (HAP) under section 112 of the Act, Federal permitting requirements set a threshold of 25 tons per year for any combination of two or more of these listed HAPs and 10 tons per year of a single listed HAP.

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 an unfunded mandate nor does it 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 tribal implications, because it will 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). This action also does not have Federalism implications, because it does not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action 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 Act. Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), applies to any rule that is both economically significant, as defined under Executive Order 12866, and concerns an environmental health or safety risk that EPA has reson to believe may have a disproportionate effect on children. This rule is not subject to Executive Order 13045 because it is not economically significant.

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTA), 15 U.S.C. 272 note, requires Federal agencies to use technical standards that are developed or adopted by voluntary consensus to carry out policy objectives, so long as such standards are not inconsistent with applicable law or otherwise impracticable. In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Act. Absent a prior existing requirement for the state to use voluntary consensus standards, EPA has no authority to disapprove a SIP submission for failure to use such standards, and it would thus be inconsistent with applicable law for EPA to use voluntary consensus standards in place of a SIP submission that otherwise satisfies the provisions of the Act. Therefore, the requirements of section 12(d) of the NTTA do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

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

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 12, 2002. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Hydrocarbons, Ozone, Volatile organic compounds.

**Authority:** 42 U.S.C.7401–7671q.

Dated: November 28, 2001.

**Bertram C. Frey,**

*Acting Regional Administrator, Region 5.*

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

## PART 52—[AMENDED]

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

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

## Subpart YY—Wisconsin

2. Section 52.2570 is amended by adding paragraph (c)(104) to read as follows:

**§ 52.2570 Identification of plan.**

* * * * *

(c) * * *

(104) A revision to the Wisconsin State Implementation Plan for ozone was submitted on February 1, 2001. It contained revisions to the state's regulations that control volatile organic compound emissions from automobile refinishing operations. A portion of these regulations were renumbered and submitted on July 21, 2001.

(i) Incorporation by reference. The following sections of the Wisconsin Administrative code are incorporated by reference.

(A) NR 406.04 as published in the (Wisconsin) Register January, 2001, No. 541, effective February 1, 2001.

(B) NR 407.03 as published in the (Wisconsin) Register January, 2001, No. 541, effective February 1, 2001.

(C) NR 419.02 as published in the (Wisconsin) Register January, 2001, No. 541, effective February 1, 2001.

(D) NR 422.095 as published in the (Wisconsin) Register August, 2001, No. 548, effective September 1, 2001.

(E) NR 484.10 as published in the (Wisconsin) Register January, 2001, No. 541, effective February 1, 2001.

[FR Doc. 01–30814 Filed 12–13–01; 8:45 am]

BILLING CODE 6560–50–P

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## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Parts 52 and 81

**[CO–001–0045; CO–001–0046; CO–001–0047; CO–001–0052; CO–001–0053; CO49–1–7187; CO–001–0061; CO–001–0062; CO–001–0064 FRL–7117–4]**

## Approval and Promulgation of Air Quality Implementation Plans; State of Colorado; Denver Carbon Monoxide Redesignation to Attainment, Designation of Areas for Air Quality Planning Purposes, and Approval of Related Revisions

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** On August 22, 2001, EPA published a notice of proposed rulemaking (NPR) to propose approval of the State of Colorado's request to redesignate the Denver-Boulder metropolitan (hereafter, Denver) ''serious'' carbon monoxide (CO) nonattainment area to attainment for the CO National Ambient Air Quality Standard (NAAQS). In that NPR, EPA proposed to approve the CO maintenance plan for the Denver area and the additional State Implementation

Plan elements involving revisions to Colorado's Regulation No. 11 ''Motor Vehicle Emissions Inspection Program'', Colorado's Regulation No. 13 ''Oxygenated Fuels Program'', and the Governor's May 7, 2001, submittal of a SIP revision (''United States Postal Service (USPS) revision'') that is intended to be a substitute for a Clean Fuel Fleet Program.

In this action, EPA is approving the Denver CO redesignation request, the maintenance plan, the revisions to Regulation No. 11 and Regulation No. 13, the USPS revision and the CO transportation conformity budgets.

**EFFECTIVE DATE:** January 14, 2002.

**ADDRESSES:** Richard R. Long, Director, Air and Radiation Program, Mailcode 8P–AR, United States Environmental Protection Agency, Region VIII, 999 18th Street, Suite 300, Denver, Colorado 80202–2466.

Copies of the documents relevant to this action are available for public inspection during normal business hours at the following offices:

United States Environmental Protection Agency, Region VIII, Air and Radiation Program, 999 18th Street, Suite 300, Denver, Colorado 80202–2466; and,

United States Environmental Protection Agency, Air and Radiation Docket and Information Center, 401 M Street, SW, Washington, DC 20460.

Copies of the State documents relevant to this action are available for public inspection at:Colorado Air Pollution Control Division, Colorado Department of Public Health and Environment, 4300 Cherry Creek Drive South, Denver, Colorado, 880246–1530.

**FOR FURTHER INFORMATION CONTACT:** For questions concerning the Denver CO redesignation, contact Tim Russ, Air and Radiation Program, Mailcode 8P–AR, United States Environmental Protection Agency, Region VIII, 999 18th Street, Suite 300, Denver, Colorado 80202–2466,Telephone number: (303) 312–6479.

For questions regarding the Regulation No. 11, Regulation No. 13, and the U.S. Postal Service revisions, contact Kerri Fiedler, Air and Radiation Program, Mailcode 8P–AR, United States Environmental Protection Agency, Region VIII, 999 18th Street, Suite 300, Denver, Colorado 80202–2466, Telephone number: (303) 312–6493.

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

## I. What Is the Purpose of This Action?

On August 22, 2001, we published a NPR that proposed approval of the Denver CO redesignation request, maintenance plan, and associated SIP elements. See 66 FR 44097. The NPR also opened a 30-day public comment period on this proposed Agency action. We did not receive any comments.

In this final action, we are approving the change in the legal designation of the Denver area from nonattainment to attainment for the CO NAAQS (hereafter referred to as ''CO NAAQS'' or ''CO standard''), we're approving the maintenance plan that is designed to keep the area in attainment for CO for the next 12 years, we're approving the changes to the State's Regulation No. 11 for the implementation of motor vehicle emissions inspections, we're approving the changes to the State's Regulation No. 13 for the implementation of the wintertime oxygenated fuels program, and we've approving of the USPS revision that requires the destruction, relocation, and replacement with cleaner vehicles of certain USPS vehicles, as a substitute for a Clean Fuel Fleet Program for the Denver metropolitan area. We are also approving the CO transportation conformity budgets.

We originally designated Denver as nonattainment for CO under the provisions of the 1977 CAA Amendments (see 43 FR 8962, March 3, 1978). On November 15, 1990, the Clean Air Act Amendments of 1990 were enacted (Pub. L. 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671q). Under section 107(d)(1)(C) of the Clean Air Act (CAA), we designated the Denver area as nonattainment for CO because the area had been designated as nonattainment before November 15, 1990. Under section 186 of the CAA, Denver was originally classified as a ''moderate'' CO nonattainment area with a design value greater than 12.7 parts per million (ppm), and was required to attain the CO NAAQS by December 31, 1995. See 56 FR 56694, November 6, 1991. The Denver area, however, violated the CO NAAQS in 1995. With our final rule of March 10, 1997 (62 FR 10690), we approved the State's 1994 State Implementation Plan (SIP) submittal and bumped-up the Denver area to a ''serious'' CO nonattainment classification. Further information regarding these classifications and the accompanying requirements are described in the ''General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990.'' See 57 FR 13498, April 16, 1992.

Under the CAA, we can change designations if acceptable data are available and if certain other requirements are met. See CAA section 107(d)(3)(D). Section 107(d)(3)(E) of the CAA provides that the Administrator may not promulgate a redesignation of a nonattainment area to attainment unless:

(i) the Administrator determines that the area has attained the national ambient air quality standard;

(ii) the Administrator has fully approved the applicable implementation plan for the area under CAA section 110(k);

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

(iv) the Administrator has fully approved a maintenance plan for the area as meeting the requirements of CAA section 175A; and,

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

Before we can approve the redesignation request, we must decide that all applicable SIP elements have been fully approved. Approval of the applicable SIP elements may occur simultaneously with final approval of the redesignation request. That's why we are also approving the revisions to Regulation No. 11, Regulation No. 13, and the USPS revision.

## II. What Is the State's Process To Submit These Materials to EPA?

Section 110(k) of the CAA addresses our actions on submissions of revisions to a SIP. The CAA requires States to observe certain procedural requirements in developing SIP revisions for submittal to us. Section 110(a)(2) of the CAA requires that each SIP revision be adopted after reasonable notice and public hearing. This must occur prior to the revision being submitted by a State to us.

The Colorado Air Quality Control Commission (AQCC) held a public hearing for the Denver CO redesignation request, the maintenance plan, the revisions to Regulation No. 11, and the revisions to Regulation No. 13 on January 10, 2000. The AQCC adopted the redesignation request, maintenance plan, and revisions to Regulation No. 11 and Regulation No. 13 directly after the hearing. These SIP revisions became State effective March 1, 2000, and were

submitted by the Governor to us on May 10, 2000.

We have evaluated the Governor's submittal and have determined that the State met the requirements for reasonable notice and public hearing under section 110(a)(2) of the CAA. As required by section 110(k)(1)(B) of the CAA, we reviewed these SIP materials for conformance with the completeness criteria in 40 CFR part 51, Appendix V and determined that the Governor's submittal was administratively and technically complete. Our completeness determination was sent on August 7, 2000, through a letter from Rebecca W. Hanmer, Acting Regional Administrator, to Governor Bill Owens.

For the USPS revision, the Colorado AQCC held a public hearing on March 16, 2000. The AQCC adopted the USPS revisions directly after the hearing. The USPS revision became State effective May 30, 2000, and was submitted by the Governor to us on May 7, 2001. On May 30, 2001, the Colorado Attorney General's Office submitted administrative corrections to the USPS revision to us.

We have evaluated the Governor's submittal of the USPS revision and have determined that the State met the requirements for reasonable notice and public hearing under section 110(a)(2) of the CAA. As required by section 110(k)(1)(B) of the CAA, we reviewed these SIP materials for conformance with the completeness criteria in 40 CFR part 51, Appendix V and determined that the Governor's submittal, with the subsequent administrative corrections provided by the State's Attorney General's office, was administratively and technically complete. Our completeness determination was sent on June 15, 2001, through a letter from Jack W. McGraw, Acting Regional Administrator, to Governor Bill Owens.

## III. EPA's Evaluation of the Denver Redesignation Request and Maintenance Plan

We have reviewed the Denver CO redesignation request and maintenance plan and believe that approval of the request is warranted. With our August 22, 2001, NPR (see 66 FR 44097), we solicited public comments on these materials and the additional SIP elements. We did not receive any public comments. We have determined that all required SIP elements, including the maintenance plan, have either been approved or will be fully approved with this final rule, that the area has attained the NAAQS for the CO standard, and that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from the implementation of the applicable implementation plan, applicable Federal air pollutant control regulations, and other permanent and enforceable reductions. Thus, with the Governor's submittals of May 10, 2000, and May 7, 2001, the five criteria in section 107(d)(3)(E) of the Clean Air Act (CAA) have been met and approval of the redesignation request is warranted.

Detailed descriptions of how the section 107(d)(3)(E) requirements have been met area provided in our August 22, 2001, NPR for this action (see 66 FR 44097) and, for the most part, will not be repeated here. Our discussion below takes into account our prior evaluation presented in our August 22, 2001, NPR and provides further emphasis regarding the maintenance plan and the additional SIP elements.

As stated above, section 107(d)(3)(E)(iv) of the CAA provides that for an area to be redesignated to attainment, the Administrator must have fully approved a maintenance plan for the area meeting the requirements of section 175A of the CAA.

Section 175A of the CAA sets forth the elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. The maintenance plan must demonstrate continued attainment of the applicable NAAQS for at least ten years after the Administrator approves a redesignation to attainment. Eight years after the promulgation of the redesignation, the State must submit a revised maintenance plan that demonstrates continued attainment for the subsequent ten-year period following the initial ten-year maintenance period. To address the possibility of future NAAQS violations, the maintenance plan must contain contingency measures, with a schedule for adoption and implementation, that are adequate to assure prompt correction of a violation.

In this **Federal Register** action, we are approving the State of Colorado's maintenance plan for the Denver CO nonattainment area because we have determined, as detailed below, that the State's maintenance plan submittal of May 10, 2000, meets the requirements of section 175A and is consistent with EPA interpretations of the CAA section 175A of the CAA and our September 4, 1992, policy memorandum.[1] Our analysis of the pertinent maintenance plan requirements, was fully described in our August 22, 2001, proposed rule (see 66 FR 44097) and is restated, in part, with particular reference to the Governor's May 10, 2000, submittal:

*(a) Emissions Inventories—Attainment Year and Projections*

Under our interpretations, areas seeking to redesignate to attainment for CO may demonstrate future maintenance of the CO NAAQS either by showing that future CO emissions will be equal to or less than the attainment year emissions or by providing a modeling demonstration. However, under the CAA, many areas (such as Denver) were required to submit a modeled attainment demonstration to show that reductions in emissions would be sufficient to attain the applicable NAAQS. For these areas, the maintenance demonstration is to be based on the same level of modeling (see the September 4, 1992, Calcagni Memorandum). For the Denver area, this involved the use of EPA's Urban Airshed Model (UAM) in conjunction with intersection Hotspot modeling using the CAL3QHC model (see 62 FR 10690, March 10, 1997).

The maintenance plan that the Governor submitted on May 10, 2000, included comprehensive inventories of CO emissions for the Denver area. These inventories include emissions from stationary point sources, area sources, non-road mobile sources, and on-road mobile sources. The State used the 2001 attainment year inventory, from the March 10, 1997, EPA-approved attainment SIP (see 62 FR 10690) and included an interim-year projection for 2006 along with the final maintenance year of 2013. Additional mobile source emission inventories were provided for the years 2002, 2003, 2004, and 2005. These particular mobile source inventories present CO emissions during the phase-in period of the revisions to Regulation No. 11 for the Remote Sensing Device (RSD) program, the phase-in of more stringent cutpoints for the motor vehicle enhanced Inspection and Maintenance, or I/M240, program, and the phase-down of the oxygenated gasoline program under the revisions to Regulation No. 13. More detailed descriptions of the 2001 attainment year inventory from the approved nonattainment SIP for Denver, the 2006 projected inventory, the 2013 projected inventory, and the 2002, 2003,

[1] EPA issued maintenance plan interpretations in the ''General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990'' (57 FR 13498, April 16, 1992), ''General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990; Supplemental'' (57 FR 18070, April 28, 1992), and the EPA guidance memorandum entitled ''Procedures for Processing Requests to Redesignate Areas to Attainment'' from John Calcagni, Director, Air Quality Management Division, Office of Air Quality and Planning Standards, to Regional Air Division Directors, dated September 4, 1992.

2004, and 2005 mobile source projected inventories are documented in the maintenance plan in Part II, Chapter 4, section B, and in the State's TSD. The State's submittal contains detailed emission inventory information that was prepared in accordance with EPA guidance. Summary emission figures from the 2001 attainment year and the interim projected years are provided in Table III.–1 below.

TABLE III–1.—SUMMARY OF CO EMISSIONS IN TONS PER DAY FOR DENVER

| | 2001 | 2002 | 2003 | 2004 | 2005 | 2006 | 2013 |
|---|---|---|---|---|---|---|---|
| Point Sources | 70.2 | ..... | ..... | ..... | ..... | 46.7 | 46.7 |
| Area Sources | 198.2 | ..... | ..... | ..... | ..... | 172.8 | 172.6 |
| Non-Road Mobile Sources | 59.9 | ..... | ..... | ..... | ..... | 61.2 | 64.9 |
| On-Road Mobile Sources | *875.2 | *851 | *850 | *827 | *850 | *844.7 | *867.2 |
| Total | *1203.3 | ..... | ..... | ..... | ..... | *1125.4 | *1151.4 |

*These figures represent CO emissions for the Denver CO modeling domain which is slightly larger than the Denver CO nonattainment area.

We note in Table III–1 there are significant reductions projected in years 2006 and 2013 for point sources and area sources. The majority of the area source projected reductions are from the State's estimates for less woodburning in future years. We believe this projection of less woodburning is reasonable. For point sources, the original Denver CO nonattainment plan modeled all point sources at their potential-to-emit (PTE) for 2001, and Table III–1 retains these values for 2001. For years 2006 and 2013, the State projected emissions for elevated point sources at PTE, but projected emissions from surface point sources based on actual emissions. This accounts for the reduction in emissions from point sources in 2006 and 2013. The State's approach follows EPA guidance on projected emissions and we believe it is acceptable.[2] Further information on these projected emissions may also be found in Section 2 ''Emission Inventories'' of the State's TSD.

*(b) Demonstration of Maintenance*

The September 4, 1992, Calcagni Memorandum states that where modeling was relied on to demonstrate maintenance, the plan is to contain a summary of the air quality concentrations expected to result from the application of the control strategies. Also, the plan is to identify and describe the dispersion model or other air quality model used to project ambient concentrations.

For the Denver CO redesignation maintenance demonstration, the State used the Urban Airshed dispersion Model (UAM) in conjunction with concentrations derived from the CAL3QHC intersection (or ''hotspot'') model. This was the same level of modeling as was used for the 1994 Denver CO SIP attainment demonstration, which was approved by EPA on March 10, 1997 (62 FR 10690), and addressed the requirements of section 187(a)(7) of the CAA. The UAM and CAL3QHC models were applied to the 2006 and 2013 inventories using meteorological data from December 5, 1988. This was the episode day used in the modeling in the EPA-approved 1994 Denver CO nonattainment SIP revision and was thought to represent the worst-case meteorological conditions. For the CAL3QHC intersection component, six intersections were selected for modeling based on the latest information from Denver Regional Council Of Governments (DRCOG) regarding the highest volume and most congested intersections in the Denver CO nonattainment area. This was done consistent with our modeling guidance.

After an analysis, the State concluded that the Continuous Air Monitoring Project (CAMP) ambient air quality monitor, located at the intersection of Broadway and Champa Street, was still the maximum concentration monitor for the Denver CO nonattainment area. This analysis is further detailed in Part II, Chapter 4, section C of the maintenance plan and in the State's TSD. We agree with the State's conclusion regarding the maximum concentration monitor. The results of the State's modeling for 2006 and 2013 are presented in Part II, Chapter 4, section C, of the maintenance plan, in the State's TSD, and are reproduced in Table III–2 below:

TABLE III–2.—DISPERSION MODELING AND INTERSECTION MODELING RESULTS (IN PARTS PER MILLION)

| Intersection | 2006 | | | 2013 | | |
|---|---|---|---|---|---|---|
| | UAM [1] | CAL3QHC [2] | Total | UAM | CAL3QHC | Total |
| Broadway & Champa [1] | 7.59 | 1.12 | 8.71 | 7.88 | 1.08 | 8.96 |
| Foothills & Arapahoe | 0.9 | 4.8 | 5.7 | 0.9 | 4.7 | 5.6 |
| 1st & University | 4.0 | 4.3 | 8.3 | 3.9 | 4.2 | 8.0 |
| Hampden & University | 1.9 | 3.6 | 5.5 | 1.9 | 4.3 | 6.2 |
| Parker & Illiff | 2.7 | 3.2 | 5.8 | 2.6 | 3.0 | 5.6 |
| Arapahoe & University | 1.3 | 3.6 | 5.0 | 1.3 | 3.9 | 5.3 |

**Footnotes for Table III–2:**

[1] UAM (Urban Airshed Model). This column represents the dispersion model's calculated background CO concentration at each location.

[2] CAL3QHC (Intersection Model). This column represents the intersection model's calculated CO component concentration.

[3] The use of two significant figures by the State for the Broadway and Champa intersection, where the CAMP monitor is located, reflects the fact that the modeling done for the maximum concentration location was more detailed.

[2] ''Use of Actual Emissions in Maintenance Demonstrations for Ozone and Carbon Monoxide (CO) Nonattainment Areas'', signed by D. Kent Berry, Acting Director, Air Quality Management Division, November 30, 1993.

The modeling results presented in the Denver CO maintenance plan, the State's TSD, and as repeated in Table III–2 above show that CO concentrations are not estimated to exceed the 9.0 ppm 8-hour average CO NAAQS during the maintenance period's time frame through 2013. Therefore, we believe the Denver area has satisfactorily demonstrated maintenance of the CO NAAQS.

*(c) Monitoring Network and Verification of Continued Attainment*

Continued attainment of the CO NAAQS in the Denver area depends, in part, on the State's efforts to track indicators throughout the maintenance period. This requirement is met in two sections of the Denver CO maintenance plan. In Part II, Chapter 4, sections E and F.2, the State commits to continue the operation of the CO monitors in the Denver area and to annually review this monitoring network and make changes as appropriate. Please see our August 22, 2001, NPR (66 FR 44097) for a more detailed description.

Based on the above, we are approving these commitments as satisfying the relevant requirements. We note that this final approval renders the State's commitments federally enforceable.

*(d) Contingency Plan*

Section 175A(d) of the CAA requires that a maintenance plan include contingency provisions. To meet this requirement, the State has identified appropriate contingency measures along with a schedule for the development and implementation of such measures. Please see our August 22, 2001, NPR (66 FR 44097) for a more detailed description.

We find that the contingency measures provided in the State's Denver CO maintenance plan are sufficient and meet the requirements of section 175A(d) of the CAA.

*(e) Subsequent Maintenance Plan Revisions*

In accordance with section 175A(b) of the CAA, Colorado has committed to submit a revised maintenance plan eight years after our approval of the redesignation.

## IV. EPA's Evaluation of the Transportation Conformity Requirements

One key provision of our conformity regulation requires a demonstration that emissions from the transportation plan and Transportation Improvement Program are consistent with the emissions budget(s) in the SIP (40 CFR 93.118 and 93.124). The emissions budget is defined as the level of mobile source emissions relied upon in the attainment or maintenance demonstration to maintain compliance with the NAAQS in the nonattainment or maintenance area. The rule's requirements and EPA's policy on emissions budgets are found in the preamble to the November 24, 1993, transportation conformity rule (58 FR 62193–96) and in the sections of the rule referenced above.

The maintenance plan defines the CO motor vehicle emissions budget in the Denver CO attainment/maintenance area as 800 tons per day for all years 2002 and beyond. This budget is equal to the maintenance year (2013) mobile source emissions inventory for CO for the attainment/maintenance area. We have scaled the modeling domain emissions projections for 2002 to the attainment/maintenance area values and believe the 800 tons per day value is essentially equivalent to the mobile source inventory for the attainment/maintenance area in 2002. In addition, our analysis indicates that the 800 tons per day budget is consistent with maintenance of the CO NAAQS throughout the maintenance period. Therefore, we are approving the 800 tons per day CO emissions budget for the Denver area.

Pursuant to section 93.118(e)(4) of EPA's transportation conformity rule, as amended, EPA must determine the adequacy of submitted mobile source emissions budgets. EPA reviewed the Denver CO budget for adequacy using the criteria in 40 CFR 93.118(e)(4), and determined that the budget was adequate for conformity purposes. EPA's adequacy determination was made in a letter to the Colorado APCD on July 12, 2000, and was announced in the **Federal Register** on August 3, 2000 (65 FR 47726). As a result of this adequacy finding, the 800 ton per day budget took effect for conformity determinations in the Denver metro area on August 18, 2000. However, we are not bound by that determination in acting on the maintenance plan.

## V. EPA's Evaluation of the Regulation No. 11 Revisions

Colorado's Regulation No. 11 is entitled ''Motor Vehicle Emissions Inspection Program'' (hereafter referred to as Regulation No. 11). As described in our August 22, 2001, NPR (see 66 FR 44097), the version of Regulation No. 11 that was adopted on January 10, 2000, became effective on March 1, 2000, and was submitted by the Governor in conjunction with the Denver CO redesignation request and maintenance plan supersedes and replaces the other revisions of Regulation No. 11.

We concur with the revisions enacted by the State to Regulation No. 11 and are approving them.

## VI. EPA's Evaluation of the Regulation No. 13 Revisions

Colorado's Regulation No. 13 is entitled ''Oxygenated Fuels Program'' (hereafter referred to as Regulation No. 13). As described in our August 22, 2001, NPR (see 66 FR 44097), the revisions to Regulation No. 13 were adopted on January 10, 2000, became effective on March 1, 2000, and were submitted by the Governor in conjunction with the Denver CO redesignation request and maintenance plan.

We concur with the revisions enacted by the State to Regulation No. 13 and are approving them.

## VII. EPA's Evaluation of the USPS Revision

As stated in our NPR of August 22, 2001 (see 66 FR 44097), section 246(a)(2)(B) of the CAA requires areas such as Denver to have a clean fuel vehicle program in the EPA-approved SIP.

We had previously advised the State that we would be unable to redesignate the Denver area to attainment for CO unless the Governor submitted a clean fuel vehicle program meeting the requirements of section 246(a)(2)(B) of the CAA or a substitute program pursuant to CAA section 182(c)(4).[3] The State chose to submit a substitute program.

On May 22, 2000, the State, EPA, and USPS entered into an agreement under EPA's Project eXcellence and Leadership program (Project XL) and Colorado's Environmental Leadership Program under which the USPS agreed to destroy or relocate several hundred pre-1984 high-emitting postal delivery vehicles and replace them with low-emitting vehicles (LEV[4]) and low-emitting flexible fuel vehicles.[5] As part of this agreement, the USPS agreed that the State could incorporate the major components of the agreement into a SIP revision that the State could use as a

[3] Section 182(c)(4)(B) of the CAA refers to ozone-producing emissions; however, EPA has interpreted this section to allow for substitute programs for CO as well.

[4] A LEV is any vehicle certified to the low emission vehicle standards specified in 40 CFR 86, subpart R.

[5] A flexible fuel vehicle or dual fuel vehicle is a vehicle which operates on the combination of gasoline and an alternative fuel (any fuel other than gasoline and diesel fuel, such as methanol, ethanol, and gaseous fuels (40 CFR 86.000–2)), such as E–85 (gasoline blended with 85% ethanol).

substitute for a clean fuel vehicle program.

The AQCC adopted the USPS revision on March 16, 2000, and the revision became State-effective on May 30, 2000. The Governor submitted the USPS SIP revision to us on May 7, 2001.

On May 30, 2001, the Colorado Attorney General's Office submitted administrative corrections to the USPS SIP revision[6].

We concur with and are approving the State's USPS SIP revision because we have determined that the State will achieve greater reductions in emissions of CO with the USPS revision than would have been achieved by the clean fuels vehicle program required by CAA section 246(a)(2)(B).

## VIII. Final Rulemaking Action

In this action, we are approving the Governor's May 10, 2000, request to redesignate the Denver carbon monoxide NAAQS nonattainment area to attainment, the Denver carbon monoxide NAAQS maintenance plan submitted May 10, 2000, the revisions to Regulation No. 11 and the revisions to Regulation No. 13 submitted May 10, 2000, and the Governor's May 7, 2001, USPS revision including the Attorney General's office administrative corrections of May 30, 2001. We are also approving the carbon monoxide transportation conformity budgets contained in the maintenance plan. This final action will become effective on January 14, 2002.

## Administrative Requirements

*(a) Executive Order 12866*

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

*(b) Executive Order 13045*

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

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

*(c) Executive Order 13084*

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly affects or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.''

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

*(d) Executive Order 13132*

Federalism (64 FR 43255, August 10, 1999) revokes and replaces Executive Orders 12612 (Federalism) and 12875 (Enhancing the Intergovernmental Partnership). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, because it merely approves state rules implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. In addition, redesignation of an area to attainment under sections 107(d)(3)(D) and (E) of the Clean Air Act does not impose any new requirements. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

*(e) Executive Order 13211 (Energy Effects)*

This rule is not subject to Executive Order 13211 ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 (May 22, 2001)) because it is not a significant regulatory action under Executive Order 12866.

*(f) Regulatory Flexibility*

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

This final approval will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and

[6] Following adoption of the USPS revision, the AQCC inadvertently neglected to put the revision in final form before sending it to the Governor's office for submittal to EPA. In correcting the USPS revision, State Staff merely removed headings that indicated the USPS revision was ''draft'', dated and titled the revision, and inserted the correct date for the USPS Project XL agreement.

subchapter I, part D of the Clean Air Act do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the SIP final approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.,* v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2). Redesignation of an area to attainment under sections 107(d)(3)(D) and (E) of the Clean Air Act does not impose any new requirements. Redesignation to attainment is an action that affects the legal designation of a geographical area and does not impose any regulatory requirements. Therefore, because the final approval of the redesignation does not create any new requirements, I certify that the final approval of the redesignation request will not have a significant economic impact on a substantial number of small entities.

*(g) Unfunded Mandates*

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

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

*(h) Submission to Congress and the Comptroller General*

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2). This rule will be effective January 14, 2002.

*(i) National Technology Transfer and Advancement Act*

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use ''voluntary consensus standards'' (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

The EPA believes that VCS are inapplicable to this action. Today's action does not require the public to perform activities conducive to the use of VCS.

*(j) 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 February 12, 2002. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2) of the Clean Air Act.)

**List of Subjects**

*40 CFR Part 52*

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

*40 CFR Part 81*

Air pollution control, National parks, Wilderness areas

Dated: December 3, 2001.

**Patricia D. Hull,**

*Acting Regional Administrator, Region VIII.*

Title 40, chapter I, parts 52 and 81 of the Code of Federal Regulations are amended as follows:

## PART 52—[AMENDED]

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

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

## Subpart G—Colorado

2. Section 52.320 is amended by adding paragraph (c)(96 ) to read as follows:

### § 52.320 Identification of plan.

* * * * *

(c) * * *

(96) On May 10, 2000, the Governor of Colorado submitted SIP revisions to Colorado's Regulation No. 11 ''Motor Vehicle Emissions Inspection Program'' that supersede and replace all earlier versions of the Regulation and made several changes to the motor vehicle inspection and maintenance requirements including the implementation of a remote sensing device (RSD) program for the Denver metropolitan area. On May 10, 2000, the Governor also submitted SIP revisions to Colorado's Regulation No. 13 ''Oxygenated Fuels Program'' that supersede and replace all earlier versions of the Regulation and modified the oxygenated fuel requirements for the Denver metropolitan area.

(i) Incorporation by reference.

(A) Regulation No. 11 ''Motor Vehicle Emissions Inspection Program'', 5 CCR 1001–13, as adopted on January 10, 2000, effective March 1, 2000, as follows: Part A, Part B, Part C, Part D, Part E, and Part F.

(B) Regulation No. 13 ''Oxygenated Fuels Program'', 5 CCR 1001–16, as adopted on January 10, 2000, effective March 1, 2000, as follows: Sections I.A., I.B., I.C., I.D., I..E., II..A, II.B., II.C., II.D., II.E., II..F., II.G., and II.H.

3. Section 52.349 is amended by adding paragraph (g) to read as follows:

### § 52.349 Control strategy: Carbon monoxide.

* * * * *

(g) Revisions to the Colorado State Implementation Plan, carbon monoxide NAAQS Redesignation Request and

Maintenance Plan for Denver entitled ''Carbon Monoxide Redesignation Request and Maintenance Plan for the Denver Metropolitan Area, ''excluding Chapter 1, Chapter 2, and Appendix C, as adopted by the Colorado Air Quality Control Commission on January 10, 2000, State effective March 1, 2000, and submitted by the Governor on May 10, 2000.

4. New § 52.351 is added to read as follows:

**§ 52.351 United States Postal Service substitute Clean Fuel Fleet Program.**

Revisions to the Colorado State Implementation Plan, carbon monoxide NAAQS, United States Postal Service substitute clean-fuel vehicle program, as allowed under section 182(c)(4)(B) of the Clean Air Act, to address the requirements of section 246 of the Clean Air Act for the Denver Metropolitan carbon monoxide nonattainment area. The revisions were adopted by the Colorado Air Quality Control Commission on March 16, 2000, State effective May 30, 2000, and submitted by the Governor on May 7, 2001. Administrative corrections to the Governor's May 7, 2001, submittal were submitted by the Colorado Attorney General's office on May 30, 2001.

## PART 81—[AMENDED]

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

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

2. In § 81.306, the table entitled ''Colorado-Carbon Monoxide'' is amended by revising the entry for ''Denver-Boulder Area'' to read as follows:

**§ 81.306 Colorado.**

* * * * *

COLORADO—CARBON MONOXIDE

| Designated area | Designation | | Classification | |
|---|---|---|---|---|
| | Date[1] | Type | Date[1] | Type |
| * * * | * | * | * | * |
| Denver-Boulder Area: | | | | |
| The boundaries for the Denver nonattainment area for carbon monixide (CO) are described as follows: Start at Colorado Highway 52 where it intersects the eastern boundary of Boulder County; Follow Highway 52 west until it intersects Colorado Highway 119; Follow northern boundary of Boulder city limits west to the 6,000-ft. elevation line; Follow the 6000-ft. elevation line south through Boulder and Jefferson Counties to US 6 in Jefferson County; Follow US 6 west to the Jefferson County-Clear Creek County line; Follow the Jefferson County western boundary south for approximately 16.25 miles; Follow a line east for approximately 3.75 mile to South Turkey Creek; Follow South Turkey Creek northeast for approximately 3.5 miles; Follow a line southeast for approximately 2.0 miles to the junction of South Deer Creek Road and South Deer Creek Canyon Road; Follow South Deer Creek Canyon Road northeast for approximately 3.75 miles; Follow a line southeast for approximately five miles to the northern-most boundary of Pike National Forest where it intersects the Jefferson County-Douglas County line; follow the Pike National forest boundary southeast through Douglas County to the Douglas County-El Paso County line; Follow the southern boundary on Douglas County east to the Elbert County line; Follow the eastern boundary of Douglas County north to the Arapahoe County line; Follow the southern boundary of Araphoe County east to Kiowa Creek; Follow Kiowa Creek northeast through Arapahoe and Adams Counties to the Adams-Weld County line; Follow the northern boundary of Adams County west to the Boulder County line; Follow the eastern boundary of Boulder County north to Highway 52. | January 14, 2002 .. | Attainment | | |
| Adams County (part) | | | | |
| Arapahoe County (part) | | | | |
| Boulder County (part) | | | | |
| Denver County | | | | |
| Douglas County (part) | | | | |
| Jefferson County (part) | | | | |
| * * * | * | * | * | * |

[1] This date is November 15, 1990, unless otherwise noted.

* * * * *

[FR Doc. 01–30816 Filed 12–13–01; 8:45 am]
BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Parts 152 and 156

**[OPP–300890A; FRL–6752–1]**

**RIN 2070–AD14**

## Pesticide Labeling and Other Regulatory Revisions

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** EPA is revising certain labeling regulations for pesticide products for clarity. EPA is also interpreting the Federal Insecticide, Fungicide and Rodenticide Act as it applies to nitrogen stabilizers, and revising regulations that contain statutory provisions excluding certain types of products from regulation of pesticides. These topics were part of a larger proposal concerning antimicrobial products, and are being promulgated separately for convenience.

**EFFECTIVE DATE:** This rule is effective on February 12, 2002.

**FOR FURTHER INFORMATION CONTACT:** Jean M. Frane, Field and External Affairs Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Ave., NW., Washington DC 20460; telephone: (703) 305–5944; and e-mail address: frane.jean@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 importer, or pesticide manufacturer. Potentially affected categories and entities may include but are not limited to:

| Category | NAICS Code | Examples |
|---|---|---|
| Producers | 32531 | Nitrogen stabilizer products |
| | 32532 | Pesticide products |
| | 32561 | Antimicrobial products |
| Wholesalers | 42269 | Antimicrobial products |
| | 42291 | Pesticide products |

This table is not exhaustive, but is intended as a guide to entities likely to be regulated by this action. The North American Industrial Classification System codes have been provided to assist you in determining whether 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 or Copies of Support Documents?*

1. *Electronically*. You may obtain electronic copies of this document and various support documents are available from the EPA Home page at http://www.epa.gov/. 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.''

2. *In person*. The Agency has established an official record for this action under docket control number OPP–36195. The official records consists of the documents specifically referred to 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). The official record includes documents that are physically located in the docket, as well as documents that are referred to in those documents. The public version of the official record does not include any information claimed as CBI. The public version of this record, including printed versions of any electronic comments, 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.

### II. EPA Proposal

In the **Federal Register** of September 17, 1999 (64 FR 50672) (FRL–5770–6), EPA issued a proposed rule entitled ''Registration Requirements for Antimicrobial Pesticide Products and Other Pesticide Regulatory Changes.'' The proposal was primarily directed at implementing provisions of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) requiring EPA to issue regulations streamlining its management of the registration process for antimicrobial pesticides, and the main body of the proposal addressed antimicrobial procedures and policies.

At the same time, EPA chose to include additional proposals.

1. EPA proposed to codify a statutory provision excluding from regulation under FIFRA certain liquid chemical sterilants. The effect of the statutory exclusion was to eliminate double jurisdiction over liquid chemical sterilants by EPA and the Food and Drug Administration (FDA).

2. EPA proposed to exempt from FIFRA regulation under section 25(b) non-liquid chemical sterilants that met essentially the same criteria as those statutorily excluded. This proposal was intended to supplement the statutory exclusion to give FDA jurisdiction over all chemical sterilants for similar purposes.

3. EPA proposed to permit consolidated applications for amendment of several products at one time, under prescribed conditions.

4. EPA proposed to interpret a new provision of FIFRA defining certain nitrogen stabilizer products as pesticides, thus subjecting them to regulation under FIFRA.

5. EPA proposed to reformat, clarify, and make minor revisions to its labeling regulations that affect all pesticide products, including antimicrobial pesticides.

EPA is promulgating a final rule on the topics enumerated above separately from the main body of the antimicrobial proposal. EPA's decision is based partly on the fact that these proposals are general for all pesticides and are not limited to antimicrobial pesticides. Moreover, they were non-controversial and received little comment in proposal.

With few exceptions, noted in Unit III. of this Preamble, EPA is adopting the changes as proposed.

EPA is not at this time promulgating any of the core antimicrobial proposals, which were comprised of procedural regulations for registration, labeling requirements pertaining to the efficacy of public health products, and associated revisions to accommodate the new antimicrobial provisions.

### III. Comments

In this unit, EPA will discuss briefly the major comments received on the topics listed above and any resulting revisions. Of the 20 sets of comments received on the entire proposal, the vast majority were directed to the antimicrobial provisions. Most comments on the topics being promulgated today came from major trade associations and large producers of antimicrobial products. They were, by and large, editorial or clarifying. A

number of commenters also misconstrued EPA's proposals, or suggested revisions in areas that EPA did not propose to modify. Comments not discussed in the preamble are responded to in the docket.

*A. Chemical Sterilants*

EPA proposed to codify the statutory provisions excluding from regulation liquid chemical sterilants intended for use on critical or semi-critical medical devices, and further proposed to exempt under the authority of section 25(b) FIFRA non-liquid sterilants for the same uses. To accommodate the statutory exclusion for liquid chemical sterilants, and others scattered throughout the regulations, EPA proposed to create a new § 152.6 in which to locate all statutory exclusions from regulation. EPA also proposed to revise § § 152.8 and 152.25 by moving existing statutory exclusions into the new § 152.6. In addition, EPA would add the section 25(b) exemption for non-liquid chemical sterilants to existing § 152.20, which contains exemptions for pesticides adequately regulated by another Federal agency. No comments were received on any of these proposals, and they are adopted as proposed.

*B. Consolidation of Amendments*

EPA proposed to allow registrants of products who wish to make identical amendments to multiple registrations to do so with one application, provided that no data are needed to support the amendment. Although this situation occurs informally for some amendments, registrants had informed the Agency that it was not clear in the regulations that the practice was permitted. No comments were received on this proposal, and it is adopted as proposed.

EPA emphasizes that consolidated amendments under this provision must be identical, and must not require supporting data. The types of amendments EPA envisions being most appropriate are labeling changes, such as revision of precautionary statements to add a specific type of statement. Another area where a consolidated application may be useful would be to accomplish EPA-requested changes made by notice to registrants. Changes in composition are unlikely to be eligible for consolidated applications because composition changes will generally not apply to multiple products.

*C. Nitrogen Stabilizers*

FIFRA, as amended in 1996, generally subjected nitrogen stabilizers to FIFRA regulation by defining them as pesticides. EPA proposed an interpretation of the term ''nitrogen stabilizer'' that would codify the statutory definition and explain how the Agency would determine that a product was or was not a nitrogen stabilizer subject to FIFRA regulation. In proposed § 152.6, EPA structured the requirement as an exclusion from regulation, since the statutory definition of nitrogen stabilizer is a loosely framed set of exclusions.

In the final rule, EPA has incorporated all of the exclusion criteria that were clearly delineated in section 2(hh) of FIFRA, including specific chemicals that were excluded, and dates of commercial introduction of the nitrogen stabilizer. In the area of claims, where the statute was not explicit, EPA proposed a common sense interpretation of the types of claims that EPA would regard as nitrogen stabilization claims. EPA received two comments on its interpretation.

The first commenter noted that, while the regulatory text is clear, EPA's preamble appeared to imply that products that make ammonia volatilization claims might be considered nitrogen stabilizers even though they do not act upon soil bacteria. The commenter requested clarification in the final rule. EPA emphasizes that unless a product functions by acting upon soil bacteria, it would not be regarded as a nitrogen stabilizer product upon examination by EPA. This point is clear in § 152.6, so EPA has not revised the text.

However, with the complex interactions affecting nitrogen uptake and utilization, it is not always possible to discern the mechanism of action of a product, particularly if a product makes claims that could otherwise be construed as nitrogen stabilizer claims. In its proposal, EPA identified types of claims that it would deem to be nitrogen stabilizer claims. Claims alone would not definitively identify a product as a nitrogen stabilizer, but in the absence of confirmation that the product does not act upon soil bacteria, claims that appear to be nitrogen stabilization claims would be a trigger for EPA evaluation of the product's pesticide status. By considering the claims along with the composition and mode of action of a product, EPA ultimately would be able to determine whether a product bearing such claims was a nitrogen stabilizer.

Any product that makes what appear to be nitrogen stabilization claims as listed in § 152.6 will be presumed in the first instance to be a nitrogen stabilizer. The producers of such products bear the burden of demonstrating that the product accomplishes the claimed effect without having an effect on soil bacteria.

The second commenter noted that some vitamin-hormone horticultural products currently make claims that EPA might regard as nitrogen stabilization claims. The result, it was asserted, would be that products specifically excluded from FIFRA would be drawn in by virtue of the nitrogen-related claims. With respect to vitamin-hormone products, EPA believes such products do not contain ingredients that would achieve the effects of a nitrogen stabilizer, i.e, an effect upon soil bacteria leading to greater nitrogen availability to plants. EPA plant pathologists believe, based upon their experience, that vitamin-hormone products contain no more than their names suggest—vitamins and hormones, which are not known to function as nitrogen stabilizers via effects upon soil bacteria. EPA has not revised the rule as a result of this comment.

This same commenter raised a second concern, which EPA agrees has merit. Certain fungi known as *mycorrhizae* have a symbiotic relationship with plant roots in the soil and are believed to have an effect on macronutrient uptake into plants. Products containing *mycorrhizae* are sold to enhance such uptake, which might include nitrogen uptake. The effect is believed not to result from action on soil bacteria, although EPA has not evaluated such products. The significant difference between *mycorrhizae* and a nitrogen stabilizer as defined in § 152.6 is that a *mycorrhizae* is a living organism, while a nitrogen stabilizer is a chemical substance. EPA has in the final rule revised § 152.6(b)(1) to exclude living organisms, which should ensure that the presence of *mycorrhizae* does not itself make a product a nitrogen stabilizer within the meaning of the Act.

*D. Labeling Revisions*

EPA proposed a number of minor revisions to its pesticide labeling regulations in 40 CFR part 156. EPA views these revisions as ''housekeeping'' provisions, intended primarily to improve the structure of the regulations to make them more understandable to users, and to clarify some requirements currently in effect but not stated in the regulations. With one exception, EPA is adopting its proposal unchanged.

1. *First aid heading*. The single area that EPA is revising as a result of comments concerns first aid statements. EPA proposed to require that the heading ''First Aid'' be used for all

products, instead of the current ''Statement of Practical Treatment.'' Agricultural product registrants who commented were concerned that they might be compelled to revise their labels for what they viewed as an unnecessarily rigid requirement They noted that the current ''Statement of Practical Treatment'' heading has been in use since 1975, and that agricultural users are familiar with the heading. EPA's research under the Consumer Labeling Initiative, on which its proposal was based, was limited to consumer products such as household cleaners, insecticides, and garden products. EPA agrees that the results may not be representative of agricultural product users, and has revised § 156.68 to allow the use of either heading. EPA encourages the use of ''First Aid'' as the heading on consumer and residential/household products, because research conducted under the Agency's Consumer Labeling Initiative revealed that consumers understood the phrase ''First Aid'' better than ''Statement of Practical Treatment.''

2. *Proposals adopted without change.* Table 1 in this unit lists the EPA proposed revisions, which, after consideration of comments, the Agency is adopting without change.

TABLE1.—PROPOSALS ADOPTED WITHOUT CHANGE

| Proposed revision | Change |
|---|---|
| Reformatting and upgrading structure of part 156 | Human hazard and precautionary statements will be located in subpart D (§ § 156.60–156.79). Environmental hazard and precautionary statements will be located in subpart E(§ § 156.80–156.99). |
| Signal word | Products in Toxicity Category IV will no longer be required to bear a signal word. The Child Hazard Warning is still required on such products. |
| Signal word | A product may not bear a signal word reflecting higher or lower toxicity than demonstrated by testing of the product as distributed and sold |
| Child Hazard Warning (Keep Out of Reach of Children) | Variations on the standard statement may be approved or required by EPA |
| Use dilution statements | Products may bear additional information in the precautionary statements and in the first aid instructions concerning the product as diluted for use. These instructions augment, but do not replace, statements concerning the product as sold or distributed. |
| First Aid Statement | All products assigned to Toxicity Category I by any route of exposure would be required to bear a First Aid or Statement of Practical Treatment on the front panel of the label. (Products assigned to Toxicity Category II or III could bear the statement on any panel of the label.) |

3. *Additional comments received.* In proposing to upgrade the codified structure, EPA included the entire content of the new subparts for convenience, including many provisions for which no substantive change was proposed. Nonetheless, some commenters suggested changes in addition to those EPA proposed. EPA has not changed the rule based on those comments. Detailed responses to all comments are contained in the public docket for this rulemaking, OPP–36195, at the location given under **ADDRESSES**.

The thrust of several comments was that EPA regulations should be made consistent with the Agency's Label Review Manual (LRM). Commenters generally ascribed to the LRM more regulatory standing than it has.

Because of the variety of pesticide products, purposes and uses, it is impossible for EPA to describe in regulatory form the majority of the individual labeling decisions that are required under the licensing scheme of FIFRA. EPA's labeling regulations in part 156 are of necessity general, serving as a framework for individual decisions and allowing flexibility for both the Agency and applicants to tailor actual labeling to the extent practicable to a particular product and its uses. The labeling regulations clearly specify in many cases that the statements provided are examples— representative or typical of the types of statements that EPA may require.

The LRM is a non-regulatory guidance document to assist applicants and the Agency in developing and reviewing labeling submitted for approval. It reflects, but does not supersede or change the underlying regulations. Its purpose is to elaborate on how the labeling regulations in part 156 can be applied in individual product decisions. EPA does not revise its regulations to conform to the LRM; rather, the LRM reflects the regulations.

## IV. Correction

In its proposal, EPA intended to reorganize existing material concerning statutory exceptions, now scattered both in FIFRA and its regulations, into a single location, new § 152.6. To accomplish this, EPA proposed to move material from existing § § 152.8, 152.20, and 152.25 to the new section. However, EPA inadvertently proposed to remove material from § 152.8 without concurrently including it in new § 152.6. The text in question concerned the statutory exclusion as ''plant regulators'' of plant nutrients, trace elements, plant inoculants and soil amendments. In this final rule, EPA has corrected this omission. Former paragraphs 152.8(c)(1), (2) and (3) now appear in § 152.6(g).

## V. Summary of Sections Affected

Table 2 in this unit summarizes the sections in the Code of Federal Regulation that are affected by this final rule, and the nature of the change.

TABLE 2.—CFR PARTS AND SECTIONS AFFECTED BY THIS FINAL RULE.

| CFR part or section number | Title | Action |
|---|---|---|
| 152.6 | Substances excluded from regulation by FIFRA | New. Material incorporated from § § 152.8, 152.20 and 152.25; Chemical sterilants added; nitrogen stabilizers added. |
| 152.8 | Products that are not pesticides because they are not for use against pests | Material moved to § 152.6. |

TABLE 2.—CFR PARTS AND SECTIONS AFFECTED BY THIS FINAL RULE.—Continued

| CFR part or section number | Title | Action |
|---|---|---|
| 152.20 | Exemptions for pesticides regulated by another Federal agency | Material moved to § 152.6; chemical sterilants added |
| 152.25 | Exemptions for pesticides of a character not requiring FIFRA regulation | Material moved to § 152.6 |
| 152.44 | Application for amended registration | Clarification and reformatting |
| 156.10 | Labeling requirements | Material moved to new subparts D and E; conforming changes |
| Part 156, subpart D (§ § 156.60–156.78) | Human Hazard and Precautionary Statements | Reorganized material from § 156.10. New material added. |
| Part 156, subpart E (§ § 156.80–156 85) | Environmental Hazards and Precautionary Statements | Reorganized material from § 156.10. No change in substance. |

## VI. Implementation of this Rule

The revisions being promulgated today will be (or have been) implemented as described in this unit. Portions of the regulations being promulgated today have been in place for some time, and are included to provide context for the reorganized and reformatted elements and for the convenience of readers.

The exclusion for liquid chemical sterilants was effective on August 3, 1996, when FIFRA was amended by the Food Quality Protection Act (FQPA). Since August 3, 1996, FDA has been responsible for the regulation of liquid chemical sterilants described by § 152.6. Codifying the exclusion is merely for the convenience of sterilant producers, and is not required for the exclusion to be effective.

The companion exemption for non-liquid chemical sterilants is self-implementing. The exemption removes the dual jurisdiction which has existed for these products, and which is being relinquished by EPA. After the effective date of this rule, non-liquid chemical sterilants described in § 152.20 will be regulated solely by FDA.

The provisions pertaining to nitrogen stabilizers were effective on August 3, 1996, when nitrogen stabilizers were made subject to FIFRA regulation. Although EPA is unaware of any products currently being marketed that are subject to this rule, it will identify such products through its compliance and inspection initiatives in the marketplace, and will apply the interpretation in § 152.6 to determine whether the products are subject to FIFRA regulation.

The provision for consolidated amendment applications is self-implementing. Applications that meet the criteria for consolidated amendments in § 152.44 may be submitted at any time.

Labeling provisions will be implemented by the Agency on a case-by-case basis, as applications for registration, amended registration, or reregistration are submitted. No specific action by any registrant is required because of the issuance of this final rule. Registrants who wish to avail themselves of any of the provisions must submit an application for amended registration to the Agency, in accordance with normal application procedures.

## VII. Statutory Requirements

In accordance with section 25 of FIFRA, a draft of this final rule was provided to the Secretary of Agriculture and to appropriate Committees of Congress. Neither had comments on the final rule. The FIFRA Scientific Advisory Panel previously had waived its review of the proposed and final rules.

## VIII. Regulatory Assessment Requirements

### *A. Executive Order 12866*

Under Executive Order 12866, entitled Regulatory Planning and Review (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' subject to review by the Office of Management and Budget (OMB). There are no costs or burdens associated with this rule. In most cases, this final rule provides regulatory relief or flexibility for pesticide producers. In the case of nitrogen stabilizer products, where the statute and this final rule potentially subject products to FIFRA regulation, EPA is not aware of any affected entities, and consequently has not identified or evaluated any costs. The Economic Analysis for the proposed rule identified costs and burdens solely associated with the antimicrobial provisions, which are being promulgated separately.

### *B. Regulatory Flexibility Act*

Under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Agency hereby certifies that this action will not have a significant economic impact on a substantial number of small entities. Today's rule for the most part clarifies and reformats existing labeling requirements. The provisions addressing nitrogen stabilizers potentially affect small businesses, but EPA is not aware of any business entities that currently produce nitrogen stabilizer products subject to regulation under the provisions of the rule.

Information relating to this determination is provided upon request to the Chief Counsel for Advocacy of the Small Business Administration, and is included in the docket for this rulemaking. No comments were received on this determination in response to the proposal.

### *C. Paperwork Reduction Act*

This regulatory action does not contain any information collection requirements requiring approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

### *D. Unfunded Mandates Reform Act*

Under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4). This action does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any one year. The cost associated with this action are described in Unit VI.A. Therefore, this action is not subject to the requirements of sections 202 and 205 of the UMRA.

### *E. Environmental Justice*

Under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994), the Agency has considered environmental justice related issues with regard to the potential impacts of this action on the environmental and health conditions in low-income and

minority communities. This rule does not affect minority or low income populations.

*F. Children's Health Protection*

This action is not an economically significant action (i.e., it is not expected to have an annual adverse impact of $100 million or more) that would require additional OMB review under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997).

*G. Federalism*

Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.''

This final rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of governments specified in Executive Order 13132. Thus, Executive Order 13132 does not apply to this rule.

*H. Consultation and Coordination with Indian Tribal Governments*

This rule does not have tribal implications because it is not expected to have substantial direct effects on Indian Tribes. This does not significantly or uniquely affect the communities of Indian trial governments, nor does it involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of section 3(b) of Executive Order 13084, entitled *Consultation and Coordination with Indian Tribal Governments* (63 FR 276755, May 19, 1998), do not apply to this rule. Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000), which took effect on January 6, 2001, revokes Executive Order 13084 as of that date. EPA developed this rulemaking, however, during the period when Executive Order 13084 was in effect; thus, EPA addressed tribal considerations under Executive Order 13084. For the same reasons stated for Executive Order 13084, the requirements of Executive Order 10175 do not apply to this rule either.

*I. Energy Effects*

This rule is not subject to Executive Order 13211, entitled *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

## IX. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A), as added by the Small Business Regulatory Enforcement Fairness Act of 1996, the Agency has submitted 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 General Accounting Office prior to publication of this rule in today's **Federal Register**. This is not a major rule as defined by 5 U.S.C. 804(2).

## List of Subjects

*40 CFR Part 152*

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

*40 CFR Part 156*

Environmental protection, Labeling, Occupational safety and health, Pesticides and pests, Reporting and recordkeeping requirements

Dated: November 29, 2001.

**Christine T. Whitman,**

*Administrator.*

Therefore, 40 CFR chapter I, subchapter E is amended as follows:

## PART 152—[AMENDED]

1. In part 152:

a. The authority citation for part 152 continues to read as follows:

**Authority:** 7 U.S.C. 136–136y.

b. Section 152.6 is added, to read as follows:

### § 152.6 Substances excluded from regulation by FIFRA.

Products and substances listed in this section are excluded from FIFRA regulation if they meet the specified conditions or criteria.

(a) *Liquid chemical sterilants.* A liquid chemical sterilant product is not a pesticide under section 2(u) of FIFRA if it meets all of the following criteria. Excluded products are regulated by the Food and Drug Administration (FDA). Products excluded are those meeting all of the following criteria:

(1) *Composition.* The product must be in liquid form as sold or distributed. Pressurized gases or products in dry or semi-solid form are not excluded by this provision. Ethylene oxide products are not liquid products and are not excluded by this provision.

(2) *Claims.* The product must bear a sterilant claim, or a sterilant plus subordinate level disinfection claim. Products that bear antimicrobial claims solely at a level less than ''sterilant'' are not excluded and are jointly regulated by EPA and FDA. ''Sterilant'' is defined in § 156.441 of this chapter.

(3) *Use site.* (i) The product must be intended and labeled only for use on ''critical or semi-critical devices.'' A ''critical device'' is any device which is introduced directly into the human body, either into or in contact with the bloodstream or normally sterile areas of the body. A *semi-critical device* is any device which contacts intact mucous membranes but which does not ordinarily penetrate the blood barrier or otherwise enter normally sterile areas of the body.

(ii) Liquid chemical sterilants that bear claims solely for use on non-critical medical devices are jointly regulated by EPA and FDA.

(iii) Liquid chemical sterilants that bear claims solely for use on sites that are not medical devices, such as veterinary equipment, are not excluded and are regulated solely by EPA.

(b) *Nitrogen stabilizers.* A nitrogen stabilizer is excluded from regulation under FIFRA if it is a substance (or mixture of substances), meeting all of the following criteria:

(1) The substance prevents or hinders the process of nitrification, denitrification, ammonia volatilization, or urease production through action affecting soil bacteria and is distributed and sold solely for those purposes and no other pesticidal purposes. For purposes of this section, living organisms are not considered to be substances, and the actions of living organisms are not relevant to whether a substance is deemed to be a nitrogen stabilizer.

(2) The substance was in ''commercial agronomic use'' in the United States before January 1, 1992. EPA considers a substance to be in commercial agronomic use if it is available for sale or distribution to users for direct agronomic benefit, as opposed to limited research, experimental or demonstration use.

(3) The substance was not registered under FIFRA before January 1, 1992.

(4) Since January 1, 1992, the distributor or seller has made no claim that the product prevents or hinders the process of nitrification, denitrification, ammonia volatilization or urease production. EPA considers any of the following claims (or their equivalents) to be a claim that the product prevents or hinders nitrification, denitrification, ammonia volatilization or urease production:

(i) Improves crop utilization of applied nitrogen.

(ii) Reduces leaching of applied nitrogen or reduces groundwater nitrogen contamination.

(iii) Prevents nitrogen loss.

(iv) Prolongs availability of nitrogen.

(v) Increases nitrogen uptake, availability, usage, or efficiency.

(5) A product will be considered to have met the criterion of paragraph (b)(4) of this section that no nitrogen stabilization claim has been made if:

(i) The nitrogen stabilization claim, in whatever terms expressed, is made solely in compliance with a State requirement to include the claim in materials required to be submitted to a State legislative or regulatory authority, or in the labeling or other literature accompanying the product; and

(ii) The State requirement to include the claim was in effect both before the product bearing the claim was introduced into commercial agronomic use, and before the effective date of this rule.

(6) A product that meets all of the criteria of this paragraph with respect to one State is not thereby excluded from FIFRA regulation if distributed and sold in another State whose nitrogen stabilization statement requirement does not meet the requirements of paragraph (b)(5)(ii) of this section.

(c) *Human drugs*. Fungi, bacteria, viruses or other microorganisms in or on living man are not ''pests'' as defined in section 2(t) of FIFRA. Products intended and labeled for use against such organisms are human drugs subject to regulation by the FDA under the FFDCA.

(d) *Animal drugs*—(1) Fungi, viruses, bacteria or other microorganisms on or in living animals are not ''pests'' under section 2(t) of FIFRA. Products intended for use against such organisms are ''animal drugs'' regulated by the FDA under the FFDCA.

(2) A ''new animal drug'' as defined in section 201(w) of the FFDCA, or an animal drug that FDA has determined is not a ''new animal drug'' is not a pesticide under section 2(u) of FIFRA. Animal drugs are regulated by the FDA under the FFDCA.

(e) *Animal feeds*. An animal feed containing a new animal drug is not a pesticide under section 2(u) of FIFRA. An animal feed containing a new animal drug is subject to regulation by the FDA under the FFDCA.

(f) *Vitamin hormone products*. A product consisting of a mixture of plant hormones, plant nutrients, inoculants, or soil amendments is not a ''plant regulator'' under section 2(v) of FIFRA, provided it meets the following criteria:

(1) The product, in the undiluted package concentration at which it is distributed or sold, meets the criteria of § 156.62 of this chapter for Toxicity Category III or IV; and

(2) The product is not intended for use on food crop sites, and is labeled accordingly.

(g) *Products intended to aid the growth of desirable plants*. A product of any of the following types, intended only to aid the growth of desirable plants, is not a ''plant regulator'' under section 2(v) of FIFRA, and therefore is not a pesticide:

(1) A plant nutrient product, consisting of one or more macronutrients or micronutrient trace elements necessary to normal growth of plants and in a form readily usable by plants.

(2) A plant inoculant product consisting of microorganisms to be applied to the plant or soil for the purpose of enhancing the availability or uptake of plant nutrients through the root system.

(3) A soil amendment product containing a substance or substances intended for the purpose of improving soil characteristics favorable for plant growth.

**§ 152.8 [Amended]**

c. In § 152.8, by removing paragraphs (a), (b), (c) introductory text, (c)(2), (c)(3) and (c)(4), and redesignating paragraph (c)(1) as paragraph (a) and paragraph (d) as paragraph (b).

d. In § 152.20, by revising paragraph (b) to read as follows:

**§ 152.20 Exemptions for pesticides regulated by another Federal agency.**

* * * * *

(b) *Non-liquid chemical sterilants*. A non-liquid chemical sterilant, except ethylene oxide, that meets the criteria of § 152.6(a)(2) with respect to its claims and § 152.6(a)(3) with respect to its use sites is exempted from regulation under FIFRA.

**§ 152.25 [Amended]**

e. Section 152.25 is amended by removing paragraph (d) and redesignating paragraphs (e) through (g) as (d) through (f).

f. Section 152.44 is amended by removing paragraph (b)(3), redesignating paragraph (b)(4) as paragraph (b)(3), and adding new paragraph (c), to read as follows:

**§ 152.44 Application for amended registration.**

* * * * *

(c) A registrant may at any time submit identical minor labeling amendments affecting a number of products as a single application if no data are required for EPA to approve the amendment (for example, a change in the wording of a storage statement for designated residential use products). A consolidated application must clearly identify the labeling modification(s) to be made (which must be identical for all products included in the application), list the registration number of each product for which the modification is requested, and provide required supporting materials (for example, labeling) for each affected product.

## PART 156—[AMENDED]

2. In part 156:

a. The authority citation for part 156 continues to read as follows:

**Authority:** 7 U.S.C. 136–136y.

b. In § 156.10, by revising paragraph (a)(1)(vii) and removing paragraph (h), to read as follows:

**§ 156.10 Labeling requirements.**

(a) * * *

(1) * * *

(vii) Hazard and precautionary statements as prescribed in subpart D of this part for human and domestic animal hazards and subpart E of this part for environmental hazards.

* * * * *

c. By adding new subpart D, to read as follows:

**Subpart D—Human Hazard and Precautionary Statements**

Sec.

156.60 General.
156.62 Toxicity category.
156.64 Signal word.
156.66 Child hazard warning.
156.68 First aid statement.
156.70 Precautionary statements for human hazards.
156.78 Precautionary statements for physical or chemical hazards.

## Subpart D—Human Hazard and Precautionary Statements

### § 156.60 General.

Each product label is required to bear hazard and precautionary statements for humans and domestic animals (if applicable) as prescribed in this subpart. Hazard statements describe the type of hazard that may occur, while precautionary statements will either direct or inform the user of actions to take to avoid the hazard or mitigate its effects.

(a) *Location of statements*—(1) *Front panel statements.* The signal word, child hazard warning, and, in certain cases, the first aid statement are required to appear on the front panel of the label, and also in any supplemental labeling intended to accompany the product in distribution or sale.

(2) *Statements elsewhere on label.* Hazard and precautionary statements not required on the front panel may appear on other panels of the label, and may be required also in supplemental labeling. These include, but are not limited to, the human hazard and precautionary statements, domestic animal statements if applicable, a Note to Physician, and physical or chemical hazard statements.

(b) *Placement and prominence*—(1) *Front panel statements.* All required front panel warning statements shall be grouped together on the label, and shall appear with sufficient prominence relative to other front panel text and graphic material to make them unlikely to be overlooked under customary conditions of purchase and use. The table below shows the minimum type size requirements for the front panel warning statements for various front panel sizes.

TYPE SIZES FOR FRONT PANEL WARNING STATEMENTS

| Size of Label Front Panel (Square Inches) | Point Size | |
|---|---|---|
| | Signal Word (All Capital Letters) | Child Hazard Warning |
| 5 and under .... | 6 | 6 |
| Over 5 to 10 .... | 10 | 6 |
| Over 10 to 15 .. | 12 | 8 |
| Over 15 to 30 .. | 14 | 10 |
| Over 30 ..... | 18 | 12 |

(2) *Other required statements.* All other hazard and precautionary statements must be at least 6 point type.

### § 156.62 Toxicity Category.

This section establishes four Toxicity Categories for acute hazards of pesticide products, Category I being the highest toxicity category. Most human hazard, precautionary statements, and human personal protective equipment statements are based upon the Toxicity Category of the pesticide product as sold or distributed. In addition, toxicity categories may be used for regulatory purposes other than labeling, such as classification for restricted use and requirements for child-resistant packaging. In certain cases, statements based upon the Toxicity Category of the product as diluted for use are also permitted. A Toxicity Category is assigned for each of five types of acute exposure, as specified in the table in this paragraph.

ACUTE TOXICITY CATEGORIES FOR PESTICIDE PRODUCTS

| Hazard Indicators | I | II | III | IV |
|---|---|---|---|---|
| Oral $LD_{50}$ ..... | Up to and including 50 mg/kg | >50 thru 500 mg/kg | >500 thru 5,000 mg/kg | >5,000 mg/kg |
| Dermal $LD_{50}$ ..... | Up to and including 200 mg/kg | >200 thru 2000 mg/kg | >2000 thru 20,000 mg/kg | >20,000 mg/kg |
| Inhalation $LC_{50}$ ..... | Up to and including 0.2 mg/liter | >0.2 thru 2 mg/liter | >2 thru 20 mg/liter | >20 mg/liter |
| Eye irritation ..... | Corrosive; corneal opacity not reversible within 7 days | Corneal opacity reversible within 7 days; irritation persisting for 7 days | No corneal opacity; irritation reversible within 7 days | No irritation |
| Skin irritation ..... | Corrosive | Severe irritation at 72 hours | Moderate irritation at 72 hours | Mild or slight irritation at 72 hours |

### § 156.64 Signal word.

(a) *Requirement.* Except as provided in paragraph (a)(4), each pesticide product must bear on the front panel a signal word, reflecting the highest Toxicity Category (Category I is the highest toxicity category) to which the product is assigned by any of the five routes of exposure in § 156.62. The signal word must also appear together with the heading for the human precautionary statement section of the labeling (see § 156.70).

(1) *Toxicity Category I.* Any pesticide product meeting the criteria of Toxicity Category I for any route of exposure must bear on the front panel the signal word ''DANGER.'' In addition, if the product is assigned to Toxicity Category I on the basis of its oral, inhalation or dermal toxicity (as distinct from skin and eye irritation), the word ''Poison'' must appear in red on a background of distinctly contrasting color, and the skull and crossbones symbol must appear in immediate proximity to the word ''Poison.''

(2) *Toxicity Category II.* Any pesticide product meeting the criteria of Toxicity Category II as the highest category by any route of exposure must bear on the front panel the signal word ''WARNING.''

(3) *Toxicity Category III.* Any pesticide product meeting the criteria of Toxicity Category III as the highest category by any route of exposure must bear on the front panel the signal word ''CAUTION.''

(4) *Toxicity Category IV.* A pesticide product meeting the criteria of Toxicity Category IV by all routes of exposure is not required to bear a signal word. If a signal word is used, it must be ''CAUTION.''

(b) *Use of signal words.* In no case may a product:

(1) Bear a signal word reflecting a higher Toxicity Category than indicated by the route of exposure of highest toxicity, unless the Agency determines that such labeling is necessary to prevent unreasonable adverse effects on man or the environment;

(2) Bear a signal word reflecting a lesser Toxicity Category associated with a diluted product. Although precautionary statements for use dilutions may be included on label, the signal word must reflect the toxicity of the product as distributed or sold; or

(3) Bear different signal words on different parts of the label.

**§ 156.66 Child hazard warning.**

(a) Each pesticide product must bear on the front panel of the label the statement ''Keep Out of Reach of Children.'' That statement, or any alternative statement approved by EPA, must appear on a separate line in close proximity to the signal word, if required. The statement is required on Toxicity Category IV products that do not otherwise require a signal word.

(b) In its discretion, EPA may waive the requirement, or require or permit an alternative child hazard warning, if:

(1) The applicant can demonstrate that the likelihood of exposure of children to the pesticide during distribution, marketing, storage or use is remote (for example, an industrial use product); or

(2) The pesticide is approved for use on children (for example, an insect repellent).

(c) EPA may approve an alternative child hazard warning that more appropriately reflects the nature of the pesticide product to which children may be exposed (for example, an impregnated pet collar). In this case, EPA may also approve placement on other than the front panel.

**§ 156.68 First aid statement.**

(a) *Product as sold and distributed.* Each product must bear a first aid statement if the product has systemic effects in Category I, II, or III, or skin or eye irritation effects in Category I or II.

(b) *Product as diluted for use.* If the product labeling bears directions for dilution with water prior to use, the label may also include a statement describing how the first aid measures may be modified for the diluted product. Such a statement must reflect the Toxicity Category(ies) of the diluted product, based upon data for the route of exposure (or calculations if appropriate). If the labeling provides for a range of use dilutions, only that use dilution representing the highest concentration allowed by labeling may be used as the basis for a statement pertaining to the diluted product. The statement for a diluted product may not substitute for the statement for the concentrate, but augments the information provided for the concentrate.

(c) *Heading.* The heading of the statement may be ''First Aid'' or ''Statement of Practical Treatment.''

(d) *Location of first aid statement.* The first aid statement must appear on the front panel of the label of all products assigned to Toxicity Category I by any route of exposure. Upon review, the Agency may permit reasonable variations in the placement of the first aid statement if a reference such as ''See first aid statement on back panel'' appears on the front panel. The first aid statement for products assigned to Toxicity Categories II or III may appear on any panel of the label.

**§ 156.70 Precautionary statements for human hazards.**

(a) *Requirement.* Human hazard and precautionary statements as required must appear together on the label or labeling under the general heading ''Precautionary Statements'' and under appropriate subheadings similar to ''Humans and Domestic Animals,'' ''Environmental Hazards'' (see subpart E of this part) and ''Physical or Chemical Hazards.'' The phrase ''and Domestic Animals'' may be omitted from the heading if domestic animals will not be exposed to the product.

(b) *Content of statements.* When data or other information show that an acute hazard may exist to humans or domestic animals, the label must bear precautionary statements describing the particular hazard, the route(s) of exposure and the precautions to be taken to avoid accident, injury or toxic effect or to mitigate the effect. The precautionary paragraph must be immediately preceded by the appropriate signal word.

(c) *Typical precautionary statements.* The table below presents typical hazard and precautionary statements. Specific statements pertaining to the hazards of the product and its uses must be approved by the Agency. With Agency approval, statements may be augmented to reflect the hazards and precautions associated with the product as diluted for use. Refer to § 156.68(b) for requirements for use dilution statements.

TYPICAL HUMAN HAZARD AND PRECAUTIONARY STATEMENTS

| Toxicity Category | Systemic effects (oral, dermal, inhalation toxicity) | Irritation effects (skin and eye) | Sensitizer (There are no categories of sensitization.) |
|---|---|---|---|
| I | Fatal (poisonous) if swallowed [inhaled or absorbed through skin]. Do not breathe vapor [dust or spray mist]. Do not get in eyes, on skin, or on clothing. [Front panel first aid statement required.] | Corrosive, causes eye and skin damage [or skin irritation]. Do not get in eyes on skin, or on clothing. Wear goggles or face shield and rubber gloves when handling. Harmful or fatal if swallowed. [Front panel first aid statement required.] | If product is a sensitizer: Prolonged or frequently repeated skin contact may cause allergic reactions in some individuals. |
| II | May be fatal if swallowed, [inhaled or absorbed through the skin]. Do not breathe vapors [dust or spray mist]. Do not get in eyes, on skin, or on clothing. [Appropriate first aid statement required.] | Causes eye [and skin] irritation. Do not get in eyes, on skin, or on clothing. Harmful if swallowed. [Appropriate first aid statement required.] | |
| III | Harmful if swallowed [inhaled or absorbed through the skin]. Avoid breathing vapors [dust or spray mist]. Avoid contact with skin [eyes or clothing]. [Appropriate first aid statement required.] | Avoid contact with skin, eyes or clothing. | |
| IV | No precautionary statements required | No precautionary statements required. | |

**§ 156.78 Precautionary statements for physical or chemical hazards.**

(a) *Requirement.* Warning statements on the flammability or explosive characteristics of the pesticide product are required if a product meets the criteria in this section. Warning statements pertaining to other physical/chemical hazards (e.g., oxidizing potential, conductivity, chemical reactions leading to production of toxic substances) may be required on a case-by-case basis.

(b) *Pressurized products.* The table below sets out the required flammability label statements for pressurized products.

FLAMMABILITY STATEMENTS FOR PRESSURIZED PRODUCTS

| Flash point/flame extension of product | Required labeling statement |
|---|---|
| —Flash point at or below 20° F<br>OR<br>—Flashback at any valve opening | *Extremely flammable.* Contents under pressure. Keep away from fire, sparks, and heated surfaces. Do not puncture or incinerate container. Exposure to temperatures above 130° F may cause bursting. |
| —Flash point >20° F to 80° F<br>OR<br>—Flame extension more than 18 in. long at a distance of 6 in from the flame | *Flammable.* Contents under pressure. Keep away from heat, sparks and open flame. Do not puncture or incinerate container. Exposure to temperatures above 130° F may cause bursting. |
| All other pressurized products | *Contents under pressure.* Do not use or store near heat or open flame. Do not puncture or incinerate container. Exposure to temperatures above 130° F may cause bursting. |

(c) *Non-pressurized products.* The table below sets out the required flammability label statements for non-pressurized products.

FLAMMABILITY STATEMENTS FOR NON-PRESSURIZED PRODUCTS

| Flash point | Required labeling statement |
|---|---|
| At or below 20° F | *Extremely flammable.* Keep away from fire, sparks and heated surfaces. |
| Greater than 20° F to 80° F | *Flammable.* Keep away from heat and open flame. |
| Greater than 80° F to 150° F | *Combustible.* Do not use or store near heat or open flame. |

(d) *Total release fogger products.* (1) A *total release fogger* is defined as a pesticide product in a pressurized container designed to automatically release the total contents in one operation, for the purpose of creating a permeating fog within a confined space to deliver the pesticide throughout the space.

(2) If a pesticide product is a total release fogger containing a propellant with a flash point at or below 20° F, then the following special instructions must be added to the ''Physical and Chemical Hazards'' warning statement, in addition to any flammability statement required by paragraph (b) of this section:

This product contains a highly flammable ingredient. It may cause a fire or explosion if not used properly. Follow the Directions for Use on this label very carefully.

(3) A graphic symbol depicting fire, such as illustrated in this paragraph, or an equivalent symbol, must be displayed along with the required language adjoining the ''Physical and Chemical Hazards'' warning statement. The graphic symbol must be no smaller than twice the size of the first character of the human hazard signal word.

Highly Flammable Ingredient

Ingrediente Altamente Inflamable

d. By adding new subpart E, to read as follows:

**Subpart E—Environmental Hazard and Precautionary Statements**

Sec.
156.80 General.
156.85 Non-target organisms.

## Subpart E—Environmental Hazard and Precautionary Statements

**§ 156.80 General.**

(a) *Requirement.* Each product is required to bear hazard and precautionary statements for environmental hazards, including hazards to non-target organisms, as prescribed in this subpart. Hazard statements describe the type of hazard that may be present, while precautionary statements direct or inform the user of actions to take to avoid the hazard or mitigate its effects.

(b) *Location of statements.* Environmental hazard and precautionary statements may appear on any panel of the label and may be required also in supplemental labeling. The environmental hazard statements must appear together under the heading ''Environmental Hazards.'' Typically the statements are grouped as a sub-category within the ''Precautionary Statements'' section of the labeling.

(c) *Type size.* All environmental hazard and precautionary statements must be at least 6 point type.

**§ 156.85 Non-target organisms.**

(a) *Requirement.* Where a hazard exists to non-target organisms, EPA may require precautionary statements of the nature of the hazard and the appropriate precautions to avoid potential accident, injury, or damage.

(b) *Examples.* The statements in this paragraph illustrate the types of hazard statements that EPA may require and the circumstances under which they are typically required. These statements are not comprehensive; other statements may be required if more appropriate to the formulation or use.

(1) If a pesticide intended for outdoor use contains an active ingredient with a mammalian acute oral $LD_{50}$ of 100 mg/kg or less, the statement, ''This pesticide is toxic to wildlife'' is required.

(2) If a pesticide intended for outdoor use contains an active ingredient with a fish acute $LC_{50}$ of 1 ppm or less, the statement, ''This pesticide is toxic to fish'' is required.

(3) If a pesticide intended for outdoor use contains an active ingredient with an avian acute oral $LD_{50}$ of 100 mg/kg or less, or a subacute dietary $LC_{50}$ of 500 ppm or less, the statement, ''This pesticide is toxic to wildlife'' is required.

(4) If either accident history or field studies demonstrate that the use of the pesticide may result in fatality to birds, fish or mammals, the statement, ''This pesticide is extremely toxic to wildlife (fish)'' is required.

(5) If a product is intended for or involves foliar application to agricultural crops, forests or shade trees, or mosquito abatement treatments, and contains a pesticide toxic to pollinating insects, the label must bear appropriate label cautions.

(6) If a product is intended for outdoor use other than aquatic applications, the label must bear the caution, ''Keep out of lakes, ponds or streams. Do not contaminate water by cleaning of equipment or disposal of wastes.''

[FR Doc. 01–30820 Filed 12–13–01; 8:45 am]

BILLING CODE 6560–50–S

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 180

**[OPP–301194; FRL–6814–2]**

**RIN 2070–AB78**

## Extension of Tolerances for Emergency Exemptions; Multiple Chemicals

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** This regulation extends time-limited tolerances for the various pesticides listed in this document. These actions are in response to EPA's granting of emergency exemptions under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) authorizing use of these pesticides. Section 408(l)(6) of the Federal Food, Drug, and Cosmetic Act (FFDCA) requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA.

**DATES:** This regulation is effective December 14, 2001. Objections and requests for hearings, identified by docket control number OPP–301194, must be received by EPA on or before January 14, 2002.

**ADDRESSES:** Written objections and hearing requests may be submitted by mail, electronically, 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–301194 in the subject line on the first page of your response.

**FOR FURTHER INFORMATION CONTACT:** See the listing below for the name of a specific contact person. The following information applies to all contact persons: Emergency Response Team, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–9366.

| Pesticide/CFR cite | Contact person |
|---|---|
| Maneb, 180.110<br>Zinc phosphide, 180.284<br>Clopyralid, 180.431<br>Propiconazole, 180.434<br>Fenpropathrin, 180.466<br>Imazapic-ammonium, 180.490 | Libby Pemberton<br>pemberton.libby@epa.gov |
| Avermectin, 180.449<br>Difenoconazole, 180.475 | Dan Rosenblatt<br>rosenblatt.dan@epa.gov |
| Carboxin, 180.301<br>Propyzamide, 180.317<br>Metolachlor, 180.368<br>Metsulfuron-methyl, 180.428<br>Bifenthrin, 180.442<br>HOE 107892, 180.509<br>Fludioxonil, 180. 516 | Andrew Ertman<br>ertman.andrew@epa.gov |
| Fenbuconazole, 40 CFR 180.480 | Shaja R. Brothers<br>brothers.shaja @epa.gov |
| Cyprodinil, 180.532<br>Desmidipham, 180.353 | Stephen Schaible<br>schaible.stephen@epa.gov |
| Mancozeb, 180.176<br>Thiabendazole, 180.242<br>Emamectin benzoate, 180.505 | Meredith Laws<br>laws.meredith@epa.gov |
| Tebuconazole, 180.474 | Andrea Conrath<br>conrath.andrea@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<br>112<br>311<br>32532 | Crop production<br>Animal production<br>Food manufacturing<br>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 one of the persons 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_00 /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–301194. 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

EPA published final rules in the **Federal Register** for each chemical/commodity listed in this document. The initial issuance of these final rules announced that EPA, on its own initiative, under FFDCA section 408 , 21 U.S.C. 346a, as amended by the Food Quality Protection Act of 1996 (FQPA) (Public Law 104–170) was establishing time-limited tolerances.

EPA established the tolerances because FFDCA section 408(l)(6) requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under FIFRA section 18. Such tolerances can be established without providing notice or time for public comment.

EPA received requests to extend the use of these chemicals for this year's growing season. After having reviewed these submissions, EPA concurs that emergency conditions exist. EPA assessed the potential risks presented by residues for each chemical/commodity. In doing so, EPA considered the safety standard in FFDCA section 408(b)(2), and decided that the necessary tolerance under FFDCA section 408(l)(6) would be consistent with the safety standard and with FIFRA section 18.

The data and other relevant material have been evaluated and discussed in the final rule originally published to support these uses. Based on that data and information considered, the Agency reaffirms that extension of these time-limited tolerances will continue to meet the requirements of FFDCA section 408(l)(6). Therefore, the time-limited tolerances are extended until the date listed in this document. EPA will publish a document in the **Federal Register** to remove the revoked tolerances from the Code of Federal Regulations (CFR). Although these tolerances will expire and are revoked on the date listed, under FFDCA section 408(l)(5), residues of the pesticide not in excess of the amounts specified in the tolerance remaining in or on the commodity after that date will not be unlawful, provided the residue is present as a result of an application or use of a pesticide at a time and in a manner that was lawful under FIFRA, the tolerance was in place at the time of the application, and the residue does not exceed the level that was authorized by the tolerance. EPA will take action to revoke these tolerances earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe.

Tolerances for the use of the following pesticide chemicals on specific commodities are being extended:

*Avermectin*. EPA has authorized under FIFRA section 18 the use of avermectin on spinach for control of leafminers in California. This regulation extends a time-limited tolerance for combined residues of the insecticide avermectin, a mixture of avermectins containing greater than or equal to 80% avermectin B1a (5-0-demethyl avermectin A1) and less than or equal to 20% avermectin B1b (5-0-demethyl-25-de(1-methylpropyl)-25-(1-methylethyl) avermectin A1 and its delta 8,9-isomer in or on spinach at 0.05 parts per million (ppm) for an additional 1–year period. This tolerance will expire and is revoked on December 31, 2003. A time-limited tolerance was originally published in the **Federal Register** on August 19, 1997 (62 FR 44089) (FRL–5737–1).

*Avermectin*. EPA has authorized under FIFRA section 18 the use of avermectin on avocado for control of thrips in California. This regulation extends a time-limited tolerance for combined residues of the insecticide avermectin, a mixture of avermectins containing greater than or equal to 80% avermectin B1a (5-0-demethyl avermectin A1) and less than or equal to 20% avermectin B1b (5-0-demethyl-25-de(1-methylpropyl)-25-(1-methylethyl) avermectin A1 and its delta 8,9-isomer in or on avocado at 0.02 ppm for an additional 1–year period. This tolerance will expire and is revoked on December 31, 2003. A time-limited tolerance was originally published in the **Federal Register** on April 7, 1999 (64 FR 16843) (FRL–6070–6).

*Bifenthrin*. EPA has authorized under FIFRA section 18 the use of bifenthrin on peanuts for control of spider mites in Oklahoma. This regulation extends a time-limited tolerance for residues of the insecticide bifenthrin ((2-methyl [1,1'-biphenyl]-3-yl) methyl-3-(2-chloro-3,3,3-trifluoro-1-propenyl)-2-dimethylcyclopropanecarboxylate) in or on peanuts, nutmeats at 0.05 ppm for an additional 2–year period. This tolerance will expire and is revoked on December 31, 2003. A time-limited tolerance was originally published in the **Federal**

**Register** on January 25, 2000 (65 FR 3860) (FRL–6485–2).

*Carboxin*. EPA has authorized under FIFRA section 18 the use of carboxin on onion seed for control of onion smut in California. This regulation extends a time-limited tolerance for combined residues of the fungicide carboxin (5,6-dihydro-2-meth-yl-1,4-oxathiin-3-carboxanilide) and its metabolite 5,6-dihydro-3-carboxanilide-2-methyl-1,4-oxathiin-4-oxide (calculated as carboxin) in or on onions, dry bulb at 0.2 ppm for an additional 2–year period. This tolerance will expire and is revoked on December 31, 2003. A time-limited tolerance was originally published in the **Federal Register** on February 3, 1997 (62 FR 4911) (FRL–5584–5).

*Clopyralid*. EPA has authorized under FIFRA section 18 the use of clopyralid on flax for control of Canada thistle and perennial sowthistle in North Dakota. This regulation extends a time-limited tolerance for residues of the herbicide clopyralid (3,6-dichloro-2-pyridinecarboxylic acid) in or of flax see at 0.5 ppm for an additional 2–year period. This tolerance will expire and is revoked on December 31, 2003. A time-limited tolerance was originally published in the **Federal Register** on November 17, 1999 (64 FR 62588) (FRL–6388–5).

*Cyprodinil*. EPA has authorized under FIFRA section 18 the use of cyprodinil on caneberries for control of gray mold in Oregon and Washington. This regulation extends a time-limited tolerance for residues of the fungicide cyprodinil in or on caneberries at 10 ppm for an additional 2–year period. This tolerance will expire and is revoked on December 31, 2003. A time-limited tolerance was originally published in the **Federal Register** on June 30, 1999 (64 FR 35032) (FRL–6086–3).

*Desmedipham*. EPA has authorized under FIFRA section 18 the use of desmidipham on garden beets for control of various weed pests in New York. This regulation extends a time-limited tolerance for residues of the herbicide desmedipham in or on red beet roots at 0.2 ppm and red beet tops at 15 ppm for an additional 2–year period. These tolerances will expire and are revoked on December 31, 2003. Time-limited tolerances were originally published in the **Federal Register** on August 29, 1997 (62 FR 45741) (FRL–5738–5).

*Difenoconazole*. EPA has authorized under FIFRA section 18 the use of difenoconazole on corn seed for control of damping off and die-back diseases in corn in Idaho. This regulation extends time-limited tolerances for residues of the fungicide difenoconazole (1-((2-(2-chloro-4-(4-chlorophenoxy)phenyl)-4-methyl-1,3-dioxolan-2-yl)methyl)-1H-1,2,4-triazole) in or on corn, sweet (kernel + corn with husk removed); corn, sweet, forage; and corn, sweet, stover at 0.1 ppm for an additional 1–year period. These tolerances will expire and are revoked on December 31, 2003. Time-limited tolerances were originally published in the **Federal Register** on September 1, 1999 (64 FR 47680) (FRL–6094–3).

*Emamectin benzoate*. EPA has authorized under FIFRA section 18 the use of emamectin benzoate on cotton for control of beet armyworm and tobacco budworm in Arkansas, Louisiana, Mississippi, New Mexico, Oklahoma, and Texas. This regulation extends time-limited tolerances for residues of the insecticide emamectin benzoate: 4'-epi-methylamino-4'-deoxyavermectin B1 benzoate in or on cotton gin byproduct at 0.025 ppm; cotton hulls at 0.004 ppm; cotton meal at 0.002 ppm; cottonseed at 0.002 ppm; cottonseed oil at 0.006 ppm; meat, fat; meat byproduct of cattle, goats, hogs, and sheep at 0.002 ppm; and milk for an additional 1–year period. These tolerances will expire and are revoked on December 31, 2002. Time-limited tolerances were originally published in the **Federal Register** on January 12, 2000 (65 FR 1796) (FRL–6398–5).

*Fenbuconazole*. EPA has authorized under FIFRA section 18 the use of (alpha-[2-4-chlorophenyl)-ethyl]alpha-phenyl-3-(1H-1,2,4-triazole)-1-propanenitrile on grapefruit for control of greasy spot in Florida. This regulation extends time-limited tolerances for combined residues of the fungicide (alpha-[2-4-chlorophenyl)-ethyl]alpha-phenyl-3-(1H-1,2,4-triazole)-1-propanenitrile and its metabolites cis -5-(4-chlorophenyl)-dihydro-3-phenyl-3-(1H-1,2,4-triazole-1-ylmethyl)-2-3H-furanone and trans-5(4-chlorophenyl)dihydro-3-phenyl-3-(1H1,2,4-triazole-1-ylmethyl-2-3H-furanone in or on fat of cattle, goats, hogs, horses, and sheep at 0.01 ppm for an additional 2–year period. These tolerances will expire and are revoked on December 31, 2003. Time-limited tolerances were originally published in the **Federal Register** on July 26, 2000 (65 FR 45920) (FRL–6596–6).

*Fenpropathrin*. EPA has authorized under FIFRA section 18 the use of fenpropathrin on currants for control of currant borer (*Synanthedon tipuliformes*) in Washington. This regulation extends a time-limited tolerance for esidues of the insecticide fenpropathrin (alpha-cyano-3-phenoxy-benzyl 2,2,3,3-tetramethylcyclopropanecarboxylate) in or on currants at 15 ppm for an additional 2–year period. This tolerance will expire and is revoked on December 31, 2003. A time-limited tolerance was originally published in the **Federal Register** on July 14, 1997 (62 FR 37516) (FRL–5731–3).

*Fludioxonil*. EPA has authorized under FIFRA section 18 the use of fludioxonil on apricots, nectarines, peaches, and plums for control of brown rot, gray mold rot, and Rhizopus rot in Alabama, California, Georgia, New Jersey, Oregon, and South Carolina. This regulation extends time-limited tolerances for residues of the fungicide fludioxonil 4-(2,2-difluoro-1,3-benzodioxol-4-yl)-1H-pyrrole-3-carbonitrile in or on apricots, nectarines, peaches, and plums at 5.0 ppm for an additional 2–year period. These tolerances will expire and are revoked on December 31, 2003. Time-limited tolerances were originally published in the **Federal Register** on June 24, 1998 (63 FR 34304) (FRL–5797–5).

*HOE-107892 (mefenpyr-diethyl)*. EPA has authorized under FIFRA section 18 the use of HOE-107892 on wheat and barley for control of foxtail in Montana and North Dakota. This regulation extends time-limited tolerances for residues of the the inert ingredient, herbicide safener HOE-107892 and its metabolites HOE-113225, HOE-109453, and HOE-094270 in or on barley grain at 0.05 ppm, barley hay at 0.5 ppm, barley straw at 0.1 ppm, and the processed by-products of barley grain: pearled barley at 1.0 ppm, bran at 0.4 ppm, and flour at 0.1 ppm and wheat grain at 0.01 ppm and wheat straw at 0.05 ppm for an additional 2–year period. These tolerances will expire and are revoked on December 31, 2003. Time-limited tolerances were originally published in the **Federal Register** on August 8, 1997 (wheat) (62 FR 42678) (FRL–5731–7) and September 9, 1998 (barley) (63 FR 48116) (FRL–6024–7).

*Imazapic-ammonium*. EPA has authorized under FIFRA section 18 the use of imazapic-ammonium on pasture/rangeland and land in the conservation reserve program for control of leafy spurge in Colorado, Montana, Nebraska, North Dakota, and South Dakota. This regulation extends time-limited tolerances for combined residues of the herbicide imazapic-ammonium, (+)-2-[4,5-dihydro-4-methyl-4-(1-methylethyl)-5-oxo-1H-imidazol-2-yl]-5-methyl-3-pyridinecarboxylic acid, applied as its ammonium salt and its metabolite (+)-2-[4,5-dihydro-4-methyl-4-(1-methylethyl)-5-oxo-1H-imidazol-2-

yl]-5-hydromethyl-3-pyridinecarboxylic acid both free and conjugated in or on grass forage at 30 ppm; grass hay at 15 ppm; milk; fat, meat; meat byproducts (except kidney) of cattle, goats, hogs, horses, and sheep at 0.10 ppm; kidney of cattle, goats, hogs, horses, and sheep at 1 ppm for an additional 2–year period. These tolerances will expire and are revoked on December 31, 2003. Time-limited tolerances were originally published in the **Federal Register** on October 6, 1999 (64 FR 54218) (FRL–6382–3).

*Mancozeb*. EPA has authorized under FIFRA section 18 the use of mancozeb on ginseng for control of stem and leaf blight in Michigan and Wisconsin. This regulation extends a time-limited tolerance for combined residues of the fungicide mancozeb, calculated as zinc ethylenebisdithiocarbamate and its metabolite ETU in or on ginseng at 2.0 ppm for an additional 1–year period. This tolerance will expire and is revoked on December 31, 2002. A time-limited tolerance was originally published in the **Federal Register** on May 24, 2000 (65 FR 33469) (FRL–6556–9).

*Maneb*. EPA has authorized under FIFRA section 18 the use of maneb on walnuts for control of bacterial blight in California. This regulation extends a time-limited tolerance for combined residues of the fungicide maneb (manganous ethylenebisdithiocarbamate) calculated as zinc ethylenebisdithiocarbamate, and its metabolite ethylenethiourea in or on walnuts at 0.05 ppm for an additional 2–year period. This tolerance will expire and is revoked on December 31, 2003. A time-limited tolerance was originally published in the **Federal Register** on March 17, 1999 (64 FR 13097) (FRL–6067–9).

*Metolachlor*. EPA has authorized under FIFRA section 18 the use of metolachlor on spinach for control of weeds in Arizona, Colorado, Maryland, New Jersey, Oklahoma, Pennsylvania, Texas, Virginia, and Wisconsin. This regulation extends a time-limited tolerance for the combined residues (free and bound) of the herbicide metolachlor 2-chloro-*N*-(2-ethyl-6-methylphenyl)-*N*-(2-methoxy-1-methylethyl)acetamide and its metabolites determined as the derivatives, 2-[(2-ethyl-6-methylphenyl)amino]-1-propanol and 4-(2-ethyl-6-methylphenyl)-2-hydroxy-5-methyl-3-morpholinone, each expressed as the parent compound in or on spinach at 0.3 ppm for an additional 6–month period. This tolerance will expire and is revoked on June 30, 2002. A time-limited tolerance was originally published in the **Federal Register** on November 29, 1996 (61 FR 60617) (FRL–5477–7).

*Metsulfuron-methyl*. EPA has authorized under FIFRA section 18 the use of metsulfuron-methyl on sorghum for control of weeds in Kansas, Nebraska, New Mexico, Oklahoma, and Texas. This regulation extends time-limited tolerances for the combined residues of the herbicide metsulfuron methyl and its 4-hydroxy metabolite (methyl 2-[[[[(4-methoxy-6-methyl-1,3,5-triazin-2-yl)amino]carbonyl]-amino]sulfonyl]-4-hydroxybenzoate) in or on sorhum, fodder at 0.5 ppm; sorhum, forage at 0.3 ppm; and sorhum, grain at 0.4 ppm for an additional 2–year period. These tolerances will expire and are revoked on December 31, 2003. Time-limited tolerances were originally published in the **Federal Register** on December 16, 1999 (64 FR 70184) (FRL–6391–8).

*Propiconazole*. EPA has authorized under FIFRA section 18 the use of propiconazole on grain sorghum for control of sorghum ergot in Nebraska, New Mexico, and Texas. This regulation extends time-limited tolerances for combined residues of the fungicide propiconazole, 1-[[2-(2,4-dichlorophenyl)-4-propyl-1,3-dioxolan-2-yl]methyl]-1H-1,2,4-triazole and its metabolites determined as 2,4-dichlorobenzoic acid and expressed as parent compound in or on grain sorghum, grain at 0.2 ppm; grain sorghum, stover at 1.5 ppm; and sorghum aspirated grain fractions at 20 ppm for an additional 2–year period. These tolerances will expire and are revoked on December 31, 2003. Time-limited tolerances were originally published in the **Federal Register** on August 13, 1997 (62 FR 43284) (FRL–5735–2).

*Propyzamide*. EPA has authorized under FIFRA section 18 the use of propyzamide on cranberries for control of dodder in Delaware, Massachusetts, New Jersey, and Rhode Island. This regulation extends a time-limited tolerance for the combined residues of the herbicide propyzamide and its metabolites containing the 3,5-dichlorobenzoyl moiety (calculated as 3,5-dichloro-*N*-(1,1-dimethyl-2-propenyl)benzamide) in or on cranberries at 0.05 ppm for an additional 2–year period. This tolerance will expire and is revoked on December 31, 2003. A time-limited tolerance was originally published in the **Federal Register** on September 16, 1998 (63 FR 49479) (FRL–6022–5).

*Tebuconazole*. EPA has authorized under FIFRA section 18 the use of tebuconazole on wheat for control of Fusarium head blight in Michigan, North Dakota, and South Dakota. This regulation extends a time-limited tolerance for residues of the fungicide tebuconazole (alpha-[2-(4-chlorophenyl)-ethyl]-alpha-(1,1-dimethylethyl)-1H-1,2,4-triazole-1-ethanol) in or on wheat hay at 15.0 ppm and wheat straw at 2.0 ppm for an additional 2–year period. These tolerances will expire and are revoked on December 31, 2003. Time-limited tolerances were originally published in the **Federal Register** on June 20, 1997 (62 FR 33550) (FRL–5725–7).

*Tebuconazole*. EPA has authorized under FIFRA section 18 the use of tebuconazole on barley for control of Fusarium head blight in North Dakota and South Dakota. This regulation extends time-limited tolerances for residues of the fungicide tebuconazole (alpha-[2-(4-chlorophenyl)-ethyl]-alpha-(1,1-dimethylethyl)-1H-1,2,4-triazole-1-ethanol) in or on barley grain at 2.0 ppm, barley hay at 20.0 ppm, and barley straw at 20.0 ppm for an additional 2–year period. These tolerances will expire and are revoked on December 31, 2003. Time-limited tolerance were originally published in the **Federal Register** on June 20, 1997 (62 FR 33550) (FRL–5725–7).

*Tebuconazole*. EPA has authorized under FIFRA section 18 the use of tebuconazole on sunflower for control of rust in Colorado. This regulation extends time-limited tolerances for residues of the fungicide tebuconazole in or on sunflower oil at 0.4 ppm and sunflower seed at 0.2 ppm for an additional 2–year period. These tolerances will expire and are revoked on December 31, 2003. Time-limited tolerances were originally published in the **Federal Register** on June 20, 1997 (62 FR 33550) (FRL–5725–7).

*Tebuconazole*. EPA has authorized under FIFRA section 18 the use of tebuconazole on garlic for control of garlic rust in California. This regulation extends a time-limited tolerance for residues of the fungicide tebuconazole in or on garlic at 0.1 ppm for an additional 2–year period. This tolerance will expire and is revoked on December 31, 2003. A time-limited tolerance was originally published in the **Federal Register** on May 26, 1999 (64 FR 28377) (FRL–6079–1).

*Thiabendazole*. EPA has authorized under FIFRA section 18 the use of thiabendazole on lentils for control of ascochyta blight in Idaho, Montana, North Dakota, and Washington. This regulation extends a time-limited tolerance for residues of the fungicide thiabendazole in or on lentils at 0.1 ppm for an additional 1–year period. This

tolerance will expire and is revoked on December 31, 2002. A time-limited tolerance was originally published in the **Federal Register** on February 25, 1998 (63 FR 9435) (FRL–5767–6).

*Zinc phosphide*. EPA has authorized under FIFRA section 18 the use of zinc phosphide on barley, potatoes, sugarbeets, and wheat for control of meadow voles and field mice in Idaho. This regulation extends time-limited tolerances for residues of phosphine resulting from the use of the rodenticide zinc phosphide in or on barley, grain at 0.010 ppm; barley, hay at 0.20 ppm; barley, straw at 0.20 ppm; potatoes at 0.05 ppm; sugar beet (roots) at 0.05 ppm; sugar beet (tops) at 0.10 ppm; and wheat, aspirated grain fractions; wheat grain; wheat hay; and wheat, straw at 0.010 ppm for an additional 2–year period. These tolerances will expire and are revoked on December 31, 2003. Time-limited tolerances were originally published in the **Federal Register** on December 9, 1998 (63 FR 67794) (FRL–6046–1) and August 16, 2000 (65 FR 49936) (FRL–6598–9).

## 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 FQPA, EPA will continue to use those procedures, with appropriate adjustments, until the necessary modifications can be made. The new FFDCA 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 FFDCA 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–301194 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 January 14, 2002.

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 III.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–301194, 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 file format 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 establishes time-limited tolerances under FFDCA section 408. 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). Because this rule has been exempted from review under Executive Order 12866 due to its lack of significance, this rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001). 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 under FFDCA section 408(l)(6) in response to an exemption under FIFRA section 18, such as the tolerances 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: November 29, 2001.

**Peter Caulkins,**

*Acting 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 374.

### § 180.110 [Amended]

2. In § 180.110, in the table to paragraph (b), amend the entry for walnuts by revising the expiration date ''12/31/01'' to read ''12/31/03.''

### § 180.176 [Amended]

3. In § 180.176, in the table to paragraph (b), amend the entry for ginseng by revising the expiration date ''12/31/01'' to read ''12/31/02.''

### § 180.242 [Amended]

4. In § 180.242, in the table to paragraph (b), amend the entry for lentils by revising the expiration date ''12/31/01'' to read ''12/31/02.''

### § 180.284 [Amended]

5. In § 180.284, in the table to paragraph (b), amend the entry for barley, grain; barley, hay; barley, straw; potatoes; sugar beet (roots); sugar beet (tops); wheat, aspirated grain fractions; wheat, grain; wheat, hay; and wheat, straw by revising the expiration date ''12/31/01'' to read ''12/31/03.''

### § 180.301 [Amended]

6. In § 180.301, in the table to paragraph (b), amend the entry for onions, dry bulb by revising the expiration date ''12/31/01'' to read ''12/31/03.''

### § 180.317 [Amended]

7. In § 180.317, in the table to paragraph (b), amend the entry for cranberries by revising the expiration date ''12/31/01'' to read ''12/31/03.''

### § 180.353 [Amended]

8. In § 180.353, in the table to paragraph (b), amend the entry for red beet roots and red beet tops by revising the expiration date ''12/31/01'' to read ''12/31/03.''

### § 180.368 [Amended]

9. In § 180.368, in the table to paragraph (b), amend the entry for spinach by revising the expiration date ''12/31/01'' to read ''6/30/02.''

### § 180.428 [Amended]

10. In § 180.428, in the table to paragraph (b), amend the entry for sorghum, fodder; sorghum, forage; and sorghum, grain by revising the expiration date ''12/31/01'' to read ''12/31/03.''

**§ 180.431 [Amended]**

11. In § 180.431, in the table to paragraph (b), amend the entry for flax seed by revising the expiration date ''12/31/01'' to read ''12/31/03.''

**§ 180.434 [Amended]**

12. In § 180.434, in the table to paragraph (b), amend the entry for sorghum, aspirated grain fractions; sorghum, grain, grain; and sorghum, grain, stover by revising the expiration date ''12/31/01'' to read ''12/31/03.''

**§ 180.442 [Amended]**

13. In § 180.442, in the table to paragraph (b), amend the entry for peanuts, nutmeats by revising the expiration date ''12/31/01'' to read ''12/31/03.''

**§ 180.449 [Amended]**

14. In § 180.449, in the table to paragraph (b), amend the entry for avocado by revising the expiration date ''12/31/02'' to read ''12/31/03'' and also amend the entry for spinach by revising the expiration date ''1/31/02'' to read ''12/31/03.''

**§ 180.466 [Amended]**

15. In § 180.466, in the table to paragraph (b), amend the entry for currants by revising the expiration date ''12/31/01'' to read ''12/31/03.''

**§ 180.474 [Amended]**

16. In § 180.474, in the table to paragraph (b)(1), amend the entries for barley, grain; barley, hay; barley, straw; garlic; sunflower oil; sunflower seed; wheat, hay; and wheat, straw by revising the expiration date ''12/31/01'' to read ''12/31/03.''

**§ 180.475 [Amended]**

17. In § 180.475, in the table to paragraph (b), amend the entry for corn, sweet (kernel + corn with husk removed); corn, sweet, forage; and corn, sweet, stover by revising the expiration date ''12/31/02'' to read ''12/31/03.''

**§ 180.480 [Amended]**

18. In § 180.480, in the table to paragraph (b), amend the entry for cattle, fat; goats, fat; hogs, fat; horses, fat; and sheep, fat by revising the expiration date ''12/31/01'' to read ''12/31/03.''

19. In § 180.490, the table in paragraph (b) is revised to read as follows:

**§ 180.490 Imazapic-ammonium; tolerances for residues.**

* * * * *

(b) * * *

| Commodity | Parts per million | Expiration/revocation date |
|---|---|---|
| Cattle, fat | 0.10 | 12/31/03 |
| Cattle, kidney | 1.0 | 12/31/03 |
| Cattle, mbyp (except kidney) | 0.1 | 12/31/03 |
| Cattle, meat | 0.1 | 12/31/03 |
| Goats, fat | 0.1 | 12/31/03 |
| Goats, kidney | 1.0 | 12/31/03 |
| Goats, mbyp (except kidney) | 0.1 | 12/31/03 |
| Goats, meat | 0.1 | 12/31/03 |
| Grass, forage | 30 | 12/31/03 |
| Grass, hay | 15 | 12/31/03 |
| Hogs, fat | 0.1 | 12/31/03 |
| Hogs, kidney | 1.0 | 12/31/03 |
| Hogs, mbyp (except kidney) | 0.1 | 12/31/03 |
| Hogs, meat | 0.1 | 12/31/03 |
| Horses, fat | 0.1 | 12/31/03 |
| Horses, kidney | 1.0 | 12/31/03 |
| Horses, mbyp (except kidney) | 0.1 | 12/31/03 |
| Horses, meat | 0.1 | 12/31/03 |
| Sheep, fat | 0.1 | 12/31/03 |
| Sheep, kidney | 1.0 | 12/31/03 |
| Sheep, mbyp (except kidney) | 0.1 | 12/31/03 |
| Sheep, meat | 0.1 | 12/31/03 |

* * * * *

20. In § 180.505, the table in paragraph (b) is revised to read as follows:

**§ 180.505 Emamectin benzoate; tolerances for residues.**

* * * * *

(b) * * *

| Commodity | Parts per million | Expiration/revocation date |
|---|---|---|
| Cattle, fat | 0.002 | 12/31/02 |
| Cattle, meat | 0.002 | 12/31/02 |
| Cattle, meat byproduct | 0.002 | 12/31/02 |
| Cotton gin byproduct | 0.025 | 12/31/02 |
| Cotton hulls | 0.004 | 12/31/02 |
| Cotton, meal | 0.002 | 12/31/02 |
| Cottonseed | 0.002 | 12/31/02 |
| Cottonseed oil | 0.006 | 12/31/02 |
| Goats, fat | 0.002 | 12/31/02 |
| Goats, meat | 0.002 | 12/31/02 |
| Goats, meat byproduct | 0.002 | 12/31/02 |
| Hogs, fat | 0.002 | 12/31/02 |
| Hogs, meat | 0.002 | 12/31/02 |
| Hogs, meat byproduct | 0.002 | 12/31/02 |
| Milk | 0.002 | 12/31/02 |

| Commodity | Parts per million | Expiration/revocation date |
|---|---|---|
| Sheep, fat | 0.002 | 12/31/02 |
| Sheep, meat | 0.002 | 12/31/02 |
| Sheep, meat byproduct | 0.002 | 12/31/02 |

* * * * *

**§ 180.509 [Amended]**

21. In § 180.509, in the table to paragraph (b), amend the entries for barley, bran; barley, flour; barley, grain; barley, hay; barley, pearled; barley, straw; wheat grain; wheat straw by revising the expiration date ''12/31/01'' to read ''12/31/03.''

**§ 180.516 [Amended]**

22. In § 180.516, in the table to paragraph (b), amend the entries for apricots, nectarines, peaches, and plums by revising the expiration date ''12/31/01'' to read ''12/31/03.''

**§ 180.532 [Amended]**

23. In § 180.532, in the table to paragraph (b), amend the entry for caneberries by revising the expiration date ''12/31/01'' to read ''12/31/03.''

[FR Doc. 01–30916 Filed 12–13–01; 8:45 am]

BILLING CODE 6560–50–S

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 54

**[CC Docket No. 96–45; FCC 01–268]**

### Federal-State Joint Board on Universal Service; Petition of Federal Transtel, Inc. for Waiver of Universal Service Fund Contribution Requirements

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule; denial of waiver request.

**SUMMARY:** In this document, the Commission denies the request of Federal Transtel, Inc. (Federal Transtel) to waive or reconsider the Commission's rules and permit Federal Transtel to recalculate its 1998 and 1999 contributions to the federal universal service mechanisms. Specifically, the Commission concludes that Federal Transtel has failed to demonstrate good cause to grant a waiver.

**FOR FURTHER INFORMATION CONTACT:** Richard D. Smith, Attorney, Common Carrier Bureau, Accounting Policy Division, (202) 418–7400.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Memorandum Opinion and Order and Order on Reconsideration in CC Docket No. 96–45 released on September 20, 2001. The full text of this document is available for public inspection during regular business hours in the FCC Reference Center, Room CY-A257, 445 Twelfth Street, S.W., Washington, D.C., 20554.

**I. Introduction**

1. In this Order, the Commission denies the request of Federal Transtel to waive or reconsider the Commission's rules in 47 CFR 54.703, 54.709, and 54.711 and permit Federal Transtel to recalculate its 1998 and 1999 contributions to the federal universal service mechanisms. Specifically, the Commission concludes that Federal Transtel has failed to demonstrate good cause to grant a waiver. Furthermore, to the extent that Federal Transtel's petition seeks reconsideration of Commission rules that required carriers to base federal universal service contributions on prior year revenues, the Commission denies such request as untimely. In so doing, we also note that the Commission has recently amended its contribution methodology and these changes may address many of the substantive concerns raised in Federal Transtel's petition.

**II. Discussion**

2. The Commission concludes that Federal Transtel has failed to demonstrate that good cause exists to grant its request to waive the Commission's rules and thereby permit the recalculation of its 1998 and 1999 contributions to the federal universal service mechanisms. Consistent with the Commission's prior decisions, we conclude that granting such a request would be contrary to the principle of competitive neutrality and Congress' mandate that all carriers contribute to the federal universal service mechanisms on an equitable and nondiscriminatory basis. To the extent that Federal Transtel seeks reconsideration of the requirement to base federal universal service contributions on prior year revenues, the Commission concludes that such request is untimely. In addition, many of Federal Transtel's concerns have been addressed in a recent Commission proceeding.

**A. Federal Transtel's Waiver Petition**

3. Generally, the Commission's rules may be waived for good cause shown. As noted by the Court of Appeals for the D.C. Circuit, however, agency rules are presumed valid. The Commission may exercise its discretion to waive a rule where the particular facts make strict compliance inconsistent with the public interest. In addition, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis. Waiver of the Commission's rules is therefore appropriate only if special circumstances warrant a deviation from the general rule, and such a deviation will serve the public interest.

4. We are not persuaded that Federal Transtel's alleged inability to recover contributions in 1998 and 1999 from its current customers is a special circumstance warranting waiver of the prior year revenue contribution methodology. The Commission does not require carriers to recover their universal service contributions from customers. Rather, the Commission has given carriers the flexibility to decide whether and how they should recover their contributions, as markets become increasingly competitive. Although the Commission permits carriers to pass through all or part of their universal service contributions to their customers, the requirement to contribute remains whether or not a carrier passes such costs through to its customers. In addition, carriers are not precluded from anticipating the possible effects of declining revenues in the following year and reserving a portion of their current revenues to meet the contribution obligations that arise in the following year. Contrary to Federal Transtel's contention, the obligation to contribute to the universal service mechanisms based upon prior year revenues was not retroactively imposed on carriers. Carriers were given notice in July 1997 that contributions to the federal universal service mechanisms in 1998 would be based on prior year revenues. Therefore, the Commission concludes that carriers were provided with sufficient notice to develop business plans in anticipation of the implementation of the universal service contribution methodology beginning January 1, 1998.

5. Furthermore, The Commission concludes that such a waiver would not serve the public interest. We note that section 254(d) requires that the Commission establish a universal service contribution mechanism that is ''specific, predictable and sufficient'' to preserve and advance universal service. As discussed, in implementing section 254, the Commission adopted rules setting forth the specific method of computation for universal service contributions. To grant retroactively a waiver or reconsideration of those rules to individual carriers from one year to the next creates the potential for continuing uncertainty and confusion in the administration of the fund. The Commission notes in particular that Federal Transtel has not suggested how its contributions should be calculated if it were granted a waiver of the Commission's rules. The Commission finds that it cannot reconcile granting the waiver with the Act's mandate that the universal service mechanisms be specific and predictable, and that all telecommunications providers of interstate telecommunications service contribute on an equitable and nondiscriminatory basis. This mandate is essential to the preservation and advancement of universal service to ensure that consumers who rely upon universal service funding, including low-income consumers and those residing in rural and high-cost areas, may continue to receive telecommunications at affordable rates.

### B. Federal Transtel's Petition for Reconsideration

6. To the extent that Federal Transtel seeks reconsideration of the universal service contribution methodology, we dismiss that request as untimely. The Commission's rules require that petitions for reconsideration be filed within 30 days after public notice of the Commission action. Federal Transtel's petition was filed on July 20, 1999, nearly two years after the deadline to file petitions for reconsideration of the *Second Order on Reconsideration,* 62 FR 56120, October 29, 1997, in which the Commission adopted the contribution methodology based on prior year revenues. Accordingly, the Commission dismisses Federal Transtel's petition for reconsideration as untimely filed. Moreover, even if this petition were timely filed, the Commission would not grant such a request. The Commission has recently provided substantive reasoning for denying similar requests. The Commission does note, however, that based on a newly developed industry-wide record, the Commission recently took action to reduce the interval between the accrual of revenues by carriers and the assessment for universal service contributions. We believe this action alleviates many of the concerns raised in Federal Transtel's petition. In addition, the Commission has recently sought further comment on how to streamline and reform both the manner in which the Commission assesses carrier contributions to the universal service fund and the manner in which carriers may recover those costs from their customers. Although the Commission dismisses Federal Transtel's petition, we will incorporate a copy of its petition into the record relating to the *Contribution Methodology NPRM,* 66 FR 28718, May 24, 2001.

### III. Ordering Clause

7. It is ordered, pursuant to sections 1, 4(i), 254, and 405 of the Communications Act of 1934, as amended, and §§ 1.3 and 1.429 of the Commission's rules, that the Petition for Waiver or Reconsideration filed July 20, 1999 by Federal Transtel, Inc. is denied.

Federal Communications Commission.

**Magalie Roman Salas,**

*Secretary.*

[FR Doc. 01–30793 Filed 12–13–01; 8:45 am]

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## FEDERAL COMMUNICATIONS COMMISSION

## 47 CFR Part 73

**[DA 01–2782; MM Docket No. 00–129; RM–9909 & RM–10017]**

## Radio Broadcasting Services; Moberly, Malta Bend, Chillicothe, Lee's Summit, La Monte, Warsaw, Nevada, Maryville & Madison, MO, Topeka, Junction City, Humboldt, Marysville & Burlington, KS, & Auburn, NE

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** In response to a petition filed by Best Broadcasting, Inc., the Commission issued a Notice of Proposed Rule Making proposing the substitution of Channel 247C2 for Channel 247C3 at Moberly, Missouri, and modification of the license for Station KCSX accordingly, with additional substitutions at Malta Bend, MO and Chillicothe, MO. *See* 65 FR 45745, July 25, 2000. In response to a counterproposal filed by Best Broadcasting, Inc. and First Broadcasting Company, this document substitutes Channel 247C1 for Channel 247C3 at Moberly, Missouri, reallots Channel 247C1 from Moberly to Lee's Summit, MO and modifies the authorization for Station KCSX to specify operation at Lee's Summit on Channel 247C1. The coordinates for Channel 247C1 at Lee's Summit are 39–04–20 and 94–35–45. To accommodate the allotment at Lee's Summit, we shall make the following changes: substitute Channel 233C for Channel 247C, Topeka, Kansas (39–00–19 & 96–02–58), substitute Channel 248C1 for Channel 233C1 at Junction City, Kansas (39–00–53 & 96–52–15), substitute Channel 237C3 for Channel 232C3 at Humboldt, Kansas (37–43–21 & 95–33–41) , substitute Channel 249A for Channel 237A at Burlington, Kansas (39–10–08 & 95–39–07), substitute Channel 276C3 for Channel 234C3 at Auburn, Nebraska (40–27–57 & 95–45–38),[1] substitute Channel 238C3 for Channel 276C3 at Marysville, Kansas (39–56–06 & 94–47–33), substitute Channel 280C3 for Channel 243C3 at Malta Bend, Missouri (39–21–59 & 93–24–12), substitute Channel 253A for Channel 280C3 at Chillicothe, Missouri (39–43–40 & 93–35–43), substitute Channel 249C2 for Channel 246C3 at La Monte, Missouri (38–48–23 & 93–09–08), substitute Channel 246A for Channel 249A at Warsaw, Missouri (38–20–41 & 93–23–10), substitute Channel 248A for Channel 249A at Nevada, Missouri (37–52–06 & 94–20–01). We shall also allot Channel 247C3 at Madison, Missouri, as a first local service at coordinates 39–24–37 and 92–10–58. The issue of opening the allotment at Madison for auction will be addressed by the Commission in a subsequent order.

**DATES:** Effective January 14, 2002.

**FOR FURTHER INFORMATION CONTACT:** Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Report andOrder, MM Docket No. 00–129, adopted November 21, 2001, and released November 30, 2001. The full text of this Commission decision is available for inspection and copying during regular business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW, Room CY–A257, Washington, DC, 20554. This document may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW, Room CY–B402, Washington, DC, 20554, (202) 863–2893,

[1] The authorization for Station KNCY–FM was amended to specify operation on Channel 234C3 in lieu of Channel 288A in a one-step application (BPH–19990816IE). We will take this opportunity to correct the FM Table of Allotments.

facsimile (202) 863–2898, or via e-mail *qualexint@aol.com.*

**List of Subjects in 47 CFR Part 73**

Radio broadcasting.

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

## PART 73—RADIO BROADCAST SERVICES

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

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

**§ 73.202 [Amended]**

2. Section 73.202(b), the Table of FM Allotments under Missouri, is amended by removing Channel 247C3 at Moberly and adding Lee's Summit, Channel 247C1; by removingChannel 248C3 and adding Channel 280C3 at Malta Bend; by removing Channel 280C3 and adding Channel 253A at Chillicothe; by removing Channel 246C3 and adding Channel 249C2 at La Monte; by removing Channel 249A and adding Channel 246A at Warsaw; by removingChannel 249A and adding Channel 248A at Nevada; and by adding Madison, Channel 247C3.

3. Section 73.202(b), the Table of FM Allotments under Kansas, is amended by removing Channel 247C and adding Channel 233C at Topeka; by removing Channel 233C1 and adding Channel 248C1 at Junction City; by removing Channel 232C3 and adding Channel 237C3 at Humboldt; by removing Channel 237A and adding Channel 249A at Burlington; and by removing Channel 276C3 and adding Channel 238C3 at Marysville.

4. Section 73.202(b), the Table of FM Allotments under Nebraska, is amended by removing Channel 288A and adding Channel 276C3 at Auburn.

Federal Communications Commission.

**John A. Karousos,**

*Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.*

[FR Doc. 01–30870 Filed 12–13–01; 8:45 am]

BILLING CODE 6712–01–P

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## FEDERAL COMMUNICATIONS COMMISSION

## 47 CFR Part 73

**[DA 01–2784; MM Docket No. 98–162; RM–9263]**

## Radio Broadcasting Services; Sugar Hill and Taccoa, GA

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** This document grants a Petition for Reconsideration filed by Southern Broadcasting of Pensacola, Inc. to the extent of setting aside a previous action substituting Channel 291C1 for Channel 291C at Taccoa, Georgia, reallotting Channel 291C1 to Sugar Hill, Georgia, and modifying the license of Station WNGC to specify operation on Channel 291C1 at Sugar Hill. *See* 66 FR 39456, published July 20, 2001. As a result, Station WNGC will continue to be licensed on Channel 291C at Taccoa, Georgia. The reference coordinates for Channel 291C at Taccoa, Georgia, are 34–22–41 and 83–39–30.

**DATES:** Effective December 14, 2001.

**FOR FURTHER INFORMATION CONTACT:** Robert Hayne, Mass Media Bureau, (202) 418–2177.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's *Memorandum Opinion and Order* in MM Docket No. 98–162, adopted November 28, 2001, and released November 30, 2001. The full text of this decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, CY–A257, 445 12th Street, SW., Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's copy contractor, Qualex International, Portals II, 445 12th Street, SW., room CY–B402, Washington, DC 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail *qualexint@aol.com.*

**List of Subjects in 47 CFR Part 73**

Radio Broadcasting.

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

## PART 73—RADIO BROADCAST SERVICES

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

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

**§ 73.202 [Amended]**

2. Section 73.202(b), the Table of FM Allotments under Georgia, is amended by removing Sugar Hill, Channel 291C1.

3. Section 73.202(b), the Table of FM Allotments under Georgia, is amended by adding Taccoa, Channel 291C.

Federal Communications Commission.

**John A. Karousos,**

*Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.*

[FR Doc. 01–30866 Filed 12–13–01; 8:45 am]

BILLING CODE 6712–01–P

# Proposed Rules

Federal Register
Vol. 66, No. 241
Friday, December 14, 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 93

**[Docket No. FAA–2001–11128]**

**RIN 2120–AG34**

## Noise Limitations for Aircraft Operations in the Vicinity of Grand Canyon National Park

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of availability of working draft.

**SUMMARY:** This document notifies the public that a copy of a working draft of a Supplemental Notice of Proposed Rulemaking (SNPRM) Noise Limitations for Aircraft operations in the Vicinity of Grand Canyon National Park was released to an industry representative contrary to Department of Transportation (DOT) policy. This notice provides information to allow other persons the same access to this information to ensure fairies in the rulemaking process.

**ADDRESSES:** You may obtain a copy of the working draft of the SNPRM from the DOT public docket through the Internet at *http://dms.dot.gov/,* docket number FAA–2001–11128. If you do not have access to the Internet, you may obtain a copy of the working draft by United States mail from the Docket Management System, U.S. Department of Transportation, Room PL401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify Docket Number FAA–2001–11128 and request a copy of the working draft of the supplemental notice of proposed rulemaking entitled ''Noise Limitations for Aircraft Operations in the Vicinity of Grand Canyon National Park''.

You may also review the public docket in person in the Docket Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office is on the plaza level.

**FOR FURTHER INFORMATION CONTACT:** Mr. Thomas L. Connor, Manager, Technology Division, AEE–100, Office of Environment and Energy, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC, 20591; Telephone: (202) 267–8933; Email: *thomas.1.connor@faa.gov.*

**SUPPLEMENTARY INFORMATION:**

### Background

The FAA published a notice of proposed rulemaking (NPRM) on December 31, 1996 entitled ''Nose Limitations for Aircraft Operations in the Vicinity of Grand Canyon National Park'' (Noise Limitations NPRM, 61 FR 69334; Notice 96–15). This NPRM proposed to establish noise efficiency limitations for certain aircraft operations in the vicinity of Grand Canyon National Park (GCNP). Given the length of time since the issuance of the NPRM, the FAA and the National Park Service (NPS) determined that an SNPRM should be issued to provide the public an opportunity to comment again in light of developments since 1996. The standards for quiet technology proposed in this SNPRM would assist the NPS achieve its statutory mandate to provide for the substantial restoration of natural quiet and experience in the GCNP. The SNPRM would also respond to the comments that the FAA received pertaining to the Noise Limitations NPRM.

A copy of a working draft of the SNPRM (''working draft'') was released to an industry representative contrary to Department of Transportation policy. We regret this action. To ensure that the rulemaking process is open and fair to all, we are placing a copy of the working draft in the public docket. the **ADDRESSES** section above provides information about where you may obtain a copy of the working draft.

The FAA, DOT, NPS and Office of Management and Budget (OMB) management have not completed review of the working draft. Therefore, it may not accurately represent the agency's final proposal, if one is issued. Because the working draft is not yet a formal proposal, and may or may not be published, it is premature for the FAA to request comments on this document. We have filed the working draft in the public docket solely to ensure that all interested persons have access to information that was released by the FAA and to ensure that the fairness and integrity of the rulemaking process is not compromised.

Issued in Washington, DC, December 7, 2001.

**Paul Dykeman,**

*Acting Director, Office of Environment and Energy.*

[FR Doc. 01–30836 Filed 12–13–01; 8:45 am]

**BILLING CODE 4910–13–M**

## DEPARTMENT OF TRANSPORTATION

### Coast Guard

### 33 CFR Part 165

**[CGD07–01–037]**

**RIN 2115–AE84**

## Regulated Navigation Area; Savannah River, Georgia

**AGENCY:** Coast Guard, DOT.

**ACTION:** Supplemental notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to create a Regulated Navigation Area (RNA) on a portion of the Savannah River to regulate waterway traffic when vessels carrying Liquefied Natural Gas (LNG) are transiting or moored on the Savannah River. This action is necessary because of the size, draft, and volatile cargo of LNG tankships. This rule enhances public and maritime safety by minimizing the risk of collision, allision or grounding and the possible release of LNG.

**DATES:** Comments and related material must reach the Coast Guard on or before February 12, 2002.

**ADDRESSES:** You may mail comments and related material to Marine Safety Office Savannah, Juliette Gordon Low Federal Building, Suite 1017, 100 W. Oglethorpe, Savannah, Georgia, 31401. Marine Safety Office Savannah maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket [CGD07–01–037], will become part of this docket and will be available for inspection or copying at Marine Safety Office Savannah between 7:30 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant Commander James Hanzalik at the Marine Safety Office Savannah; phone (912) 652–4353 extension 205.

**SUPPLEMENTARY INFORMATION:**

## Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking [CGD07–01–037], indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you submit them by mail and would like to know that they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

## Public Meeting

We do not intend to hold a public meeting. But you may submit a request for a meeting by writing to Marine Safety Office Savannah at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

## Background and Purpose

The port of Savannah is receiving LNG tankships at the Southern Liquefied Natural Gas (LNG) facility on Elba Island. This facility has been struck by passing vessels twice in the past 20 years. This proposed rule is necessary to protect the safety of life and property on the navigable waters of the United States from hazards associated with LNG activities.

The Savannah River has a narrow and restricted channel with many bends. The LNG facility is located at one of these bends on Elba Island. The LNG tankship berth is located adjacent to and parallel with the toe of the shipping channel. Because of these factors, the hazardous nature of LNG and the substantial volume of deep draft vessel traffic in Savannah (approximately 5000 annual transits), the risk of collision or allision involving a LNG tankship must be addressed.

In both instances when the Elba Island LNG facility was struck, the facility was inactive, however, damage to both the facility and vessels was extensive. The potential consequences from this type of allision would be significantly more severe with a LNG tankship moored at the Elba Island dock. This rulemaking is needed to prevent incidents involving a LNG tankship in transit or while moored at the facility.

On June 19, 2001, the Coast Guard published a notice of proposed rulemaking in the **Federal Register** entitled Regulated Navigation Area: Savannah River, Georgia (66 FR 32915). We received 22 comment letters in response to this proposed rule. On October 10, 2001 we published a temporary final rule in the **Federal Register** entitled Regulated Navigation Area: Savannah River, Georgia (66 FR 51562). That temporary rule, effective until March 21, 2002, was necessary to address the risk proposed by the resumption of LNG activities, while allowing us to redraft and receive comments on this supplemental notice of proposed rulemaking.

## Discussion of Proposed Rule

The Coast Guard received 22 comment letters addressing the original notice of proposed rulemaking. The Coast Guard has considered all of these comments and has made content changes and other administrative and numbering corrections in this supplemental notice of proposed rulemaking. The specific section of the original proposed rule that each comment or group of comments addresses is indicated in bold text. The Coast Guard's response to the comments immediately follows the bolded text.

Two comments concerned the proposed construction of the Jasper County waterfront facility in the vicinity of the LNG terminal. While we acknowledge the possibility of this facility's construction, no regulatory approvals have been granted for the proposed Jasper County facility. We have not modified the original proposed rule in light of these two comments.

33 CFR 165.756 (d) (1) (i). ''Except for a vessel that is moored at a marina, wharf, or pier, and that remains moored, no vessel greater than 1600 gross tons is permitted within the Regulated Navigation Area without the consent of the Captain of the Port (COTP).''

The Coast Guard received four comments expressing concern over potential delays during a LNG tankship arrival and departure. The Coast Guard believes that any potential delays associated with LNG tankship movements will be minimized through coordination during pre-transit conferences conducted by the Captain of the Port (COTP) prior to a LNG tankship's arrival and departure and by the pre-positioning of additional towing vessels by the LNG facility in support of this RNA.

33 CFR 165.756 (d) (2) (iv) Requirements for vessels carrying LNG: ''Not enter or get underway within the regulated navigation area if visibility during the transit is, or is expected to be, less than three (3) miles. * * *''

Two respondents provided specific comments concerning the three-mile visibility restriction. The comments noted the original proposed rule would impose visibility-based restrictions on LNG tankships that may be considered different from those applicable to similar size vessels. The Coast Guard has carefully considered these comments and proposes to eliminate the specific language requiring at least three miles of visibility. Instead, visibility issues will be addressed on a case-by-case basis with input from the Coast Guard, the pilot and the master of the LNG tankship during the pre-transit conference required in the Savannah Area Liquefied Natural Gas (LNG) Vessel Management and Emergency Plan. This will allow greater flexibility for vessel entry, based on the professional judgment of the mariners making the transit and the Coast Guard. We propose to modify and renumber § 165.756 (d)(2)(iv) of the original proposed rule. The new section number would be § 165.756 (d)(1)(iii)(D) and it would read, ''Not enter or get underway within the RNA if visibility during the transit is not sufficient to safely navigate the channel. . . .''

33 CFR 165.756 (d) (3). ''Restrictions on vessel operations while a LNG vessel is moored:''

The Coast Guard proposes to amend the original proposed rule concerning the protection of passing vessels under 1600 gross tons as they pass a LNG tankship while it is moored at the LNG terminal. This new proposed rule prohibits vessels less than 1600 gross tons from approaching within 70 yards of a moored LNG tankship. This change was made to protect vessels less than 1600 gross tons from the hazards associated with the transfer of LNG at the Elba Island terminal. This change will not restrict vessel movement within the deep draft channel and will have minimal or no impact on commercial or recreational vessel traffic.

33 CFR 165.756 (d) (3) (i) and (ii) Towing vessel requirements for the LNG facility. The LNG facility ''* * * shall station and provide a minimum of two (2) towing vessels each with a minimum of 100,000 pounds of bollard pull to safely maneuver transiting vessels greater than 1600 gross tons * * *'' and for transiting vessels over 1600 gross

tons while a LNG vessel is moored at the facility, ''when passing a moored LNG vessel shall have a minimum of two (2) towing vessels in escort each with a minimum of 100,000 pounds of bollard pull. * * *''

The Coast Guard has amended this 2-tug requirement based on simulations conducted at Marine Safety International. The objective of this section is to prevent or mitigate the potential consequences of a vessel alliding with a moored LNG tankship. Based on simulations conducted and a review of existing industry escort operations, the Coast Guard has determined that an adequate level of safety can be achieved with two towing vessels having adequate bollard pull, horsepower and the capability to operate in the ''indirect mode.'' These simulations also revealed that other combinations of operation by towing vessels not made-up to the escorted vessel prior to the onset of the same emergent situation, or by towing vessels not capable of safely operating in the indirect mode, whether made-up or not, consistently failed to prevent a high impact allision. Similar escort requirements typically applied to tankships on the West Coast of the United States have successfully controlled and/or arrested escorted vessels' movements under emergent circumstances.

Therefore, the Coast Guard proposes to amend section (d)(3)(ii) of the original proposed rule to read: ''Transiting vessels 1600 gross tons or greater, when passing a moored LNG tankship, shall have a minimum of two (2) towing vessels, each with a minimum capacity of 100,000 pounds of bollard pull, 4,000 horsepower, and the ability to safely operate in the indirect mode, made-up in such a way as to be immediately available to arrest and/or control the motion of an escorted vessel in the event of steering, propulsion or other casualty.''

The Coast Guard received two comments concerning the potential for liability claims due to the facility having to provide escort towing vessel services. These comments generally asserted that because escort tugs were being required by a federal regulation, the facility should not be liable for any damages incurred during escort operations.

This proposed rule addresses safety issues associated with the navigable waters of the United States and attempting to address liability issues in this rule is inappropriate. Ultimately, issues related to liability will be resolved in the legal process.

33 CFR 165.756 (d) (3) (ii). ''Transiting vessels over 1600 gross tons when passing a moored LNG vessel shall have a minimum of two (2) towing vessels in escort each with a minimum of 100,000 pounds of bollard pull made up in a way to safely maneuver past the transferring LNG vessel. Outbound vessels shall be escorted from the terminus of the Fort Jackson range until the vessel is safely past the LNG dock. Inbound vessels shall be escorted from Field's Cut until the vessel is safely past the LNG dock.''

The Coast Guard received 16 comments objecting to the requirement that tugs make-up (physically attach) to vessels over 1600 gross tons as they pass a moored LNG tankship. These comments agreed with the requirement for having vessels escorted but asserted that either the pilot, the master and/or the towing vessel operators should make the decision on whether to make-up, or that towing vessels should not be made-up because this type of arrangement provided no additional level of safety.

We disagree with comments asserting that the towing vessel should not be made-up. As previously discussed in the NPRM under the heading of 33 CFR 165.756(d)(3)(i) and (ii), Coast Guard research clearly indicates that the most effective way to maneuver and control a vessel is if it is made-up to towing vessels. These conclusions have been tested and were verified by simulations based on similar historical casualty scenarios.

Considering the proximity of the moored LNG tankship to the shipping channel and the restricted nature of the waterway, requiring towing vessels to be made-up to the escorted vessel is prudent. During a casualty (steering or propulsion), reaction time is critical. By ensuring the escorting towing vessels are made-up prior to a casualty, control will be immediate and any delays associated with attempting to make-up at the point of extremis will be eliminated.

We received nine comments expressing concern related to potential cost for the delays associated with the making-up of towing vessels to vessels passing the moored LNG tanker. Many of the comments stated that delays due to towing vessel availability and the time required to make-up would have an adverse economic impact.

Based on simulations conducted, marginal delays associated with making-up was minimal as compared with normal transits and passing at minimum speed. The time required to make-up results in minimal delays because the passing vessel continues its forward movement during this evolution. The make-up time is critical, however, when a vessel is in extremis and reaction time must be nearly instantaneous. For these reasons and as previously discussed, the Coast Guard continues to require that the escort towing vessels be made-up to the escorted vessel.

The Coast Guard received eight comments concerning the length of the escort zone for vessels passing an LNG tankship while it is moored. The original proposed zone was from Fort Jackson to Elba Island Cut. Since publishing the original notice of proposed rulemaking, additional research has been conducted which suggests that a reduction in the size of the escort zone will not adversely affect the level of safety. We agree with the comments and have amended this proposed rule accordingly.

We recognize circumstances will dictate the distance and time required to make-up the towing vessels. It is left to the professional judgment of the mariners involved in the evolution to ensure the vessels are properly made-up prior to passing Bight Channel Light 46 for outbound vessels and Elba Island Light 37 for inbound vessels, and that vessels remain made-up until clear of the LNG tankship. (NOTE: The distance between Lights 46 & 37 is approximately 2.1 nautical miles or approximately 1 nautical mile on either side of the facility. The originally proposed zone size was 3.3 nautical miles or roughly 1.6 nautical miles on either side.)

33 CFR 165.756 (d) (3) (iii). ''* * * the operator of the facility where the LNG vessel is moored shall provide at least one towing vessel with sufficient capacity to safely hold the LNG vessel to the dock while transiting vessels pass.''

Two respondents provided specific comments concerning the requirement to provide at least one towing vessel with sufficient capacity to safely hold the LNG tankship to the dock while transiting vessels pass. The Coast Guard has carefully considered these comments and has determined that the original wording of this requirement may restrict the flexibility of the ''standby'' towing vessel to assist in a wider range of casualty scenarios. The Coast Guard proposes to amend and renumber section (d)(3)(iii) of the original proposed rule to now read (d)(2)(ii): ''In addition to the two towing vessels required by paragraph (d)(2)(i) of this section, the operator of the facility where the LNG tankship is moored shall provide at least one (1) standby towing vessel of sufficient capacity to take any appropriate actions in an emergency as directed by the LNG vessel bridge watch.''

**Regulatory Evaluation**

This proposed rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, 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).

We expect the economic impact of this proposed rule to be so minimal so that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. Only an estimated one percent of the annual transits on the Savannah River will be LNG tankships. Further, all LNG transits will be coordinated and scheduled with the pilots and the Coast Guard Captain of the Port to minimize port disruption and delays for other commercial traffic, and LNG tankships. Finally, requests to enter the RNA may be granted on a case-by-case basis by the Coast Guard Captain of the Port.

**Small Entities**

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule will not have a significant economic impact on a substantial number of small entities because LNG vessels will comprise an estimated one percent of the large commercial vessel transits on the Savannah River. Further, the tug escort requirements of this rule for vessels transiting past a moored LNG vessel will only affect an estimated 12 percent of all large commercial vessel transits on the River. Delays, if any, will be minimal because vessel speeds would be reduced regardless of the tug requirements. Delays for inbound and outbound traffic due to LNG transits will be minimized through pre-transit conferences with the pilots and the Coast Guard Captain of the Port. Finally, the RNA requirements are less burdensome for smaller vessels, which are more likely to be small entities, because of the lower risk associated with these vessels.

**Assistance for Small Entities**

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offered to assist small entities in understanding this proposed rule so that they could better evaluate its effects on them and participate in the rulemaking process. If the proposed rule would affect your small business and you have questions concerning its provisions or options for compliance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT.** Small businesses may also send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

**Collection of Information**

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

**Federalism**

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this proposed rule under that Order and have determined that it does not have implications for federalism.

**Unfunded Mandates Reform Act**

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their regulatory actions not specifically required by law. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

**Taking of Private Property**

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

**Civil Justice Reform**

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

**Protection of Children**

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

**Indian Tribal Governments**

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

**Energy Effects**

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

**Environment**

We considered the environmental impact of this proposed rule and concluded that, under figure 2–1, paragraph (34)(g), of Commandant Instruction M16475.lD, this rule is categorically excluded from further environmental documentation. A ''Categorical Exclusion Determination'' is available in the docket where indicated under **ADDRESSES**.

**List of Subjects in 33 CFR Part 165**

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

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 165 as follows:

## PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

2. Section 165.756 is added to read as follows:

### § 165.756 Regulated Navigation Area; Savannah River, Georgia.

(a) *Regulated Navigation Area (RNA).* The Savannah River between Fort Jackson (32°04.93′ N, 081°02.19′ W) and the Savannah River Channel Entrance Sea Buoy is a regulated navigation area.

(b) *Definitions.* The following definitions are used in this section:

*Bollard pull* is an industry standard used for rating tug capabilities and is the pulling force imparted by the tug to the towline. It means the power that an escort tug can apply to its working line(s) when operating in a direct mode.

*Direct mode* is a towing technique which, for the purpose of this regulation, is defined as a method of operation by which a towing vessel generates by thrust alone, forces on an escorted vessel at an angle equal to or nearly equal to the towline, or thrust forces applied directly to the escorted vessel's hull.

*Indirect mode* is a towing technique which, for the purpose of this regulation, is defined as a method of operation by which an escorting towing vessel generates towline forces on an escorted vessel by a combination of thrust and hydrodynamic forces resulting from a presentation of the underwater body of the towing vessel at an oblique angle to the towline. This method increases the resultant bollard pull, thereby arresting and/or controlling the motion of an escorted vessel.

*LNG tankship* means a vessel as described in Title 46, Code of Federal Regulations, Part 154.

*Made-up* means physically attached by cable, towline, or other secure means in such a way as to be immediately ready to exert force on a vessel being escorted.

*Make-up* means the act of, or preparations for becoming made-up.

*Operator* means the person who owns, operates, or is responsible for the operation of a facility or vessel.

*Savannah River Channel Entrance Sea Buoy* means the aid to navigation labeled R W ''T'' Mo (A) WHIS on the National Oceanic and Atmospheric Administration's (NOAA) Nautical Chart 11512.

*Standby* means immediately available, ready, and equipped to conduct operations.

*Underway* means that a vessel is not at anchor, made fast to the shore, or aground.

(c) *Applicability.* This section applies to all vessels operating within the RNA, including naval and other public vessels, except vessels that are engaged in one of the following operations:

(1) Law enforcement or search and rescue operations;

(2) Servicing aids to navigation;

(3) Surveying, maintenance, or improvement of waters in the RNA; or

(4) Actively engaged in escort, maneuvering or support duties for the LNG tankship.

(d) *Regulations.*

(1) Restrictions on vessel operations while an LNG tankship is underway within the RNA.

(i) Except for a vessel that is moored at a marina, wharf, or pier, and remains moored, no vessel 1600 gross tons or greater is permitted within the RNA without the consent of the Captain of the Port (COTP).

(ii) All vessels under 1600 gross tons shall keep clear of transiting LNG tankships.

(iii) The owner, master, or operator of a vessel carrying LNG shall:

(A) Comply with the notice requirements of 33 CFR part 160. Updates are encouraged at least 12 hours before arrival at the RNA boundaries. The COTP may delay the vessel's entry into the RNA to accommodate other commercial traffic. LNG tankships are further encouraged to include in their notice a report of the vessel's propulsion and machinery status and any outstanding recommendations or deficiencies identified by the vessel's classification society and, for foreign flag vessels, any outstanding deficiencies identified by the vessel's flag state.

(B) Obtain permission from the COTP before commencing the transit into the RNA.

(C) While transiting, make security broadcasts every 15 minutes as recommended by the U.S. Coast Pilot 5 Atlantic Coast. The person directing the vessel must also notify the COTP telephonically or by radio on channel 13 or 16 when the vessel is at the following locations: Sea Buoy, Savannah Jetties, and Fields Cut.

(D) Not enter or get underway within the RNA if visibility during the transit is not sufficient to safely navigate the channel, and/or wind speed is, or is expected to be, greater than 25 knots.

(E) While transiting the RNA, the LNG tankship shall have sufficient towing vessel escorts.

(2) Requirements for LNG facilities:

(i) The operator of a facility where a LNG tankship is moored shall station and provide a minimum of two (2) escort towing vessels each with a minimum of 100,000 pounds of bollard pull, 4,000 horsepower and capable of safely operating in the indirect mode, to escort transiting vessels 1600 gross tons or greater past the moored LNG tankship.

(ii) In addition to the two towing vessels required by paragraph (d)(2)(i) of this section, the operator of the facility where the LNG tankship is moored shall provide at least one (1) standby towing vessel of sufficient capacity to take appropriate actions in an emergency as directed by the LNG vessel bridge watch.

(3) Requirements for vessel operations while an LNG tankship is moored:

(i) While moored within the RNA, LNG tankships shall maintain a bridge watch of appropriate personnel to monitor vessels passing under escort and to coordinate the actions of the standby towing vessel required in paragraph (d)(2)(ii) of this section in the event of emergency.

(ii) Transiting vessels 1600 gross tons or greater, when passing a moored LNG tankship, shall have a minimum of two (2) towing vessels, each with a minimum capacity of 100,000 pounds of bollard pull, 4,000 horsepower, and the ability to operate safely in the indirect mode, made-up in such a way as to be immediately available to arrest and/or control the motion of an escorted vessel in the event of steering, propulsion or other casualty. While it is anticipated that vessels will utilize the facility, provided towing vessel services required in paragraph(d)(2)(i) of this section, this regulation does not preclude escorted vessel operators from providing their own towing vessel escorts, provided they meet the requirements of this part.

(A) Outbound vessels shall be made-up and escorted from Bight Channel Light 46 until the vessel is safely past the LNG dock.

(B) Inbound vessels shall be made-up and escorted from Elba Island Light 37 until the vessel is safely past the LNG dock.

(iii) All vessels of less than 1600 gross tons shall not approach within 70 yards of an LNG tankship.

(e) *LNG schedule.* The Captain of the Port will issue a Broadcast Notice to Mariners to inform the marine community of scheduled LNG tankship activities during which the restrictions imposed by this section are in effect.

(f) *Waivers.*

(1) The COTP may waive any requirement in this section, if the COTP finds that it is in the best interest of safety or in the interest of national security.

(2) An application for a waiver of these requirements must state the compelling need for the waiver and describe the proposed operation and methods by which adequate levels of safety are to be obtained.

(g) *Enforcement.* Violations of this RNA should be reported to the Captain of the Port, Savannah, at (912) 652–4353. In accordance with the general regulations in § 165.13 of this part, no person may cause or authorize the operation of a vessel in the Regulated Navigation Area contrary to the regulations.

Dated: December 1, 2001.

**James S. Carmichael,**

*Rear Admiral, U.S. Coast Guard, Commander, Seventh Coast Guard District.*

[FR Doc. 01–30840 Filed 12–13–01; 8:45 am]

BILLING CODE 4910–15–U

## LIBRARY OF CONGRESS

## Copyright Office

## 37 CFR Part 255

**[Docket No. RM 2000–7A]**

## Mechanical and Digital Phonorecord Delivery Compulsory License

**AGENCY:** Copyright Office, Library of Congress.

**ACTION:** Request for comment.

**SUMMARY:** The Recording Industry of America, Inc. (''RIAA''), the National Music Publishers' Association, Inc. (''NMPA''), and The Harry Fox Agency, Inc. (''HFA''), have submitted a joint statement to the Copyright Office to advise the Office of certain developments relevant to the Copyright Office's Notice of Inquiry regarding the interpretation and application of the mechanical and digital phonorecord compulsory license, 17 U.S.C. 115, to certain digital music services. The Copyright Office requests additional public comment on its Notice of Inquiry in light of the RIAA/NMPA/HFA agreement filed in this proceeding.

**DATES:** Comments are due no later than January 28, 2002. Reply comments are due February 27, 2002.

**ADDRESSES:** If sent by mail, an original and ten copies of comments and reply comments should be addressed to: Office of the Copyright General Counsel, P.O. Box 70977, Southwest Station, Washington, DC 20024. If hand delivered, an original and ten copies should be brought to: Office of the Copyright General Counsel, James Madison Memorial Building, Room LM–403, First and Independence Avenue, SE., Washington, DC 20540.

**FOR FURTHER INFORMATION CONTACT:** David O. Carson, General Counsel, or Tanya M. Sandros, Senior Attorney, Copyright Arbitration Royalty Panels, P.O. Box 70977, Southwest Station, Washington, DC 20024. Telephone: (202) 707–8380. Telefax: (202) 252–3423.

**SUPPLEMENTARY INFORMATION:** On March 9, 2001, the Copyright Office published a Notice of Inquiry requesting comments from the public concerning the interpretation and application of the copyright laws to certain kinds of digital transmissions of prerecorded musical works. 66 FR 14099 (March 9, 2001). Since that time, the Recording Industry of America, Inc. (''RIAA''), the National Music Publishers Association (''NMPA'') and The Harry Fox Agency, Inc. (''HFA'') have negotiated a private agreement which concerns the application of the mechanical compulsory license, as set forth in the Copyright Act, 17 U.S.C. 115, to ''On-Demand Streams'' and ''Limited Downloads,'' two services identified in the Notice of Inquiry. RIAA, NMPA and HFA publicly announced this agreement October 9, 2001.

In the March 9 Notice of Inquiry, an ''On-Demand Stream'' was defined as an ''on-demand, real-time transmission using streaming technology such as Real Audio, which permits users to listen to the music they want when they want and as it is transmitted to them'' and a ''Limited Download'' was defined as an ''on-demand transmission of a time-limited or other use-limited (i.e. non-permanent) download to a local storage device (e.g., the hard drive of the user's computer), using technology that causes the downloaded file to be available for listening only either during a limited time (e.g., a time certain or a time tied to ongoing subscription payments) or for a limited number of times.'' 66 FR at 14100.

The Office received several comments in response to the notice of inquiry, some of which raised additional issues relating to section 115 of the Copyright Act (17 U.S.C. 115), incidental digital phonorecord deliveries, and other matters relating to digital transmissions of music.

Because the RIAA/NMPA/HFA agreement concerns many of the same issues raised in the March 9 Notice of Inquiry, RIAA, NMPA and HFA submitted a joint statement with the Copyright Office on December 6, 2001, in which they explain the terms of the agreement and list the benefits these parties associate with the agreement. The parties also included a copy of the agreement as an exhibit to the filing. The joint statement and the accompanying exhibits are posted on our website at: *http://www.loc.gov/copyright/carp/10–5agreement.pdf.*

The Copyright Office recognizes that the RIAA/NMPA/HFA agreement is a significant development that may affect the Office's inquiry into digital transmissions of music. Consequently, the Copyright Office invites comment from the public on the effect of the RIAA/NMPA/HFA agreement on the issues identified in the Notice of Inquiry. Comments are due no later than January 28, 2002. Reply comments are due February 27, 2002.

Dated: December 11, 2001.

**David O. Carson,**

*General Counsel.*

[FR Doc. 01–30931 Filed 12–13–01; 8:45 am]

BILLING CODE 1410–31–P

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 52

**[WI109–01–7339b, FRL–7115–8]**

## Approval and Promulgation of Air Quality Implementation Plans; Wisconsin; Automobile Refinishing Operations

**AGENCY:** Environmental Protection Agency.

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve a February 1, 2001, request from Wisconsin to revise its State Implementation Plan (SIP) for ozone. Wisconsin's submittal revises the state's regulations to control volatile organic compound (VOC) emissions from automobile refinishing operations. In addition, on July 31, 2001, Wisconsin submitted a SIP revision that, among other things, renumbers a portion of the regulations submitted on February 1, 2001. EPA acted on the majority of the July 31, 2001 submittal in our approval

of the state's one-hour ozone attainment demonstration. We are addressing the renumbering portion of that submittal with this proposed action. In the Final Rules section of this **Federal Register**, EPA is approving the state's SIP revision, as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If we receive no adverse comments in response to that direct final rule, we plan to take no further action in relation to this proposed rule. If we receive significant adverse comments, in writing, which we have not addressed, we will withdraw the direct final rule and address all public comments received in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this document.

**DATES:** Written comments must be received on or before January 14, 2002.

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

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

Please contact Kathleen D'Agostino at (312) 886–1767 before visiting the Region 5 office.

**FOR FURTHER INFORMATION CONTACT:** Kathleen D'Agostino, Environmental Engineer, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–1767.

**SUPPLEMENTARY INFORMATION:**

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

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

Dated: November 28, 2001.

**Bertram C. Frey,**

*Acting Regional Administrator, Region 5.*

[FR Doc. 01–30815 Filed 12–13–01; 8:45 am]

**BILLING CODE 6560–50–P**

## DEPARTMENT OF TRANSPORTATION

## Coast Guard

## 46 CFR Part 67

**[USCG–2001–8825]**

**RIN 2115–AG08**

## Vessel Documentation: Lease-Financing for Vessels Engaged in the Coastwise Trade

**AGENCY:** Coast Guard, DOT.

**ACTION:** Notice of reopening of comment period.

**SUMMARY:** In response to public requests, the Coast Guard is reopening the comment period on its notice of proposed rulemaking (NPRM) on Vessel Documentation: Lease-Financing for Vessels Engaged in the Coastwise Trade. Reopening the comment period gives the public more time to submit comments and recommendations on the issues raised in our NPRM. These proposed rules address statutory amendments eliminating certain barriers to seeking foreign financing by lease for U.S.-flag vessels. These proposals would clarify the information needed to determine the eligibility of a vessel financed in this manner for a coastwise endorsement. Based on comments received during the last comment period, the Coast Guard is contemplating issuing a supplemental notice of proposed rulemaking (SNPRM).

**DATES:** Comments on the NPRM and related material must reach the Docket Management Facility on or before January 28, 2002.

**ADDRESSES:** To make sure your comments and related material are not entered more than once in the docket, please submit them by only one of the following means:

(1) Electronically through the Web Site for the Docket Management System at *http://dms.dot.gov/.*

(2) By fax to the Docket Management Facility at 202–493–2251.

(3) By delivery to room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

(4) By mail to the Docket Management Facility, (USCG–2001–8825), U.S. Department of Transportation, room PL–401, 400 Seventh Street SW., Washington, DC 20590–0001.

In choosing among these means, please give due regard to the recent difficulties with delivering mail through the U.S. Postal Service to Federal facilities.

You must also mail comments on collection of information to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503, ATTN: Desk Officer, U.S. Coast Guard.

The Docket Management Facility maintains the public docket for the rulemaking. Comments will become part of this docket and will be available for inspection or copying at room PL–401, located on the Plaza Level of the Nassif Building at the same address between 10 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may electronically access the public docket on the Internet at *http://dms.dot.gov.*

**FOR FURTHER INFORMATION CONTACT:** For questions on viewing, or submitting material to, the docket, call Dorothy Beard, Chief, Dockets, Department of Transportation, telephone 202–366–9329. For information on the NPRM provisions contact Patricia Williams, Deputy Director, National Vessel Documentation Center (NVDC), Coast Guard, telephone 304–271–2506.

**SUPPLEMENTARY INFORMATION:**

### Request for Comments

The Coast Guard encourages you to submit written data, views, or arguments. If you submit comments, you should include your name and address, identify the NPRM [USCG–2001–8825; published in the **Federal Register** on May 2, 2001 (66 FR 21902)] and the specific section or question in the document to which your comments apply, and give the reason for each comment. Please submit one copy of all comments and attachments in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing to the DOT Docket Management Facility at the address under **ADDRESSES**. If you want us to acknowledge receiving your comments, please enclose a stamped, self-addressed postcard or envelope.

The Coast Guard will consider all comments received during the comment period, and may change the proposed rules in view of the comments. An SNPRM is being considered.

Dated: December 7, 2001.

**Joseph J. Angelo,**

*Director of Standards, Marine Safety and Environmental Protection.*

[FR Doc. 01–30838 Filed 12–13–01; 8:45 am]

**BILLING CODE 4910–15–U**

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 1

**[WT Docket No. 99–217; DA 01–2751]**

### Promotion of Competitive Networks in Local Telecommunications Markets

**AGENCY:** Federal Communications Commission.

**SUMMARY:** In this document, the Commission is requesting comments on the current state of the market for local and advanced telecommunications services in multitenant environments (''MTEs''). The comments requested will aid the Commission in gauging the effects of the rules implemented in the WT Docket No. 99–217 proceeding and of the Model Access Agreement and Best Practices Guide adopted by a real estate industry association.

**DATES:** Comments are due no later than February 1, 2002.

**ADDRESSES:** Parties who choose to file comments by paper should send comments to the Commission's Secretary, Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, 445 12th Street, SW.; TW–A325; Washington, DC 20554. Comments filed through the Commission's Electronic Comment Filing System (ECFS) can be sent as an electronic file via the Internet to *http://www.fcc.gov/e-file/ecfs.html.*

**FOR FURTHER INFORMATION CONTACT:** Leon Jackler, Wireless Telecommunications Bureau at (202) 418–0946.

**SUPPLEMENTARY INFORMATION:** This is a summary of a document in WT Docket No. 99–217, DA 01–2751 that was released on November 30, 2001. The complete text of the document is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone (202) 863–2893. The document is also available via the Internet at *http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA–01–2751A1.pdf.*

On October 25, 2000, the Commission released a First Report and Order and Further Notice of Proposed Rulemaking (''Further Notice'') authorizing the Wireless Telecommunications Bureau to issue a public notice requesting additional information on the state of the market for local and advanced telecommunications services in multiple tenant environments (MTEs) eight months after the release of the Further Notice (66 FR 2322, January 11, 2001). The Commission in the Further Notice noted that an assessment of the market ''would best be guided by information that measures the current state of the market * * * after a reasonable period of time has passed after the implementation of the Competitive Networks Order and the best practices proposed by the real estate industry.'' On May 22, 2001, a real estate industry association released a set of best practices and a model contract for use in negotiating access agreements with carriers. In light of that development and a delay in the effective date of the new rules, the Bureau issued a public notice on June 25, 2001, postponing its request for additional information regarding the state of the market in order to allow sufficient opportunity to gauge the effects of the model access agreement, industry best practices, and Competitive Networks rules in the marketplace. Specifically, the Bureau stated its intent to issue a document on or about November 30, 2001.

Federal Communications Commission.

**Magalie Roman Salas,**

*Secretary.*

[FR Doc. 01–30867 Filed 12–13–01; 8:45 am]

**BILLING CODE 6712–01–P**

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Parts 2 and 87

**[WT Docket No. 01–289; FCC 01–303]**

### Review of Part 87 of the Commission's Rules Concerning the Aviation Radio Service

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** In this *Notice of Proposed Rule Making (NPRM),* the FCC proposes to consolidate, revise, and streamline the Commission rules governing the Aviation Radio Service. The proposed rule changes are designed to ensure that these rules reflect recent technological advances, as well as ensuring that these rules are consistent with other Commission rules. The FCC is initiating this proceeding to eliminate regulations that are duplicative, outmoded, or otherwise unnecessary in the Aviation Radio Service.

**DATES:** Written comments by the public on the proposed and/or modified information collections are due March 14, 2002 and reply comments are due on or before April 15, 2002.

**ADDRESSES:** In addition to filing comments with the Secretary, a copy of any comments on the information collections contained herein should be submitted to Judy Boley, Federal Communications Commission, Room 1–C804, 445 Twelfth Street, SW., Washington, DC 20554, or via the Internet to jboley@fcc.gov, and to Edward Springer, OMB Desk Officer, 10236 NEOB, 725 17th Street, NW., Washington, DC 20503 or via the Internet to *Edward.Springer@omb.eop.gov.*

**FOR FURTHER INFORMATION CONTACT:** Jeffrey Tobias, Wireless Telecommunications Bureau, at (202) 418–0680 and for additional information concerning the information collections contained in this NPRM contact Judy Boley at 202–418–0214, or via the Internet at *jboley@fcc.gov.*

Paperwork Reduction: This *NPRM* contains either a proposed or modified information collection. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collections contained in this *NPRM,* as required by the Paperwork Reduction Act of 1995, Pub. Law 104–13. Public and agency comments are due at the same time as other comments on this *NPRM;* OMB notification of action is due 60 days from date of publication of this *NPRM* in the **Federal Register**. Comments should address: (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 estimates; (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.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Federal Communications Commission's Notice of Proposed Rule Making, FCC 01–303, adopted on October 10, 2001 and released on October 16, 2001. The full text of this Notice of Proposed Rule Making is available for inspection and copying during normal business hours in the FCC Reference Center, Room CY–A257, 445 12th Street, SW, Washington, DC 20554. The complete text may be purchased from the Commission's copy contractor, Qualex International, 445 12th Street, SW, Room CY–B402, Washington, D.C. 20554. The full text may also be downloaded at *www.fcc.gov.* Alternative formats are

available to persons with disabilities by contacting Martha Contee at (202) 418–0260 or TTY (202) 418–2555.

*OMB Approval Number:* 3060–xxxx.

*Title:* Section 87.109 Station logs.

*Form No.:* Not applicable.

*Type of Review:* New collection.

*Respondents:* 3.

Number of Responses: 3.

*Estimated Time Per Response:* 100 hours.

*Total Annual Burden:* 300 hours.

*Estimated costs per respondent:* none.

*Needs and Uses:* The rule is needed to require fixed station in the international aeronautical mobile service to maintain a written or automatic log in accordance with the provisions of the International Civil Aviation Organization (ICAO) Convention. The log is necessary to document the service fixed stations, including the harmful interference, equipment failure and logging of distress and safety calls where applicable.

*OMB Approval Number:* 3060–xxxx.

*Title:* Section 87.147 Authorization of equipment.

*Form No.:* Not applicable.

*Type of Review:* New collection.

*Respondents:* 25.

*Number of Responses:* 25.

*Estimated Time Per Response:* 1 hours.

*Total Annual Burden:* 25 hours.

*Estimated costs per respondent:* none.

*Needs and Uses:* The rule is needed to require applicants for aviation equipment certification to submit an FAA determination of the equipment's compatibility with the National Airspace System (NSA). This will ensure that radio equipment operating in certain frequencies is compatible with the NAS, which shares system components with the military.

1. The Aviation Radio Service is an internationally-allocated family of radio services designed to enhance and protect the safety of life and property in air navigation. In this *NPRM* we propose to consolidate, revise, and streamline our Part 87 rules governing the Aviation Radio Service. These proposed rule changes are designed to ensure that these rules reflect recent technological advances, as well as ensuring that these rules are consistent with other Commission rules. We are also initiating this proceeding to eliminate regulations that are duplicative, outmoded, or otherwise unnecessary in the Aviation Radio Service.

2. In the *NPRM,* we propose to update the technical specifications for Aeronautical Mobile Satellite (Route) Service (AMS(R)S) equipment; amend our equipment certification procedures to permit the certification of dual spacing transceivers for aircraft also operating in countries which employ 8.33 kHz channel spacing; allow the certification of radios that operate outside the civil aviation band for aircraft in the Civil Reserve Airfleet, and streamline the certification process for equipment needing a Federal Aviation Administration (FAA) showing of compatibility with the National Airspace System.

3. The NPRM also prepares to authorize the use of the Differential Global Positioning System (DGPS) in the 108–118 and 1559–1610 MHz bands and license DGPS licensees on a non-developmental basis, and allow the use of temporary call signs for aircraft operation under the provisions of wet lease agreements.

4. The NPRM also seeks comment on major issues such as:

(1) Whether to authorize AMS(R)S under the 47 CFR part 87 rules in the 1610–1626.5 and 5000–5150 MHz bands;

(2) Whether to amend § 87.261(c) of our rules to allow more than one aeronautical enroute station to be authorized at any one location;

(3) Whether to amend our 47 CFR part 87 rules to accommodate Time Division Multiple Access emissions in the very high frequency Aeronautical Mobile (Route) Service (AMRS) band, as an alternative to 8.33 kHz channel spacing to allow greater use of spectrum for domestic air travel;

(4) Whether to eliminate all specific references to the Civil Air Patrol in Part 87; and

(5) Whether to revise our licensing rules and procedures for aeronautical advisory (unicom) stations.

**Procedural Matters**

5. *Ex Parte Rules.* This is a permit-but-disclose notice and comment rule making proceeding. *Ex parte* presentations are permitted, except during the Sunshine Agenda period, provided they are disclosed as provided in our Rules.

6. *Comment Dates.* Pursuant to §§ 1.415 and 1.419 of our Rules, interested parties may file comments on or before March 14, 2002, and reply comments on or before April 15, 2002. Comments may be filed using the Commission's Electronic Filing System (ECFS) or by filing paper copies.

7. 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. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, then commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To obtain 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.

8. Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number. All filings must be sent to the Commission's Secretary, Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, 445 12th St., SW., Room TW–A325, Washington, DC 20554.

9. Parties who choose to file by paper should also submit their comments on diskette. These diskettes should be submitted to Jeffrey Tobias, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau, 445 12th St., SW., Washington, DC 20554. Such a submission should be on a 3.5-inch diskette formatted in an IBM compatible format using Microsoft Word 97 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, WT Docket No. 01–289, 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 should send diskette copies to the Commission's copy contractor, Qualex International, Portals II, 445 Twelfth St., SW., Room CY–B402, Washington, DC 20554.

**Initial Regulatory Flexibility Certification**

10. The Regulatory Flexibility Act (RFA) requires that an agency prepare a regulatory flexibility analysis for notice-and-comment rulemaking proceedings, unless the agency certifies that ''the rule will not, if promulgated, have a

significant economic impact on a substantial number of small entities.'' The RFA generally defines ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. A ''small business concern'' is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).

11. The proposals in the *NPRM* are intended to reduce the administrative burden on applicants and entities seeking certification of equipment, ensure that the Commission's rules reflect the latest technical and industry standards, and correct typographical or ministerial errors in the Commission's Rules. The changes we propose are of an administrative nature, and will not have a substantial economic impact on small entities. If there is an economic impact on small entities as a result of these proposals, however, we expect the impact to be a positive one.

12. The Commission therefore certifies, pursuant to the RFA, that the proposals in this *NPRM,* if adopted, will not have a significant economic impact on a substantial number of small entities. If commenters believe that the proposals discussed in the *NPRM* require additional RFA analysis, they should include a discussion of these issues in their comments and additionally label them as RFA comments. The Commission will send a copy of the *NPRM,* including a copy of this initial certification, to the Chief Counsel for Advocacy of the SBA. In addition, a copy of the *NPRM* and this initial certification will be published in the **Federal Register**.

*Ordering Clauses*

13. Pursuant to sections 4(i), 303(r), and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303(r), 403, this *Notice of Proposed Rule Making* is adopted.

**List of Subjects**

*47 CFR Part 2*

Communications equipment, Radio, Telecommunications

*47 CFR Part 87*

Air transportation, Civil defense, Radio, Reporting and recordkeeping requirements

Federal Communications Commission

**William F. Caton,**

*Deputy, Secretary.*

**Rules Changes**

For the reasons discussed in the preamble the Federal Communications Commission proposes to amend 47 CFR Parts 2 and 87 as follows:

## PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

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

**Authority:** 47 U.S.C. 154, 302a, 303, and 336, unless otherwise noted.

2. Section 2.106, the Table of Frequency Allocations, is amended as follows:

a. Revise pages

b. 26 and 44.

c. In the list of United States (US) Footnotes, add footnote US343.

The revisions and addition read as follows:

**§ 2.106 Table of Frequency Allocations.**

BILLING CODE 6712–01–C

| | | | | | |
|---|---|---|---|---|---|
| S5.175 S5.179 S5.184 S5.187 | 75.4-76<br>FIXED<br>MOBILE | 75.4-87<br>FIXED<br>MOBILE<br>S5.149 S5.182 S5.183 S5.188 | 75.4-88 | 75.4-76<br>FIXED<br>MOBILE<br>NG3 NG49 NG56 | Public Mobile (22)<br>Private Land Mobile (90)<br>Personal Radio (95) |
| 87.5-100<br>BROADCASTING<br>S5.190 | 76-88<br>BROADCASTING<br>Fixed<br>Mobile<br>S5.185 | 87-100<br>FIXED<br>MOBILE<br>BROADCASTING | | 76-88<br>BROADCASTING<br>NG128 NG129 NG149 | Broadcast Radio (TV) (73)<br>Auxiliary Broadcasting (74) |
| | 88-100<br>BROADCASTING | | 88-108<br>US93 | 88-108<br>BROADCASTING<br>US93 NG2 NG128 NG129 | Broadcast Radio (FM) (73)<br>Auxiliary Broadcasting (74) |
| 100-108<br>BROADCASTING<br>S5.192 S5.194 | | | | | |
| 108-117.975<br>AERONAUTICAL RADIONAVIGATION<br>S5.197 | | | 108-117.975<br>AERONAUTICAL RADIONAVIGATION<br>US93 US343 | | Aviation (87) |
| 117.975-137<br>AERONAUTICAL MOBILE (R)<br>S5.111 S5.198 S5.199 S5.200 S5.201 S5.202 S5.203 S5.203A S5.203B | | | 117.975-121.9375<br>AERONAUTICAL MOBILE (R)<br>S5.111 S5.199 S5.200 591 US26 US28 | | |
| | | | 121.9375-123.0875<br>591 US30 US31 US33 US80 US102 US213 | 121.9375-123.0875<br>AERONAUTICAL MOBILE<br>591 US30 US31 US33 US80 US102 US213 | |
| | | | 123.0875-123.5875<br>AERONAUTICAL MOBILE<br>S5.200 591 US32 US33 US112 | | |
| | | | See next page for 123.5875-137 MHz | | See next page for 123.5875-137 MHz |

| | | | |
|---|---|---|---|
| 1530-1535<br>SPACE OPERATION (space-to-Earth)<br>MOBILE-SATELLITE (space-to-Earth) S5.353A<br>Earth exploration-satellite<br>Fixed<br>Mobile except aeronautical mobile<br><br>S5.341 S5.342 S5.351 S5.354 | 1530-1535<br>SPACE OPERATION (space-to-Earth)<br>MOBILE-SATELLITE (space-to-Earth) S5.353A<br>Earth exploration-satellite<br>Fixed<br>Mobile S5.343<br><br>S5.341 S5.351 S5.354 | 1530-1535<br>MOBILE-SATELLITE (space-to-Earth)<br>MARITIME MOBILE-SATELLITE (space-to-Earth)<br>Mobile (aeronautical telemetry)<br><br>S5.341 S5.351 US78 US315 | Aviation (87) |
| 1535-1559<br>MOBILE-SATELLITE (space-to-Earth)<br><br>S5.341 S5.351 S5.353A S5.354 S5.355 S5.356 S5.357 S5.357A S5.359 S5.362A | | 1535-1544<br>MOBILE-SATELLITE (space-to-Earth)<br>MARITIME MOBILE-SATELLITE (space-to-Earth)<br>S5.341 S5.351 US315 | Satellite Communications (25)<br>Maritime (80) |
| | | 1544-1545<br>MOBILE-SATELLITE (space-to-Earth)<br>S5.341 S5.356 | |
| | | 1545-1549.5<br>AERONAUTICAL MOBILE-SATELLITE (R) (space-to-Earth)<br>Mobile-satellite (space-to-Earth)<br>S5.341 S5.351 US308 US309 | Aviation (87) |
| | | 1549.5-1558.5<br>AERONAUTICAL MOBILE-SATELLITE (R) (space-to-Earth)<br>MOBILE-SATELLITE (space-to-Earth)<br>S5.341 S5.351 US308 US309 | |
| | | 1558.5-1559<br>AERONAUTICAL MOBILE-SATELLITE (R) (space-to-Earth)<br>S5.341 S5.351 US308 US309 | |
| 1559-1610<br>AERONAUTICAL RADIONAVIGATION<br>RADIONAVIGATION-SATELLITE (space-to-Earth)<br><br>S5.341 S5.355 S5.359 S5.363 | | 1559-1610<br>AERONAUTICAL RADIONAVIGATION<br>RADIONAVIGATION-SATELLITE (space-to-Earth)<br><br>S5.341 US208 US260 US343 | |

* * * * *

**United States (US) Footnotes**

* * * * *

US343 Differential-Global-Positioning-System (DGPS) Stations may be authorized on a primary basis in the bands 108–117.975 MHz and 1559–1610 MHz for the specific purpose of transmitting DGPS information intended for aircraft navigation.

* * * * *

## PART 87—AVIATION SERVICES

1. The authority citation for Part 87 continues to read as follows:

**Authority:** 47 U.S.C. 154, 303 and 307(e), unless otherwise noted.

2. Section 87.27 is revised to read as follows:

### § 87.27 License term.

(a) Licenses for stations in the aviation services will normally be issued for a term of ten years from the date of original issuance, or renewal.

(b) Licenses for developmental stations will be issued for a period not to exceed one year and are subject to change or to cancellation by the Commission at any time, upon reasonable notice, but without a hearing.

3. Section 87.45 is revised to read as follows:

### § 87.45 Time in which station is placed in operation.

This section applies only to unicom stations and radionavigation land stations, excluding radionavigation land test stations. When a new license has been issued or additional operating frequencies have been authorized, the station or frequencies must be placed in operation no later than one year from the date of the grant. The licensee must notify the Commission in accordance with § 1.946 of this chapter that the station or frequencies have been placed in operation.

4. Section 87.107 is amended by adding paragraph (a)(6) to read as follows:

### § 87.107 Station identification.

(a) * * *

(6) Aircraft operating under Wet Lease Agreements as provided in 14 CFR part 119 may identify themselves by lessee carrier's call sign, followed by the suffix ''WLA.''

* * * * *

1. Section 87.109 is revised to read as follows:

### § 87.109 Station logs.

(a) A station at a fixed location in the international aeronautical mobile service must maintain a log in accordance with Annex 10 of the ICAO Convention.

(b) A station log must contain the following information:

(1) The name of the agency operating the station.

(2) The identification of the station.

(3) The date.

(4) The time of opening and closing the station.

(5) The frequencies being guarded and the type of watch (continuous or scheduled) being maintained on each frequency.

(6) Except at intermediate mechanical relay stations where the provisions of this paragraph need not be complied with, a record of each communication showing text of communication, time communications completed, station(s) communicated with, and frequency used.

(7) All distress communications and action thereon.

(8) A brief description of communications conditions and difficulties, including harmful interference. Such entries should include, whenever practicable, the time at which interference was experienced, the character, radio frequency and identification of the interfering signal.

(9) A brief description of interruption to communications due to equipment failure or other troubles, giving the duration of the interruption and action taken.

(10) Such additional information as may be considered by the operator to be of value as part of the record of the station's operations.

(c) Stations maintaining written logs must also enter the signature of each operator, with the time the operator assumes and relinquishes a watch.

6. In § 87.131 amend the table by revising the entries for Aeronautical enroute and aeronautical fixed, Aircraft Earth and footnote 8 to read as follows:

### § 87.131 Power and emissions.

* * * * *

| Class of station | Frequency band frequency | Authorized emission(s)[9] | Maximum power[1] |
|---|---|---|---|
| * | * | * | * |
| Aeronautical enroute and aeronautical fixed | HF | R3E, H3E, J3E, J7B, H2B, J2D | 6 kW. |
| | HF | A1A, F1B, J2A, J2B | 1.5 kw. |
| | VHF | A3E, A9W, G1D | 200 watts.[2] |
| * | * | * | * |
| Aircraft Earth | UHF | G1D, G1E, G1W | 80 watts.[8] |
| * | * | * | * |

[8] Power may not exceed 80 watts per carrier as measured at the output of the high power amplifier. The maximum EIRP may not exceed 2000 watts per carrier.

* * * * *

7. In § 87.137, amend the table in paragraph (a) by revising the second entry for A3E to read as follows:

### § 87.137 Types of emission.

(a)* * *

| Class of emission | Emission designator | Authorized bandwidth (kilohertz) | | |
|---|---|---|---|---|
| | | Below 50 MHz | Above 50 MHz | Frequency deviation |
| * * * * | * | * | * | * |
| A3E | 8K33A3E | | ([17]) | |
| * * * * | * | * | * | * |

* * * * *

[17] Only authorized for use by aircraft in international flight or for equipment certification purposes.

* * * * *

8. Section 87.139 is amended by removing paragraph (i)(2) and redesignating paragraphs (i)(3) and paragraph (i)(4) as paragraphs (i)(2) and (i)(3) and revising paragraphs (i)(1) and newly redesignated paragraph (i)(3) to read as follows:

**§ 87.139 Emission limitations.**

* * * * * * *

(i)* * *

(1) At rated output power, while transmitting a modulated single carrier, the composite spurious and noise output shall be attenuated below the mean power of the transmitter, pY, by at least:

| Frequency (MHz) | Attenuation (dB)[1] |
|---|---|
| 0.01 to 1525 | 135 dB/4 kHz |
| 1525 to 1559 | 203 dB/4 kHz |
| 1559 to 1585 | 155 dB/1 MHz |
| 1585 to 1605 | 143 dB/1 MHz |
| 1605 to 1610 | 117 dB/1 MHz |
| 1610 to 1610.6 | 95 dB/MHz |
| 1610.6 to 1613.8 | 80 dBW/MHz |
| 1613.8 to 1614 | 95 dB/MHz |
| 1614 to 1626.5 | 70 dB/4 kHz |
| 1626.5 to 1660 | 70 dB/4 kHz[2] |
| 1660 to 1670 | 49.5 dB/20 kHz[2] |
| 1670 to 1735 | 60 dB/4 kHz |
| 1735 to 12000 | 105 dB/4 kHz |
| 12000 to 18000 | 70 dB/4 kHz |

[1] These values are expressed in dB below the carrier referenced to the bandwidth indicated, and relative to the maximum emission envelope level, or where the attenuation is shown in dBW, the attenuation is expressed in terms of absolute power referenced to the bandwidth indicated.

[2] Attenuation measured within the transmit band excludes the band ± 35 kHz of the carrier frequency.

* * * * *

(3) The transmitter emission limit is a function of the modulation type and symbol rate (SR). Symbol Rate is expressed in symbols per second.

| Frequency offset (normalized to SR) | Attenuation (dB) |
|---|---|
| +/−0.75×SR | 0 |
| +/−1.40×SR | 20 |
| +/−2.95×SR | 40 |

Where:

SR = Symbol Rate

SR = 1×channel rate for BPSK

SR = 0.5×channel rate for QPSK

* * * * *

9. Section 87.147 is amended by adding paragraph (f) and revising paragraphs (d) and (d) (2) to read as follows:

**§ 87.147 Authorization of equipment.**

* * * * *

(d) An applicant for certification of equipment intended for transmission in any of the frequency bands listed in paragraph (d)(3) of this section must notify the FAA of the filing of a certification application. The letter of notification must be mailed to: FAA, Office of Spectrum Policy and Management, 800 Independence Ave., SW., Washington, DC 20591 prior to the filing of the application with the Commission.

* * * * *

(2) The certification application must include a copy of the notification letter to the FAA as well as a copy of the FAA's subsequent determination of the equipment's compatibility with the National Airspace System.

* * * * *

(f) Certification may be requested for equipment that has the capability to transmit in the 138–144 MHz, 148–149.9 MHz, or 150.5–150.8 MHz bands as well as frequency bands set forth in § 87.173. The Commission will only certify this equipment for use in the bands regulated by this part.

10. Section 87.171 is revised to read as follows:

**§ 87.171 Class of station symbols.**

AX—Aeronautical fixed
AXO—Aeronautical operational fixed
DGP—Differential GPS
FA—Aeronautical land (unspecified)
FAU—Aeronautical advisory (unicom)
FAC—Airport control tower
FAE—Aeronautical enroute
FAM—Aeronautical multicom
FAP—Civil Air Patrol
FAR—Aeronautical search and rescue
FAS—Aviation support
FAT—Flight test
FAW—Automatic weather observation
GCO—" Ground Communication Outlet
MA—Aircraft (Air carrier and Private)
MA1—Air carrier aircraft only
MA2—Private aircraft only
MOU—Aeronautical utility mobile
MRT—ELT test
RCO—Remote Communications Outlet
RL—Radionavigation land (unspecified)
RLA—Marker beacon
RLB—Radiobeacon
RLD—" RADAR/TEST

RLG—Glide path
RLL—Localizer
RLO—VHF omni-range
RLS—Surveillance radar
RLT—Radionavigation land test
RLW—Microwave landing system
RNV—" Radio Navigation Land/DME
RPC—" Ramp Control
TJ—Aircraft earth station in the Aeronautical Mobile-Satellite Service

11. In § 87.173 amend the table in paragraph (b) by adding the entries for 510–535 kHz, 108.00–117.975 MHz, and 1559–1610 MHz to read as follows:

**§ 87.173 Frequencies.**

* * * * *

(b) Frequency table:

| Frequency or frequency band | Subpart | Class of station | Remarks |
|---|---|---|---|
| * * * * * | | * | * |
| 510–535 kHz | Q | RLB | Radiobeacons. |
| * * * * * | | * | * |
| 108.000–117.975 MHz | Q | DGP | Differential GPS. |
| * * * * * | | * | * |
| 1559–1610 MHz | Q | DGP | Differential GPS. |
| * * * * * | | * | * |

12. Section 87.187 is amended by revising a new paragraph (dd) to read as follows:

**§ 87.187 Frequencies.**

* * * * *

(dd) The frequency 121.95 is authorized for air-to-ground and air-to-air communications for aircraft up to 13000 feet above mean sea level (AMSL) within the area bounded by the following coordinates (all coordinates are referenced to North American Datum 1983 (NAD83)):

32–35–00 N. Lat.; 117–12–00 W. Long.
32–42–00 N. Lat.; 116–56–00 W. Long.
32–41–00 N. Lat.; 116–41–00 W. Long.
32–35–00 N. Lat.; 116–38–00 W. Long.
32–31–00 N. Lat.; 117–11–00 W. Long.

13. Section 87.189 is amended by revising paragraph (c) to read as follows:

**§ 87.189 Requirements for public correspondence equipment and operations.**

* * * * *

(c) A continuous watch must be maintained on the frequencies used for safety and regularity of flight while public correspondence communications are being handled.

For aircraft earth stations, this requirement is satisfied by compliance with the priority and preemptive access requirements of § 87.187(q).

* * * * *

14. Section 87.217 is amended by revising paragraph (a) introductory text to read as follows:

**§ 87.217 Frequencies.**

(a) Only one unicom frequency will be assigned at any one airport. Applicants must request a particular frequency, which will be taken into consideration when the assignment is made. The frequencies assignable to unicoms are:

* * * * *

15. Section 87.475 is amended by revising paragraphs (b)(2) and (c)(2) introductory text to read as follows:

**§ 87.475 Frequencies.**

* * * * *

(b)* * *

(2) Radiobeacon stations enable an aircraft station to determine bearing or direction in relation to the radiobeacon station. Radiobeacons operate in the bands 190–285 kHz; 325–435 kHz; 510–525 kHz; and 525–535 kHz. Radiobeacons may be authorized, primarily for off-shore use, in the band 525–535 kHz on a non-interference basis to travelers information stations.

* * * * *

(c) * * *

(2) The frequencies available for assignment to radionavigation land test stations for the testing of airborne receiving equipment are 108.000 and 108.050 MHz for VHF omni-range; 108.100 and 108.150 MHz for localizer; 334.550 and 334.700 MHz for glide slope; 978 and 979 MHz (X channel)/1104 MHz (Y channel) for DME; 1030 MHz for ATC radar beacon transponders; 1090 MHz for Traffic Alert and Collision Avoidance Systems (TCAS); and 5031.0 MHz for microwave landing systems. Additionally, the frequencies in paragraph (b) of this section may be assigned to radionaviagion land test stations after coordination with the FAA. The following conditions apply:

* * * * *

[FR Doc. 01–30432 Filed 12–13–01; 8:45 am]

BILLING CODE 6712–01–P

## FEDERAL COMMUNICATIONS COMMISSION

## 47 CFR Part 73

**[DA 01–2783; MM Docket No. 01–113; RM–9655]**

## Radio Broadcasting Services; Big Piney, LaBarge, WY

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule, dismissal.

**SUMMARY:** The Commission dismisses a petition for rule making filed by Mount Rushmore Broadcasting, Inc., requesting the allotment of Channel 259A at Big Piney, Wyoming, and Channel 261A at La Barge, Wyoming. Petitioner filed no comments in response to the Notice of Proposed Rulemaking. No other party filed comments.

**FOR FURTHER INFORMATION CONTACT:** Victoria M. McCauley, Mass Media Bureau, and (202) 418–2180.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Report and Order, MM Docket No. 01–113 adopted November 21, 2001 and released November 30, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY–A257), 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail *qualexint@aol.com.*

Federal Communications Commission.

**John A. Karousos,**

*Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.*

[FR Doc. 01–30865 Filed 12–13–01; 8:45 am]

BILLING CODE 6712–01–P

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### 50 CFR Parts 222 and 223

**[I.D. 062501B]**

**RIN 0648–AN62**

### Endangered and Threatened Wildlife; Sea Turtle Conservation Requirements

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

**ACTION:** Public hearing notice; extension of public comment period.

**SUMMARY:** Notice is hereby given that the National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce, will extend the public comment period, through February 15, 2002, for the purpose of receiving comments on the proposed rule to amend the regulations protecting sea turtles to enhance their effectiveness in reducing sea turtle mortality resulting from shrimp trawling in the Atlantic and Gulf Areas of the southeastern United States, published in the **Federal Register** on October 2, 2001.

**DATES:** Written comments should be received by February 15, 2002.

**ADDRESSES:** Written comments should be addressed to the Chief, Endangered Species Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910. Comments may also be sent via fax to 301–713–0376. Comments will not be accepted if submitted via e-mail or the Internet.

**FOR FURTHER INFORMATION CONTACT:** Robert Hoffman (ph. 727–570–5312, fax 727–570-5517, e-mail Robert.Hoffman@noaa.gov), or Therese A. Conant (ph. 301–713–1401, fax 301–713–0376, e-mail *Therese.Conant@noaa.gov*).

**SUPPLEMENTARY INFORMATION:** Turtle excluder devices (TEDs) have proven to be effective at excluding sea turtles from shrimp trawls; however, NMFS has determined that modifications to the design of TEDs need to be made to exclude leatherbacks and large, sexually mature loggerhead and green turtles. Several approved TED designs are also structurally weak and do not function properly under normal fishing conditions. Additionally, modifications to the trynet and bait shrimp exemptions to the TED requirements are necessary to decrease lethal take of sea turtles. These proposed amendments are necessary to protect endangered and threatened sea turtles in the Atlantic and Gulf Areas.

Dated: December 7, 2001.

**Donald R. Knowles,**

*Director, Office of Protected Resources, National Marine Fisheries Service.*

[FR Doc. 01–30929 Filed 12–13–01; 8:45 am]

BILLING CODE 3510–22–S

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### 50 CFR Parts 223 and 224

**[Docket No. 011130289–1289–01; I.D. 111501C]**

### Endangered and Threatened Wildlife and Plants: 90-Day Finding for a Petition to List North American Green Sturgeon as Threatened or Endangered under the Endangered Species Act

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

**ACTION:** Notice of petition finding; request for information and comments.

**SUMMARY:** NMFS announces a 90–day finding for a petition to list the North American green sturgeon (*Acipenser medirostris*) as a threatened or endangered species and to designate critical habitat under the Endangered Species Act (ESA). NMFS finds that the petition presents substantial scientific information indicating that the petitioned action may be warranted. NMFS will conduct a status review of the green sturgeon to determine if the petitioned action is warranted. To ensure that the review is comprehensive, NMFS is soliciting information and comments pertaining to this species, and seeks suggestions from the public for peer reviewers for the agency's review of the petitioned action.

**DATES:** Information and comments on the action must be received by March 14, 2002.

**ADDRESSES:** Requests for copies of the petition, and information and comments on this action should be submitted to the Assistant Regional Administrator, Protected Resources Division, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213. The petition is available for public inspection by appointment, Monday through Friday, at the same address.

**FOR FURTHER INFORMATION CONTACT:** Craig Wingert, NMFS, Southwest Region, (562) 980–4021 or David O'Brien, NMFS, Office of Protected Resources, (301) 713–1401.

**SUPPLEMENTARY INFORMATION:**

#### Background

Section 4 (b)(3)(A) of the ESA (16 U.S.C. 1531 *et seq.*) requires that NMFS make a finding as to whether a petition to list, delist, or reclassify a species presents substantial scientific or commercial information to indicate that the petitioned action may be warranted. NMFS' ESA implementing regulations (50 CFR 424.14) define ''substantial information'' as the amount of information that would lead a reasonable person to believe that the measure proposed in the petition may be warranted. In determining whether substantial information exists for a petition to list a species, NMFS takes into account several factors, including information submitted with and referenced in the petition and all other information readily available in NMFS files. To the maximum extent practicable, this finding is to be made within 90 days of the receipt of the petition, and the finding is to be published promptly in the **Federal Register**. If NMFS finds that a petition presents substantial information indicating that the requested action may be warranted, section 4 (b)(3)(B) of the ESA requires the Secretary of Commerce (Secretary) to conduct a status review of the species and make a finding as to whether the petitioned action is warranted within 1 year of the receipt of the petition.

#### Analysis of Petition

On June 12, 2001, NMFS received a petition from the Environmental Protection Information Center, Center for Biological Diversity, and Waterkeepers Northern California regarding the North American green sturgeon. The petition requested that NMFS list the North American green sturgeon as either an endangered or threatened species under the ESA, and that it designate critical habitat for the species concurrently with any listing determination.

The green sturgeon is a large, anadromous fish. In North America, the green sturgeon ranges from Alaska to

Mexico in marine waters and forages in estuaries and bays ranging from San Francisco Bay to British Columbia. The green sturgeon is recognized as a single species, but until recently, geographic variation in the species that could indicate the presence of subspecies or distinct populations had received little attention. Although Russian and Asian forms of the green sturgeon are morphologically similar to the North American form, Moyle et al. (1992) indicated the Russian and Asian forms likely belong to a different taxon. Birstein (1993), among others, recently demonstrated genetic differences between the Asian and North American forms, suggesting they are two distinct species. The green sturgeon has been aged to 42 years old, but this is probably an underestimate and ages of 60 to 70 are more likely. Males mature sexually sometime after they reach 120 cm, or approximately 17 years old. Females mature after attaining 145 cm, or approximately 21 years old and may return to spawn every 3 to 7 years. Males spawn more frequently.

Sturgeon species worldwide have experienced population declines because they are a long-lived, late-maturing species that have low fecundity and spawn only periodically, a combination of traits that makes them particularly susceptible to over-fishing and habitat degradation (Musick, 1999). Spawning green sturgeon are highly vulnerable to over-fishing because they tend to hold in deep, cold pools in rivers, thus concentrating the spawning population. In a recent review paper, Musick et al. (2000) cited evidence that green sturgeon populations have declined by 88 percent throughout much of its range, and there appears to have been recent declines in green sturgeon in the Umpqua River in Oregon and the Fraser River in Canada. Each of the known or suspected spawning populations of green sturgeon presently contain at most a few hundred mature females (Musick et al., 2000).

The current spawning range of green sturgeon in North America has contracted from its historic range, and they now spawn in only a limited number of large river systems. Green sturgeon historically spawned in the Eel, the South Fork Trinity, and the San Joaquin Rivers in California, but apparently no spawning occurs there currently. The only known remaining spawning populations of the North American green sturgeon are in the Sacramento and Klamath River basins in California, with more spawning apparently occurring in the Klamath River basin. It is also possible that spawning occurs in the Rogue River in Oregon since running-ripe adults and young of the year have been observed in the Rogue River, but exact spawning locations have not been confirmed. The contraction in spawning range, and the reduction in the number and size of green sturgeon spawning populations, could represent a significant reduction in the spawning area and potential for the species. Since North American green sturgeon spawning is limited to low numbers of spawners in a very few rivers, they are vulnerable to local changes in flow and temperature resulting from water diversions, increased sedimentation, entrainment in pumping facilities, and contaminant loading.

The green sturgeon in North America may face ongoing threats from the loss and/or degradation of habitat, particularly in those river systems where they are known or thought to spawn (e.g. Klamath and Sacramento River basins), and impacts to the species from harvest in sport fisheries or as bycatch in other fisheries (e.g. white sturgeon fishery). Specific concerns regarding habitat loss and degradation cited by the petitioners include the construction of dams and operation of large scale water projects in the Sacramento and Klamath Rivers and other coastal systems, and logging agriculture, mining, road construction and urban development in coastal watersheds. Some fisheries that occur in coastal Washington and the Columbia River that target white sturgeon or salmon take green sturgeon as bycatch. Some of this bycatch is in areas where green sturgeon spawning does not occur, suggesting that green sturgeon harvest in some areas is supported by the limited number of known spawning populations (e.g., Klamath and Sacramento River basins).

**Petition Finding**

Given documented declines in abundance and contraction of spawning range, and the possibility of ongoing threats, NMFS has determined that the petition presents substantial information that listing green sturgeon in North America under the ESA may be warranted. Accordingly, NMFS will initiate a status review of the North American green sturgeon. In accordance with section 4 (b)(3)(B) of the ESA, the Secretary will make his determination whether the petitioned action is warranted within 12 months from the date the petition was received (June 12, 2001) following completion of an ESA status review.

**Listing Factors and Basis for Determination**

Under section 4 (a)(1) of the ESA, a species may be determined to be threatened or endangered based on any of the following factors: (1) The present or threatened destruction, modification, or curtailment of its habitat or range; (2) overutilization for commercial, recreational, scientific, or educational purposes; (3) disease or predation; (4) inadequacy of existing regulatory mechanisms; or (5) other natural or manmade factors affecting its continuing existence. Listing determinations are based solely on the best available scientific and commercial data after taking into account any efforts being made by any state or foreign nation to protect the species.

**Information Solicited**

To ensure that North American green sturgeon status review is complete and is based on the best available scientific and commercial data, NMFS is soliciting information and comments on this species. NMFS specifically requests the following information: (1) Biological or other relevant data that may help identify distinct population segments of this species (e.g., age structure, genetics, migratory patterns, morphology); (2) the range, distribution, habitat use and abundance of this species, including information on the spawning populations of the species; (3) current or planned activities and their possible impact on this species (e.g., harvest impacts, habitat impacting activities or actions); (4) efforts being made to protect this species in California, Oregon, Washington and Canada.

**Critical Habitat**

NMFS is also requesting information on areas that may qualify for critical habitat for the North American green sturgeon. Areas that include the physical and biological features essential to the conservation of the species should be identified. Essential features include, but are not limited to: (1) space for individual and population growth and for normal behavior; (2) food, water, air, light, minerals, or other nutritional or physiological requirements; (3) cover or shelter; (4) sites for reproduction and development of offspring; and (5) habitats that are protected from disturbance or are representative of the historical, geographical and ecological distributions of the species (50 CFR 424.12).

For areas potentially qualifying as critical habitat, NMFS requests information describing (1) the activities

that affect the areas or could be affected by the designation, and (2) the economic costs and benefits of additional requirements of management measures likely to result from the designation.

**Peer Review**

On July 1, 1994, NMFS, jointly with the U.S. Fish and Wildlife Service, published a series of policies regarding listings under the ESA, including a policy for peer review of scientific data (59 FR 34270). The intent of the peer review policy is to ensure that listings are based on the best scientific and commercial data available. NMFS is soliciting the names of recognized experts in the field that could take part in the peer review process for this status review. Independent peer reviewers will be selected from the academic and scientific community, tribal and other Native American groups, Federal and state agencies, the private sector, and public interest groups.

**References Cited**

Birstein, V.J. 1993. Is *Acipencer medirostris* one or two species? The Sturgeon Quarterly 1(2):8 (1993).

Moyle, P.B., P.J. Foley and R.M. Yoshiyama. 1992. Status of green sturgeon, *Acipencer medirostris*, in California. Final Report submitted to National Marine Fisheries Service, Terminal Island, CA.

Musick, J.A., M.M. Harbin, S.A. Berkeley, G.H. Burgess, A.M. Eklund, L. Findley, R.G. Gilmore, J.T. Golden, D.S. Ha, G.R. Huntsman, J.C. McGovern, S.J. Parker, S.G. Poss, E. Sala, T.W. Schmidt, G.R. Sedberry, H. Weeks, and S.G. Wright. 2000. Marine, Estuarine, and Diadromous Fish Stocks at Risk of Extinction in North America (Exclusive of Pacific Salmonids). Fisheries 25(11): 6–30.

**Authority:** 16 U.S.C. 1531 *et seq.*

Dated: December 10, 2001.

**William T. Hogarth,**

*Assistant Administrator for Fisheries, National Marine Fisheries Service.*

[FR Doc. 01–30930 Filed 12–13–01; 8:45 am]

BILLING CODE 3510–22–S

# Notices

Federal Register

Vol. 66, No. 241

Friday, December 14, 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

### Animal and Plant Health Inspection Service

**[Docket No. 01–105–1]**

### Notice of Request for Extension of Approval of an Information Collection

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Extension of approval of an information collection; comment request.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request an extension of approval of an information collection in support of the gypsy moth program.

**DATES:** We invite you to comment on this docket. We will consider all comments we receive that are postmarked, delivered, or e-mailed by February 12, 2002.

**ADDRESSES:** You may submit comments by postal mail/commercial delivery or by e-mail. If you use postal mail/commercial delivery, please send four copies of your comment (an original and three copies) to: Docket No. 01–105–1, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. 01–105–1. If you use e-mail, address your comment to *regulations@aphis.usda.gov.* Your comment must be contained in the body of your message; do not send attached files. Please include your name and address in your message and ''Docket No. 01–105–1'' on the subject line.

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

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

**FOR FURTHER INFORMATION CONTACT:** For information on the gypsy moth identification worksheet, contact Mr. Jonathan Jones, Operations Officer, Invasive Species and Pest Management, PPQ, APHIS, 4700 River Road Unit 134, Riverdale, MD 20737–1236; (301) 734–5038. For copies of more detailed information on the information collection, contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 734–7477.

**SUPPLEMENTARY INFORMATION:**

*Title:* Gypsy Moth Identification.

*OMB Number:* 0579–0104.

*Type of Request:* Extension of approval of an information collection.

*Abstract:* The United States Department of Agriculture (USDA) is responsible for, among other things, the control and eradication of plant pests. The Plant Protection Act authorizes the Department to carry out this mission.

To this end, Plant Protection and Quarantine (PPQ) of the Animal and Plant Health Inspection Service (APHIS), USDA, engages in detection surveys to monitor for the presence of, among other things, the European gypsy moth and the Asian gypsy moth.

The European gypsy moth was introduced into the United States in the 1860's and has been damaging woodland areas in the Northeast for the last 100 years. The Asian gypsy moth, which is not established in this country, is considered to pose an even greater threat to trees and forested areas.

Unlike the flightless European gypsy moth female adult, the Asian gypsy moth female adult is capable of strong directed flight between mating and egg deposition, significantly increasing its ability to spread over a much greater area and become widely established within a short time.

To determine the presence and extent of a European gypsy moth or an Asian gypsy moth infestation, we set traps in high-risk areas to collect specimens. Once an infestation is identified, control and eradication work (usually involving State cooperation) is initiated to eliminate the moths.

APHIS personnel, with assistance from State agriculture personnel, check traps for the presence of gypsy moths. If a suspicious moth is found in the trap, it is sent to APHIS laboratories at the Otis Methods Development Center in Michigan so that it can be correctly identified through DNA analysis. (Since the European gypsy moth and the Asian gypsy moth are strains of the same species, they cannot be visually distinguished from each other. DNA analysis is the only way to accurately identify these insects.)

The PPQ or State employee submitting the moth for analysis completes a gypsy moth identification worksheet (PPQ Form 305), which accompanies the insect to the laboratory. The worksheet enables both Federal and State regulatory officials to identify and track specific specimens through the DNA identification tests that we conduct.

The information provided by the gypsy moth identification worksheets is vital to our ability to monitor, detect, and eradicate gypsy moth infestations.

We are asking the Office of Management and Budget (OMB) to approve our use of this information collection activity for an additional 3 years.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning our information collection. These comments will help us:

(1) 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;

(2) Evaluate the accuracy of our estimate of the burden of the information collection, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the information collection on those who are to respond, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies, e.g., permitting electronic submission of responses.

*Estimate of burden:* The public reporting burden for this collection of information is estimated to average 0.083 hours per response.

*Respondents:* State cooperators.

*Estimated annual number of respondents:* 120.

*Estimated annual number of responses per respondent:* 2.

*Estimated annual number of responses:* 240.

*Estimated total annual burden on respondents:* 20 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Done in Washington, DC, this 10th day of December, 2001.

**W. Ron DeHaven,**

*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 01–30897 Filed 12–13–01; 8:45 am]

BILLING CODE 3410–34–U

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

**[Docket No. 01–096–1]**

### Availability of an Environmental Assessment

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Notice of availability and request for comments.

**SUMMARY:** We are advising the public that an environmental assessment has been prepared by the Animal and Plant Health Inspection Service relative to the control of *Melaleuca quinquenervia*. The environmental assessment considers the effects of, and alternatives to, the release of two nonindigenous organisms into the environment for use as biological control agents to reduce the severity of melaleuca infestations. The environmental assessment has been prepared to provide the public with documentation of our review and analysis of the potential environmental impacts and plant pest risks associated with releasing these biological control agents into the environment.

**DATES:** We invite you to comment on the environmental assessment. We will consider all comments we receive that are postmarked, delivered, or e-mailed by January 14, 2002.

**ADDRESSES:** You may submit comments by postal mail/commercial delivery or by e-mail. If you use postal mail/commercial delivery, please send four copies of your comment (an original and three copies) to: Docket No. 01–096–1, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. 01–096–1. If you use e-mail, address your comment to regulations@aphis.usda.gov. Your comment must be contained in the body of your message; do not send attached files. Please include your name and address in your message and ''Docket No. 01–096–1'' on the subject line.

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

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

**FOR FURTHER INFORMATION CONTACT:** Dr. Tracy Horner, Entomologist, Permits and Risk Assessment, PPQ, APHIS, 4700 River Road Unit 133, Riverdale, MD 20737–1228; (301) 734–5213.

**SUPPLEMENTARY INFORMATION:** As part of an integrated control project to reduce the severity of *Melaleuca quinquenervia* (Cav.) S.T. Blake (Myrtales: Myrtaceae) infestations in Florida, the Animal and Plant Health Inspection Service (APHIS) is proposing to release two nonindigenous organisms, *Boreioglycaspis melaleucae* Moore (Hemiptera: Psyllidae) and *Lophyrotoma zonalis* Rohwer (Hymenoptera: Pergidae) in areas affected by melaleuca.

Melaleuca, a broad-leaf paper bark tree native to Australia, was originally introduced in Florida during the early 1900's as an ornamental and was later planted along dikes and levees for erosion control and to convert wetlands into productive forest lands. Over the last four decades, it has spread throughout southern Florida, displacing native plant and animal species, and threatening the stability of the Florida Everglades ecosystem. The purpose of the proposed action is to reduce the severity of the infestations of melaleuca throughout the affected areas.

APHIS' current melaleuca control project encompasses the areas known to be infested in central and south Florida and involves an integrated control approach sensitive to site-specific conditions, which may include a combination of physical, biological, and/or chemical controls. In response to permit applications the Agency received for the release of *B. melaleucae*, a psyllid native to Australia, and *L. zonalis*, a sawfly also native to Australia, APHIS is investigating the use of these biological control agents to control melaleuca in the affected areas. If APHIS decides to issue permits to release *B. melaleucae* and/or *L. zonalis*, these organisms would be added to the integrated control methods already available. Presently, there is only one biological control agent, a nonindigenous weevil (*Oxyops vitiosa*), used to suppress melaleuca.

APHIS has completed an environmental assessment that considers the effects of, and alternatives to, releasing *B. melaleucae* and *L. zonalis* into the environment. *B. melaleucae* and *L. zonalis* are known to attack only species within the family Myrtaceae. Our findings indicate that *L. zonalis* and *B. melaleucae* will not develop on any native species of Myrtaceae, but may temporarily feed on, and cause minor damage to, introduced species of *Callistemon* and Myrtaceae, and possibly wax myrtle. There is no evidence that the release of these two biological control agents will adversely affect threatened and endangered species or their habitat, or cultural, historical, and archaeological resources.

*L. zonalis* is being tested for toxicity to vertebrates because a closely related species, *Lophyrotoma interrupta* Klug, is reported to be toxic to cattle in Australia under certain conditions. Until further testing is completed, *L. zonalis* will not be released into the environment. Therefore, we are considering the release of *B. melaleucae* and, pending further testing, the release of *L. zonalis* to reduce the severity of melaleuca infestations in Florida.

APHIS' review and analysis of the potential environmental impacts associated with releasing these biological control agents into the environment are documented in detail in an environmental assessment entitled ''Field Release of Two Biological Control Agents *Boreioglycaspis melaleucae* Moore (Hemiptera: Psyllidae) and *Lophyrotoma zonalis* Rohwer (Hymenoptera: Pergidae) for the Control of *Melaleuca quinquenervia* (Cav.) S.T. Blake (Myrtales: Myrtaceae)

in South Florida'' (September 2001). We are making this environmental assessment available to the public for review and comment.

The environmental assessment may be viewed on the Internet at http://www.aphis.usda.gov/ppq/ by accessing ''Forms,'' then ''Permits-Pests;'' the environmental assessment is document number 0030. Copies of the environmental assessment may be obtained by calling the Plant Protection and Quarantine Automated Fax System at (301) 734–4327 or (301) 734–3560; please enter document number 0030 when prompted. You may also request copies of the environmental assessment by calling or writing to the person listed under **FOR FURTHER INFORMATION CONTACT**. Please refer to the title of the environmental assessment when requesting copies. The environmental assessment is also available for review in our reading room (information on the location and hours of the reading room is listed under the heading ADDRESSES at the beginning of this notice.)

The environmental assessment has been prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*), regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

Done in Washington, DC, this 10th day of December 2001 .

**W. Ron DeHaven,**

*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 01–30896 Filed 12–13–01; 8:45 am]

**BILLING CODE 3410–34–P**

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## DEPARTMENT OF AGRICULTURE

### Food and Nutrition Service

### Agency Information Collection Activities: Proposed Collection; Comment Request—Nutrition Education Materials for Food and Nutrition Service Population Groups

**AGENCY:** Food and Nutrition Service, USDA.

**ACTION:** Notice.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, this notice invites the general public and other public agencies to comment on a proposed information collection. This information collection is based on the Child Nutrition Act of 1966, as amended, the National School Lunch Act of 1966, as amended, the Food Stamp Act of 1977, as amended, the Agriculture and Consumer Protection Act of 1973, as amended, and the Emergency Food Assistance Act of 1983, as amended. This project is a new collection of information.

**DATES:** Written comments must be received on or before February 12, 2002.

**ADDRESSES:** Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments may be sent to Judy F. Wilson, Director, Nutrition Services Staff, Food and Nutrition Service, U.S. Department of Agriculture, 3101 Park Center Drive, Room 1012, Alexandria, VA 22302. Comments may also be faxed to the attention of Judy F. Wilson at (703) 305–2576.

All written comments will be open for public inspection at the office of the Food and Nutrition Service during regular business hours (8:30 a.m. to 5 p.m., Monday through Friday) at 3101 Park Center Drive, Alexandria, Virginia 22302, Room 1012.

All responses to this notice will be summarized and included in the request for Office of Management and Budget (OMB) approval. All comments will be a matter of public record.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information should be directed to Judy F. Wilson, (703) 305–2585 or Marion Hinners, (703) 305–2116.

**SUPPLEMENTARY INFORMATION:**

*Title:* Nutrition Education Materials for FNS Population Groups.

*OMB Number:* Not yet assigned.

*Expiration Date:* N/A.

*Type of Request:* New collection.

*Abstract:* Diet has a significant impact on the health of citizens and is linked to four leading causes of disease and premature death. Diet also plays a role in the development of other health conditions, which can reduce the quality of life and contribute to premature death. One of FNS' goals includes improving the nutrition of children and low-income families by providing access to program benefits and nutrition education in a manner that supports American agriculture and inspires public confidence.

Materials in support of nutrition education goals will be developed by FNS. Eat Smart. Play Hard.™ (ESPH) is a project geared particularly towards children, including their caregivers, who are eligible for FNS nutrition assistance programs. Components already completed for ESPH consist of a spokes character with accompanying posters, brochures, activity sheets, and a kit of promotional materials.

As part of the Phase II development of ESPH, FNS will develop the following:

1. Additional messages and materials for a subsection of the children and caregivers group, materials for Hispanic children and caregivers as well as public service announcements (PSA's); and

2. An interactive Internet Web site.

In addition to ESPH Phase II, FNS will also develop materials to include:

1. Low-literacy education materials and tools to communicate and promote the implementation of the Dietary Guidelines for Americans; and

2. The conversion of existing English nutrition education materials to appropriate language and culture for the Hispanic audiences.

The materials will be tested using focus groups, short semi-structured interviews, and web-based tools to test the interactive Web site. The groups tested will provide information regarding the acceptability of materials and products during both the developmental process and during the final product development stage. Semi-structured short interviews will be conducted with FNS program recipients, staff, stakeholders and consumer volunteers at the State and local levels to determine acceptability and efficacy of materials and products developed. Interviews will be integrated into other program activities as appropriate.

FNS will also collect information regarding effective nutrition education initiatives being implemented by State agencies that administer nutrition assistance programs to address critical nutrition issues.

*Respondents:* Recipients of and those persons eligible for FNS nutrition assistance programs, State and local staff administering FNS programs, FNS stakeholders and consumers.

*Estimated Number of Respondents:* (including padding for variables of recruitment, site activity, etc.)

*Phase II of ESPH*

Child intercepts—200 respondents × 4 locations = 800 respondents (padded to 1000)
Adult intercepts—200 respondents × 4 locations = 800 respondents (padded to 1000)
Child focus groups—24 grps × 12 respondents/grp = 288 respondents (padded to 300)
Adult focus groups—32 grps × 12 respondents/grp = 384 respondents (padded to 400)
Professional staff—120 respondents
Total = 2272 respondents (padded up to 2700)

*Phase II of ESPH Web Site Development*

Total = 300 respondents

*Dietary Guidelines Low-Literacy Materials*

English-speaking intercepts—80 respondents (padded to 100)
Spanish-speaking intercepts—80 respondents (padded to 100)
English-speaking focus groups—12 groups × 10 respondents = 120 respondents
Spanish-speaking focus groups—12 groups × 10 respondents = 120 respondents
Professional staff—30 respondents (padded to 60)
Total = 430 respondents (padded up to 500)

*Spanish Conversion*

Spanish focus groups—12 groups × 10 respondents = 120 respondents
Spanish intercepts—112 respondents (padded to 130)
Total = 232 respondents (padded to 250)

*Grand Total* = 3750 respondents.

*Number of Responses per Respondent:* 15.

*Estimated Time per Response:*

*Total Intercepts (one on one interviews)* = 2810 × 30 min (per contractor) = 84,300/60 = 1405 hours.

*Total Focus Groups* = 1060 × 2 hrs (per contractor) = 2120 hours.

*Total Estimated Hours of Burden not to exceed* = 3525 hours.

*Estimated Total Annual Burden on Respondents:* Public reporting burden for this collection of information is estimated to average 3750 respondents with a total estimated burden of 3525 hours.

Dated: December 5, 2001.

**George A. Braley,**

*Acting Administrator, Food and Nutrition Service.*

[FR Doc. 01–30835 Filed 12–13–01; 8:45 am]

BILLING CODE 3410–30–U

## DEPARTMENT OF AGRICULTURE

### Forest Service

### Newspapers Used for Publication of Legal Notice of Appealable Decisions for the Northern Region; Idaho, Montana, North Dakota, and Portions of South Dakota and Eastern Washington

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice.

**SUMMARY:** This notice lists the newspapers that will be used by all Ranger Districts, Forests, and the Regional Office of the Northern Region to publish legal notice of all decisions subject to appeal under 36 CFR parts 215 and 217 and to publish notices for public comment and notice of decision subject to the provisions of 36 CFR part 215. The intended effect of this action is to inform interested members of the public which newspapers will be used to publish legal notices for public comment or decisions; thereby allowing them to receive constructive notice of a decision, to provide clear evidence of timely notice, and to achieve consistency in administering the appeals process.

**DATES:** Publication of legal notices in the listed newspapers will begin with decisions subject to appeal that are made on or after December 14, 2001. The list of newspapers will remain in effect until another notice is published in the **Federal Register.**

**FOR FURTHER INFORMATION CONTACT:** Appeals and Litigation Group Leader; Northern Region; PO Box 7669; Missoula, Montana 59807. Phone: (406) 329–3696.

The newspapers to be used are as follows:

*Northern Regional Office.*—Regional Forester decisions in Montana:

The Missoulian, Great Falls Tribune, and the Billings Gazette.

Regional Forester decisions in Northern Idaho and Eastern Washington: The Spokesman Review.

Regional Forester decisions in North Dakota: Bismarck Tribune.

Regional Forester decisions in South Dakota: Rapid City Journal.

*Beaverhead/Deerlodge*—Montana Standard
*Bitterroot*—Ravalli Republic
*Clearwater*—Lewiston Morning Tribune
*Custer*—Billings Gazette (Montana)
Rapid City Journal (South Dakota)
*Dakota Prairie National Grasslands*—
Bismarck Tribune (North Dakota)
Rapid City Journal (South Dakota)
*Flathead*—Daily Interlake
*Gallatin*—Bozeman Chronicle
*Helena*—Independent Record
*Idaho Panhandle*—Spokesman Review
*Kootenai*—Daily Interlake
*Lewis & Clark*—Great Falls Tribune
*Lolo*—Missoulian
*Nez Perce*—Lewiston Morning Tribune

Supplemental notices may be placed in any newspaper, but time frames/deadlines will be calculated based upon notices in newspapers of record listed above.

Dated: December 7, 2001.

**Kathleen A. McAllister,**

*Deputy Regional Forester.*

[FR Doc. 01–30861 Filed 12–13–01; 8:45 am]

BILLING CODE 3410–11–M

## DEPARTMENT OF AGRICULTURE

### Forest Service

### Salmon-Challis National Forest Noxious Weed Environmental Impact Statement; Intent To Prepare a Draft Environmental Impact Statement (DEIS) for a Proposed Forest-Wide Noxious Weed Management Program

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of intent.

**SUMMARY:** The USDA, Forest Service is gathering information and preparing an Environmental Impact Statement (EIS) for a forest-wide noxious weed management program. The intent of this program is to: Protect the natural condition and biodiversity of ecosystems by preventing and/or limiting the introduction and subsequent spread of invasive, non-native plant species that displace native vegetation; eliminate new invaders before they become established; contain and reduce known and potential weed seed sources throughout the forest; prevent or limit the spread of established weeds into areas containing little or no infestation; protect sensitive and unique habitats including research natural areas, wetlands, riparian areas, and sensitive plant populations; and develop criteria to prioritize invasive weed species and treatment areas. Prioritization will be given to treating areas that may contribute to the spread of weeds into Lemhi, Custer, and Butte Counties within the Salmon-Challis National Forest (S–CNF).

**SUPPLEMENTARY INFORMATION:**

#### Background

The Salmon-Challis NF embraces Integrated Pest Management (IPM) practices (as defined in Forest Service Handbook 3409) in managing various pests, including noxious and invasive non-native weeds. This philosophy is

predicated on the principle that a single management method will not be successful; but that implementing a fully integrated approach in weed management significantly improves the chances of a successful program. A variety of activities can be carried out under an IPM program and provides for a full range of management strategies, including prevention and public education.

Weeds can alter ecosystem processes, including productivity, decomposition, hydrology, nutrient cycling, and natural disturbance patterns such as frequency and intensity of wildfires. Changing these processes can lead to displacement of native plant species, eventually impacting wildlife and native plant habitat, recreational opportunities, natural hydrologic processes, and scenic beauty. The economic effects from the subsequent loss of productivity and resource values can be considerable.

The Draft EIS will focus on restoring native species and wildlife habitat while reducing runoff and erosion by containing and reducing weed infestations and seed sources throughout the forest, controlling the spread of existing weeds, and preventing the establishment of new weed species. This project will encompass portions of the S–CNF, with complete analysis expected by January 2003.

**EIS Scope**

Potential alternatives for weed management may include mechanical, biological, vegetative (e.g. seedings), controlled grazing, and ground-based and aerial herbicide applications. Methods of management will be evaluated based on environmental concerns, management restrictions, and site characteristics to ensure weed management activities are as successful as possible. The project area and analysis will encompass the entire Salmon-Challis National Forest excluding the Frank Church River of No Return Wilderness, an area of approximately 3,108,827 acres. Specific treatment areas may be throughout the project area and would include big game summer and winter range, roads, trails, trailheads, administrative sites, and other emphasis areas such as disturbed sites and high use areas. preliminary issues identified for analysis in the EIS include the potential effects and relationship of the project to human health risk, water quality, fisheries, native plant communities, wildlife habitat, soil productivity, recreation, scenery, heritage resources, and sensitive plants.

**Public Involvement**

The Forest Service intends to schedule at least three public information meetings before the close of the comment period. For the Forest Service to best use the scoping input, comments should be received by January 31, 2002.

Public participation will be an integral component of the study process, and will be especially important at several points during the analysis. The first is during the scoping process. The Forest Service will be seeking information, comments, and assistance from Federal, State, County, and local agencies, individuals, and organizations that may be interested in or affected by the proposed activities. The scoping process will include: (1) Identification of potential issues, (2) identification of issues to be analyzed in depth, (3) identification of alternatives and (4) elimination of non-significant issues or those that have been covered by previous environmental reviews. Written scoping comments will be solicited through a scoping package that will be sent to the project mailing list and local newspapers.

At this early stage, the Forest Service believes it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of Draft EIS's must structure their participation in the environmental review of the proposal, so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v *NRDC,* 435 U.S. 519, 553, (1978). Also, environmental objections that could have been raised at the Draft EIS stage, but that are not raised until completion of the Final EIS, may be waived or dismissed by the courts. *City of Angoon* v. *Hodel,* 803 F.2nd 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period on the Draft EIS, so that substantive comments and any objections are made available to the Forest Service at a time when they can be meaningfully considered and responded to in the Final EIS.

To assist the Forest Service in identifying and considering issues and concerns of the proposed action, comments on the Draft EIS should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the Draft EIS. Comments may address the adequacy of the Draft EIS, as well as the merits of the alternatives formulated and discussed in the Draft EIS. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act in 40 CFR 1503.3, in addressing these points.

**DATES:** Dates, times and locations of these meetings will be announced. Written comments concerning the scope of this project should be received by the Salmon-Challis National Forest by January 31, 2002.

**ADDRESSES:** Please send written comments to: Salmon-Challis National Forest, 50 Highway 93 South, Salmon, ID 83467. Attn: Lyle Powers, RE: Salmon-Challis NF Noxious Weed EIS.

**FOR FURTHER INFORMATION CONTACT:** Lyle Powers, Planning Staff Officer, telephone (208) 756–5557, E-mail: *lepowers@fs.fed.us,* or Bill Diage, Planning Team Ecologist, telephone (208) 756–5562, E-mail: *wdiage@fs.fed.us,* Salmon-Challis National Forest, 50 Highway 93 South, Salmon, ID 83467.

*Permits/Authorizations:* The proposed action will not require any site-specific amendments to the Salmon nor Challis National Forest Land and Resource Management Plans.

*Responsible Official:* George Matejko, Forest Supervisor, Salmon-Challis National Forest, is the responsible official. In making the decision, the responsible official will consider the comments; responses; disclosure of environmental consequences; and applicable laws, regulations, and policies. The responsible official will state the rationale for the chosen alternative in the Record of Decision.

Dated: December 7, 2001.

**George Matejko,**

*Forest Supervisor.*

[FR Doc. 01–30885 Filed 12–13–01; 8:45 am]

BILLING CODE 3410–11–M

## DEPARTMENT OF AGRICULTURE

### Forest Service

### B-Line Phase III (Sewer Export Pipeline Replacement), Lake Tahoe Basin Management Unit (LTBMU), El Dorado County, California; Notice of Intent

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of intent to prepare environmental impact statement.

**SUMMARY:** The USDA Forest Service will prepare an environmental impact statement (EIS) to address whether or

not to authorize the South Tahoe Public Utility District to construct Phase III of the B-Line Export Pipeline. This project would complete the replacement of the original effluent export pipeline that runs from South Lake Tahoe, CA to the Tahoe Basin boundary.

**DATES:** The public is asked to provide any additional information they believe the Forest Service may still not have at this time and to submit any issues (points of concern, debate, dispute or disagreement) regarding potential effects of the proposed action or alternatives by January 15, 2002.

**ADDRESSES:** Send written comments to Michael Rhoades, Associate Planner, Tahoe Regional Planning Agency, P.O. Box 1038, Zephyr Cove, NV 89448. Telephone: 775/588–4547, Fax: 775/588–4527, E-mail: *mrhoades@trpa.org.*

**FOR FURTHER INFORMATION CONTACT:** Michael Rhoades at the above address.

*Decision to be Made:* The Forest Supervisor will decide whether or not to authorize construction of the proposed pipeline and if so which route the new pipeline will follow.

*Purpose and Need:* The South Tahoe Public Utility District's owns and operates an effluent export system that pumps treated effluent from the District's wastewater treatment plant in South Lake Tahoe to the Harvey Place Reservoir in Alpine County, CA. The original force main was installed in 1969/70 and utilized steel pipe that was installed using poorly monitored construction techniques. Problems developed soon after the installation was completed, and have continued as the line has aged. The existing pipeline is no longer reliable. Leaks and breaks in the existing line sometimes occur.

*Proposed Action:* Authorize the South Tahoe Public Utility District (District) to construct Phase III of the B-Line Export Pipeline Replacement. The proposed action and alternatives are described in greater detail below.

*Lead Agencies:* The USDA Forest Service will serve as lead agency under the National Environmental Policy Act (NEPA). The Tahoe Regional Planning Agency (TRPA) will serve as lead agency under the TRPA rules of procedure (Ordinances Chapter 5). The South Tahoe Public Utility District will serve as the lead agency under the California Environmental Quality Act (CEQA). The U.S. Environmental Protection Agency will work closely with the Forest Service under NEPA. Implementation of the proposal would require permits from TRPA, the California Regional Water Quality Control Board Lahontan Region and the Forest Service.

*Scoping:* The planning for this project is being coordinated by the three lead agencies. The environmental documents will be drafted to meet the requirements of NEPA, CEQA and TRPA. Scoping meetings are being held before the TRPA Advisory Planning Commission on December 12, 2001 and the Governing Board on December 19, 2001. The CEQA/TRPA Notice of Preparation request comments by December 30, 2001. The Forest Service is requesting Scoping comments by January 15, 2002.

*Response Time:* Please send your comments no later than January 15, 2001 to Michael Rhoades, Associate Planner,—Tahoe Regional Planning Agency,—PO Box 1038,—Zephyr Cove, NV 89448. Telephone: 775/588–4547, Fax: 775/588–4527, E-mail: *mrhoades@trpa.org.*

**FOR FURTHER INFORMATION:** Contact Michael Rhoades at the address or telephone number provided above.

**SUPPLEMENTARY INFORMATION:**

## Project Name and Description and Background

The South Tahoe Public Utility District's (District) owns and operates an effluent export system that pumps treated effluent from the District's wastewater treatment plant in South Lake Tahoe to the Harvey Place Reservoir in Alpine County, CA. The export system is divided into three segments, the A-Line, B-Line, and C-Line. The B-Line consists of the portion of the pipeline between the Luther Pass Pump Station and the top of Luther Pass where the force main breaks to gravity. The original force main was installed in 1969/70 and utilized steel pipe that was installed using poorly monitored construction techniques. Problems developed soon after the installation was completed, and have continued as the line has aged. Construction is currently being completed on the reach that extends from the 1980 replacement to the gravity break at Luther Pass (approximately 9,982 lineal feet known as B-Line Phase II). The current proposal will extend from the Luther Pass Pump Station to the middle of the Forest Service campground (where the Phase I replacement began) and will result in the complete replacement of the original B-Line pipeline. The proposal is to authorize the District to construct Phase III of the B-Line Export Pipeline. The project includes the construction of a new effluent export pipeline between the Luther Pass Pump Station and the project's terminus within the campground east of State Route 89. This segment of the B-Line pipeline is located approximately 3.5 miles south of Meyers, CA. The project would consist of a pressurized 24-inch-diameter pipeline placed below ground level. The pipeline trench would be a minimum of 7 feet deep and approximately four to six feet wide, depending upon soil conditions. The 24-inch diameter pipeline replaces an existing 20-inch diameter pipeline. Following replacement, the existing pipeline would be abandoned in place.

The pipeline would be constructed using excavators and rubber-tired loaders, with the steel pipe welded onsite. The welding and coating activity would take place adjacent to and above the trench. Following welding and pipeline coating activities, the pipe segments (up to 1,000 feet in length) would be placed into the trench. Due to the need to conduct welding along side the pipeline trench, all ground vegetation will need to be removed within the immediate trench corridor to avoid the risk of wild fire. The proposed widths for the construction corridor are provided below.

Within the campground road, an option exists to use a rock-trencher for trenching activities. The benefit of using a rock-trencher is that it requires a narrower construction corridor than traditional construction methods (vehicles can work front to back rather than side by side). However, the rock trencher is much heavier than an excavator or other rubber-tired equipment and requires a more stable base from which to operate.

A 50-foot-wide temporary construction easement has been requested by the District for the pipeline construction within forested areas. Within the 50-foot easement, a 25-foot-wide construction corridor will be established to allow construction of the trench. Within the 25-foot-wide construction corridor, trees, surface vegetation and top soil would either be removed or significantly disturbed by construction equipment. The trench does not need to be centered within this corridor, rather the corridor can be shifted to allow for significant trees and rock outcrops to be preserved. However, 25-feet is the minimum clearance area needed for construction of the pipeline. Adjacent to the 25-foot corridor, and within the 50-foot temporary easement, tree removal would only occur if approved beforehand by the Forest Service and TRPA. Within this portion of the easement, disturbance would occur from construction equipment access and material storage. Following construction, the 50-foot construction easement and any adjacent soil disturbance caused by construction activities will be revegetated pursuant to

Forest Service and TRPA approved plans.

Pipeline Replacement Alternatives A and B (described below) would cross Highway 89 in one location. At the crossing locations, project construction activities would be timed to avoid the simultaneous closure of both travel lanes on Highway 89. Delays due to lane closure shall not exceed 30 minutes. Open trenches in Highway 89 would be backfilled or covered with non-skid plates during times when construction activities are stopped.

Pipeline Replacement Alternative C would follow Highway 89 from its intersection with Grass Lake Road to the intersection with the campground road. Within this corridor, 24-hour lane closures would be required seven days a week, including the use of ''K'' rail to separate construction activities from the open travel lane. Blasting would be required for trenching within the right-of-way. During blasting activities, traffic would be held in both directions.

To prevent erosion and discharge into down-slope drains or low lying drainages, pipeline trench erosion control practices shall be used. Erosion control practices would require filter fabric fencing down slope of construction activities. No erosion or runoff shall be allowed to reach any adjacent creeks. Under alternatives B and C, the pipeline will cross Grass Lake Creek. In these locations, more detailed erosion control and restoration plans will be required to ensure adequate diversion of the creek flows during pipeline construction. The pipeline will cross Grass Lake Creek in two of the three action alternatives (Alternatives B and C). One of the creek crossings would occur in an undisturbed area to the north of the South Upper Truckee Road (Alternative B). At this creek crossing location, the project would require the construction of a temporary roadway to facilitate equipment access. The creek will be temporarily diverted using pumps or placed in a culvert under the temporary roadway during construction. After construction is completed, the roadway material will be removed and the creek will be restored to pre-project conditions. Two other creek crossings would occur within Highway 89 for Alternative C and within the campground road for Alternatives B and C. In both locations, the creek flows through a culvert. The Highway 89 crossing would occur within the roadway prism and above the existing box culvert. The campground road crossing would also occur within the roadway prism, but could either be constructed underneath or above the existing corrugated metal pipe (cmp). Construction of the pipeline underneath the cmp would require removal and replacement of the culvert. Construction of the pipeline above the cmp would avoid effects to the cmp but would require raising the road grade.

It is anticipated that some groundwater will be intercepted during trenching activities. In order to prevent the discharge of trench waters, water collected from dewatering operations shall be disposed as follows: (1) Water from the pipeline trench will be pumped into a settling tank or water trucks with sufficient volume to handle projected water quantities, (2) water will be decanted from the settling tanks or trucks for use as construction water during backfilling operations, (3) settled water will be taken to the Luther Pass summit and placed in the gravity export pipeline (C-Line) that flows to the Harvey Place reservoir, or (4) settled water will be placed in the sanitary sewer in Grass Lake Road.

The South Upper Truckee Road is proposed for temporary material stockpiling and equipment staging. To use the roadway for material stockpiling and staging, the District will request its closure. This roadway is under the control of the El Dorado County Department of Transportation. The proposed closure would be located between Highway 89 and the roadway's crossing of the Upper Truckee River (west of Highway 89). Stockpile areas will be surrounded by filter fabric fencing, and covered with plastic sheeting prior to storm events. Historic trail resources adjacent to the roadway will be protected by temporary construction fencing.

To protect trees within the 50-foot construction easement (outside of the 25-foot construction corridor), vegetation protection fencing will be installed around every live tree or group of trees greater than 6 inches dbh. In addition, no tree roots greater than 1.5 inches in diameter shall be cut without the prior authorization of the Forest Service and TRPA. In situations where tree roots greater than 1.5 inches must be cut, the contractor shall treat the roots in accordance with standard practices. All areas disturbed by construction activity shall be revegetated. The revegetation shall be with a matching seed mix to restore the loss of vegetation that will result from pipeline construction. A goal of vegetation/site restoration following construction shall be to ensure that the pipeline corridor does not become a new trail for recreational bicyclists.

Groundwater channeling would be minimized by using an aggregate (Class 2) fill for the pipeline bedding zone (this zone is the area 6 inches under the pipeline to one foot above the pipeline). Any excavated soils that are wet require air drying to proper moisture content or mixing with drier soils prior to being used as compacted backfill. In addition, the installation of trench cutoff walls or ''coffer dams'' is proposed in areas where high groundwater and the slope of the terrain would dictate that groundwater channeling is a probability.

During pipeline trenching, field inspections of the trenches would be performed to make final determinations regarding the need for cutoff walls to control potential high groundwater flows. During construction, the pipeline will be pressure tested at 2,000 foot intervals. The pressure testing will be performed using potable water. At the conclusion of construction, the entire segment of new pipeline will be tested before it is placed into operation.

The construction of the pipeline must comply with TRPA's standard conditions of approval and the Handbook of Best Management Practices (BMPs) Standards. The use of BMPs will be documented in a Stormwater Pollution Prevention Plan (SWPPP) prepared for approval by CA. Regional Water Quality Ccontrol Board, Lahontan Region. The purpose of the SWPPP is to provide a site-specific plan for preventing storm water pollution caused by construction activities, including land disturbance. The SWPPP will be designed to comply with the federal requirements to achieve compliance with the effluent limits and receiving water objectives set forth in the California General NPDES Permit for Discharges of Storm Water Associated with Construction Activities through implementation of BMPs. The SWPPP will be implemented concurrent with the commencement of construction activities.

*Alternatives:* Four alternatives have been identified for further study in the STPUD B-Line Phase III Export Pipeline Replacement Project EIR/EIS. *Alternative A—Parallel Existing Pipeline Alignment* would parallel the existing pipeline alignment through National Forest lands from the Luther Pass Pump Station to the project's terminus in the Forest Service campground. However, the pipeline would not use the existing pipeline's trench because it would still be in operation during construction. The pipeline would parallel the existing pipeline with at least 50 feet of separation from the existing pipeline to avoid damage during construction activities, such as blasting. This alternative would be approximately

4,400 feet in length. *Alternative B—Proposed Action* would begin at the Luther Pass Pump Station and end within the Forest Service campground at a connection with the B-Line Phase I replacement project. The total length of the proposed action is approximately 5,900 feet. The proposed action would begin at the pump station, generally follow the hillside contours to the south, cross Grass Lake Creek, cross South Upper Truckee Road twice, continue on to Highway 89, cross Highway 89, follow the campground access road, and end at the terminus of the B-Line Phase I replacement project that was constructed in 1996. *Alternative C—Parallel Existing Roadways* would follow existing roadway rights-of-way. This alternative would use Grass Lake Road to the intersection of Highway 89. At the intersection of Grass Lake Road and Highway 89, the alternative would follow Highway 89 south to the campground access road. At this intersection, Alternative C would follow the same route as Alternative B to the project's terminus. This alternative would be approximately 16,000 feet in length. Approximately 8,700 feet of the pipeline alignment would be located within Highway 89. Of this total, approximately 60 percent (5,200 feet) would have to be located inside the fog line of the highway (within the roadway pavement). Due to the pipeline's length, additional storage capacity may be needed at the Luther Pass Pump Station to allow for the draining of the pipeline during maintenance operations. This additional storage capacity would require construction of a third storage tank, or enlargement of an existing tank. As a sub-alternative to Alternative C, the Luther Pass Pump Station may be relocated to a location near the intersection of Grass Lake Road and Highway 89. *Alternative D—No Project/No Action* would maintain the existing pipeline that was constructed in 1969. While no immediate action would occur, the continued use of the existing pipeline will increase the chances of a pipeline break. Pipeline breaks require immediate repair by the District.

*Commenting:* The draft environmental impact statement is expected to be available for public review and comment in May 2002. The comment period on the draft statement will be at least 45 days from the date of availability published in the **Federal Register** by the Environmental Protection Agency. The final environmental impact statement and its Record of Decision is expected in October 2002.

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft EIS's must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC, 435 U.S. 519, 553 (1978).* Also, environmental objections that could be raised at the draft EIS stage but that are not raised until after completion of the final EIS may be waived or dismissed by the courts. *City of Angoon* v. *Hodel, 803 F.2d 1016, 1022 (9th Circut, 1986) and Wisconsin Heritages, Inc.* v. *Harris, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980).* Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final EIS. To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments should be as specific as possible. It is helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft EIS or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points. The decision will be appealable under applicable Forest Service regulations.

Dated: December 7, 2001.

**Maribeth Gustafson,**

*Forest Supervisor.*

[FR Doc. 01–30860 Filed 12–13–01; 8:45 am]

BILLING CODE 3410–11–P

## DEPARTMENT OF AGRICULTURE

### Forest Service

### Glenn/Colusa County Resource Advisory Committee

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of meeting.

**SUMMARY:** The Glenn/Colusa County Resource Advisory Committee (RAC) will hold its first meeting.

**DATES:** The meeting will be held on January 10, 2002, and will begin at 9 a.m.

**ADDRESSES:** The meeting will be held at the Willows City Council Chambers at 201 N. Lassen Ave., Willows, CA.

**FOR FURTHER INFORMATION CONTACT:** Bobbin Gaddini, Committee Coordinator, USDA, Mendocino National Forest, Grindstone Ranger District, PO Box 164, Elk Creek, CA 95939. (530) 968–5329; E-mail *ggaddini@fs.fed.us.*

**SUPPLEMENTARY INFORMATION:** Agenda items to be covered include: (1) Introductions of all committee members, alternate members and Forest Service personnel. (2) Selection of a chairperson by the committee members. (3) Receive materials explaining the process for considering and recommending Title II projects; and (4) Public Comment. The meeting is open to the public. Public input opportunity will be provided and individuals will have the opportunity to address the Committee at that time.

Dated: December 10, 2001.

**James F. Giachino,**

*Designated Federal Officer.*

[FR Doc. 01–30884 Filed 12–13–01; 8:45 am]

BILLING CODE 3410–11–M

## DEPARTMENT OF AGRICULTURE

### Forest Service

### Grays Harbor Resource Advisory Committee (RAC); Meeting

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of meeting.

**SUMMARY:** The Grays Harbor Resource Advisory Committee will hold its first meeting on January 8, 2002. The meeting will be held at the Grays Harbor County Courthouse, Montesano, Washington. The meeting will begin at 9:30 AM and end at approximately 3:45 PM. Agenda topics are: (1) Introductions; (2) Federal Advisory Committee Act (FACA) overview; (3) Resource Advisory Committee (RAC) Roles and Responsibilities; (4) RAC Rules and Bylaws; (5) RAC Guidebook review; (6) RAC Communication; (7) Future meetings and agendas; (8) Project Process for submission; (9) County Update on Title II Projects; (10) Election of RAC Chairperson; and (11) Public comments.

All Grays Harbor Resource Advisory Committee Meetings are open to the public. Interested citizens are encouraged to attend.

**FOR FURTHER INFORMATION CONTACT:** Direct questions regarding this meeting to Ken Eldredge, RAC Liaison, USDA, Olympic National Forest Headquarters, 1835 Black Lake Blvd., Olympia, WA

98512–5623, (360) 956–2323 or Dale Hom, Forest Supervisor and Designated Federal Official, at (360) 956–2301.

Dated: December 7, 2001.

**Luis Santoto,**

*Acting Forest Supervisor, Olympic National Forest.*

[FR Doc. 01–30859 Filed 12–13–01; 8:45 am]

BILLING CODE 3410–11–M

## DEPARTMENT OF AGRICULTURE

### Forest Service

### Olympic Peninsula Resource Advisory Committee (RAC); Meeting

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of meeting.

**SUMMARY:** The Olympic Peninsula Resource Advisory Committee will hold its first meeting on January 10, 2001. The meeting will be held at the Washington State University Cooperative Extension Office, 201 W. Pattison, Port Hadlock, Washington. The meeting will begin at 9:30 AM and end at approximately 3:45 PM. Agenda topics are: (1) Introduction; (2) Federal Advisory Committee Act (FACA) overview; (3) Resource Advisory Committee (RAC) Roles and Responsibilities; (4) RAC Rules and Bylaws; (5) RAC Guidebook review; (6) RAC Communication; (7) Future meetings and agendas; (8) Project Process for submission; (9) County Update on Title II Projects; (10) Election of RAC Chairperson; and (11) Public comments. All Olympic Peninsula Resource Advisory Committee Meetings are open to the public. Interested citizens are encouraged to attend.

**FOR FURTHER INFORMATION CONTACT:** Direct questions regarding this meeting to Ken Eldredge, RAC Liaison, USDA, Olympic National Forest Headquarters, 1835 Black Lake Blvd., Olympia, WA 98512–5623, (360) 956–2323 or Dale Hom, Forest Supervisor and Designated Federal Official, at (360) 956–2301.

Dated: December 7, 2001.

**Luis Santoto,**

*Acting Forest Supervisor, Olympic National Forest.*

[FR Doc. 01–30858 Filed 12–13–01; 8:45 am]

BILLING CODE 3410–11–M

## DEPARTMENT OF AGRICULTURE

### Forest Service

### Tehama County Resource Advisory Committee

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of meeting.

**SUMMARY:** The Tehama County Resource Advisory Committee (RAC) will hold its first meeting.

**DATES:** The meeting will be held on January 30, 2002, and will begin at 9 a.m.

**ADDRESSES:** The meeting will be held at the Tehama County Court House Annex, Conference Room E, 444 Oak Street, Red Bluff, CA.

**FOR FURTHER INFORMATION CONTACT:** Bobbin Gaddini, Committee Coordinator, USDA, Mendocino National Forest, Grindstone Ranger District, PO Box 164, Elk Creek, CA 95939. (530) 968–5329; Email *ggaddini@fs.fed.us.*

**SUPPLEMENTARY INFORMATION:** Agenda items to be covered include: (1) Introductions of all committee members, alternate members and Forest Service personnel. (2) Selection of a chairperson by the committee members. (3) Receive materials explaining the process for considering and recommending Title II projects; and (4) Public Comment. The meeting is open to the public. Public input opportunity will be provided and individuals will have the opportunity to address the Committee at that time.

Dated: December 10, 2001.

**James F. Giachino,**

*Designated Federal Officer.*

[FR Doc. 01–30883 Filed 12–13–01; 8:45 am]

BILLING CODE 3410–11–M

## COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

### Procurement List; Additions and Deletions

**AGENCY:** Committee for Purchase From People Who Are Blind or Severely Disabled.

**ACTION:** Additions to and Deletions from the Procurement List.

**SUMMARY:** This action adds to the Procurement List commodities and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and deletes from the Procurement List commodities previously furnished by such agencies.

**EFFECTIVE DATE:** January 14, 2002.

**ADDRESSES:** Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

**FOR FURTHER INFORMATION CONTACT:** Sheryl D. Kennerly (703) 603–7740.

**SUPPLEMENTARY INFORMATION:** On July 13, August 3, August 10, August 17, October 19 and October 26, 2001, the Committee for Purchase From People Who Are Blind or Severely Disabled published notices (66 FR 36741, 40671, 42197, 43180, 53201, 54193/94) of proposed additions to and deletions from the Procurement List:

### Additions

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the commodities and services and impact of the additions on the current or most recent contractors, the Committee has determined that the commodities and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodities and services to the Government.

2. The action will not have a severe economic impact on current contractors for the commodities and services.

3. The action will result in authorizing small entities to furnish the commodities and services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities and services proposed for addition to the Procurement List.

Accordingly, the following commodities and services are added to the Procurement List:

*Commodities*

Shelf Assembly, Top
3920–00–000–8908
''Cusheeze'' Pencil Grips, Foam Rubbe
7510–01–383–7680
Paper, Xerographic & Inkjet (Large Format)
7530–00–NIB–0483
7530–00–NIB–0598
7530–00–NIB–0599
7530–00–NIB–0600
7530–00–NIB–0601
7530–00–NIB–0602
7530–00–NIB–0603
7530–00–NIB–0604
7530–00–NIB–0605
7530–00–NIB–0606
7530–00–NIB–0607
7530–00–NIB–0608

7530–00–NIB–0609
7530–00–NIB–0610
7530–00–NIB–0611
7530–00–NIB–0612
7530–00–NIB–0613
7530–00–NIB–0614
7530–00–NIB–0615
7530–00–NIB–0616
7530–00–NIB–0617
7530–00–NIB–0618
7530–00–NIB–0619
7530–00–NIB–0620
7530–00–NIB–0621
7530–00–NIB–0622
7530–00–NIB–0623
7530–00–NIB–0624
7530–00–NIB–0625
7530–00–NIB–0626
7530–00–NIB–0627
7530–00–NIB–0628
7530–00–NIB–0629
7530–00–NIB–0630
7530–00–NIB–0631
7530–00–NIB–0632
7530–00–NIB–0633
7530–00–NIB–0634
7530–00–NIB–0635
7530–00–NIB–0636
7530–00–NIB–0637
7530–00–NIB–0638
7530–00–NIB–0639
7530–00–NIB–0640
7530–00–NIB–0641
7530–00–NIB–0642
Inkjet Media—Small Format
7530–00–NIB–0593
7530–00–NIB–0594
7530–00–NIB–0595
7530–00–NIB–0596
7530–00–NIB–0597

*Services*

File Maintenance, VA Medical Center, Northport, New York
Operation of Support Services, National Advocacy Center, Columbia, South Carolina
Photocopying, Environmental Protection Agency, Research Triangle Park, North Carolina

This action does not affect current contracts awarded prior to the effective date of this addition or options that may be exercised under those contracts.

**Deletions**

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities.
2. The action will not have a severe economic impact on future contractors for the commodities and services.
3. The action will result in authorizing small entities to furnish the commodities and services to the Government.
4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities and services deleted from the Procurement List.

After consideration of the relevant matter presented, the Committee has determined that the commodities listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

Accordingly, the following commodities are deleted from the Procurement List:

*Commodities*

Adhesive Tape, Surgical
6510–01–368–2659
6510–01–368–2660
6510–01–285–3896
6510–01–370–4099
6510–01–370–4100
6510–01–284–5110
6510–00–926–8882
6510–00–926–8883
6510–01–107–0223
6510–01–060–1639
Lancet, Finger Bleeding
6515–01–135–8497
6515–01–225–4757

**Sheryl D. Kennerly,**
*Director, Information Management.*

[FR Doc. 01–30920 Filed 12–13–01; 8:45 am]

BILLING CODE 6353–01–P

## COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

### Procurement List; Proposed Additions

**AGENCY:** Committee for Purchase From People Who Are Blind or Severely Disabled.

**ACTION:** Proposed additions to procurement list.

**SUMMARY:** The Committee is proposing to add to the Procurement List commodities to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

**COMMENTS MUST BE RECEIVED ON OR BEFORE:** January 15, 2002.

**ADDRESSES:** Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

**FOR FURTHER INFORMATION CONTACT:** Sheryl D. Kennerly (703) 603–7740.

**SUPPLEMENTARY INFORMATION:** This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, the entities of the Federal Government identified in this notice for each commodity will be required to procure the commodities listed below from nonprofit agencies employing persons who are blind or have other severe disabilities. I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodities to the Government.
2. The action will result in authorizing small entities to furnish the commodities to the Government.
3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities proposed for addition to the Procurement List. Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information. The following commodities are proposed for addition to the Procurement List for production by the nonprofit agencies listed:

*Commodity*

Liner, Low Density, Linear, Premium
8105–00–NIB–1149
8105–00–NIB–1150
8105–00–NIB–1151
8105–00–NIB–1152
8105–00–NIB–1153
8105–00–NIB–1154
8105–00–NIB–1155
8105–00–NIB–1156
8105–00–NIB–1157
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8105–00–NIB–1167
8105–00–NIB–1168
8105–00–NIB–1169
8105–00–NIB–1170
8105–00–NIB–1171
8105–00–NIB–1172
8105–00–NIB–1173
8105–00–NIB–1174
8105–00–NIB–1175
8105–00–NIB–1176
8105–00–NIB–1177
8105–00–NIB–1178

NPA: Envision, Inc. Wichita, Kansas

*Government Agency:* Defense Supply Center, Philadelphia.

Gloves, Patient Examining
6515–01–365–6183
NPA: Bosma Industries for the Blind, Inc. Indianapolis, Indiana
*Government Agency:* GSA/Office Supplies and Paper Products Commodity Center.

**Sheryl D. Kennerly,**

*Director, Information Management.*

[FR Doc. 01–30921 Filed 12–13–01; 8:45 am]

**BILLING CODE 6353–01–P**

## CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

### Funding Opportunity for AmeriCorps*VISTA Financial Asset Development Projects, Placements of AmeriCorps*VISTA Members, and Supervisory Grants

**AGENCY:** Corporation for National and Community Service.

**ACTION:** Notice of funding opportunity.

**SUMMARY:** Subject to the availability of appropriations, AmeriCorps*VISTA (Volunteers In Service To America), a program of the Corporation for National and Community Service, is seeking applications to sponsor AmeriCorps*VISTA projects to build financial assets for low-income individuals and communities. This includes three types of program activity: (1) Building individual assets (individual development accounts, micro-enterprise development, entrepreneur education, financial literacy, home ownership, etc.), (2) building organizational assets (helping nonprofit organizations to achieve long term financial security through their purchasing of real estate, developing diversified income streams, creating efficiencies through the application of technology, etc.), and (3) building community assets (developing new credit unions, establishing cooperatives, creating business opportunities, etc.). Applicants will sponsor a project of three (3) or more AmeriCorps*VISTA members. Projects under this announcement may be national, regional, state, or local in scope. The sponsor will participate in recruiting and training the members and will provide supervision and project support. State and/or local public agencies, and nonprofit private organizations including faith-based organizations that are local, statewide, regional, or national in scope are eligible to apply under this announcement. Applicants should be organizations that are currently developing financial assets in low-income communities or are supporting social venture capital activities. Applicants must demonstrate that they have the capacity to support and supervise AmeriCorps*VISTA members.

It is anticipated that proposed projects will create new capacity in the sponsoring organization (or nonprofit organizations targeted by venture philanthropists) to develop financial assets in communities with demonstrated needs. Sponsors should be self-sustaining following a specified period of AmeriCorps*VISTA support, usually three (3) years.

AmeriCorps*VISTA intends to enter into Memoranda of Agreement with organizations selected under this announcement.

A total of up to 400 AmeriCorps*VISTA members with an established Corporation allocation of approximately $1,420,000 may be allocated for placement. Applicant organizations will be expected to place no less than three (3) AmeriCorps*VISTA members per site. Under this announcement, small supervision grants for all sponsors selected for a supervisory grant of up to approximately $200,000 total, will be considered based on the size and scope of the project. Short-term, eight-to-ten week summer placements may also be requested under this announcement.

While sharing the cost of a cadre of members is not a requirement, the contribution of resources by applicants to support the AmeriCorps*VISTA members will be considered in the rating of applications. For example, applicants are encouraged to collaborate with financial institutions and other businesses to provide mentoring, training, and additional resources to AmeriCorps*VISTA members. Applicant organizations are encouraged to create partnerships with colleges and universities to provide academic credit for AmeriCorps*VISTA service and service-related technical training, without compromising the full immersion experience of AmeriCorps*VISTA. Additional consideration also will be made to organizations that provide housing for members.

**DATES:** All applications must arrive at the Corporation no later than 5:00 p.m., Eastern Standard Time, January 28, 2002. Applications submitted via overnight mail that arrive after the closing date will be accepted if they are postmarked at least two days prior to the closing date. Otherwise, late applications will not be accepted. The Corporation anticipates announcing its selections under this announcement in early March. Projects awarded under this announcement should be prepared to (1) attend supervisors training in April 2002 and (2) recruit AmeriCorps*VISTA members for the July 2002 Pre-Service Orientation.

**ADDRESSES:** One (1) signed original and three (3) copies of the application must be submitted to the Corporation for National and Community Service, AmeriCorps*VISTA, 1201 New York Avenue, NW., Attn: David Gurr, Washington, DC 20525. The Corporation will not accept applications that are submitted via facsimile or e-mail transmission.

**FOR FURTHER INFORMATION CONTACT:** For further information on how to apply under this announcement, go to *www.americorps.org/vista/sponsorinfo.html*, call (202) 606–5000, ext. 204, or e-mail *vista@americorps.org.* Background information, including project applications, are available from the Corporation for National and Community Service, AmeriCorps*VISTA, 1201 New York Ave., NW., Washington, DC 20525, (202) 606–5000, ext. 134; TTY (202) 565–2799, or TTY via the Federal Information Relay Service at (800) 877–8339.

**SUPPLEMENTARY INFORMATION:**

### A. Background

The Corporation is a federal government corporation that encourages Americans of all ages and backgrounds to engage in community-based service. This service addresses the nation's educational, public safety, environmental, and other human needs to achieve direct and demonstrable results. In addressing those needs, we strive to foster civic responsibility, strengthen the ties that bind us together as Americans, and provide educational opportunities for those who make a substantial commitment to service. We support a range of national service programs, including AmeriCorps, Learn and Serve America, and the National Senior Service Corps.

AmeriCorps*VISTA, a component of AmeriCorps, is authorized under the Domestic Volunteer Service Act of 1973, as amended (Pub. L. 93–113). The statutory mandate of AmeriCorps*VISTA is ''to strengthen and supplement efforts to eliminate and alleviate poverty and poverty-related problems in the United States by encouraging and enabling persons from all walks of life, all geographical areas, and all age groups . . . (to) assist in the solution of poverty and poverty-related

problems, and . . . to generate the commitment of private sector resources, to encourage volunteer service at the local level, and to strengthen local agencies and organizations to carry out the purpose (of the program).'' (42 U.S.C. 4951) AmeriCorps*VISTA carries out its legislative mandate by assigning individuals 18 years and older, on a full-time, year-long basis, to public and private nonprofit organizations whose goals are in accord with AmeriCorps*VISTA's legislative mission. Each AmeriCorps*VISTA project must focus on the mobilization of community resources, the transference of skills to community residents, and the expansion of the capacity of community-based organizations to solve local problems. Programming should encourage permanent, long-term solutions to problems confronting low-income communities rather than short-term approaches for handling emergency needs.

AmeriCorps*VISTA project sponsors must actively elicit the support and/or participation of local public and private sector elements in order to enhance the chances of a project's success as well as to make the activities undertaken by AmeriCorps*VISTA members self-sustaining when the Corporation no longer provides resources.

**B. Purpose of This Announcement**

The purpose of this announcement is to support the use of financial/business strategies to fight poverty by building financial assets for individuals, organizations, and communities. Financial asset development is an important strategy designed to move people out of poverty. It provides people with the financial security to escape poverty for the long term by purchasing a car or home, furthering their education, or starting a business. For community organizations, it can provide the means to achieve long-term stability by adopting recognized business practices, diversifying revenue streams, and applying technology.

Financial assets for individuals include individual development accounts (IDAs), home ownership, small business start-up, financial/entrepreneurial education, or other equity-building strategies. Increased equity offers financial stability for individuals moving out of poverty, provides opportunities for investment in education, diversifies income streams, and enables low-income individuals to escape poverty.

Likewise, many struggling nonprofit organizations can benefit from organizational financial asset development. Some examples of organizational financial asset development include diversifying income sources (including for-profit enterprises within nonprofit structures), purchasing real estate, and increasing efficiencies through the application of technology.

For many low-income communities with little economic development and few service providers, there are few opportunities to use new skills or to build asset values in property. With limited small business development and single, large employers, the community becomes over-dependent on one source of jobs and can be devastated by small changes in the economy or choices to move production elsewhere. Community asset development strategies to overcome these structural problems include developing credit unions, cooperatives, and small business opportunities for low-income entrepreneurs. Each of these institutions can enable low-income, asset-poor communities to become self-sufficient and not dependent on single financial, employment, or consumer institutions. The designation of enterprise zones is an excellent example of targeting resources to specific communities in order to build community assets.

**C. Eligible Applicants**

State and/or local public agencies, and nonprofit private organizations that are local, statewide, regional, or national in scope are eligible to apply under this announcement. Organizational and community financial asset development efforts are frequently supported through social venture capital institutions that are committed to investment in antipoverty enterprises with a view toward long-term return. These types of philanthropic entities, if public or non-profit private organizations, are encouraged to apply.

Pursuant to the Lobbying Disclosure Act of 1995, an organization described in section 501(c)(4) of the Internal Revenue Code of 1986, 26 U.S.C. 501(c)(4), which engages in lobbying, is not eligible to apply.

**D. Scope of Project**

AmeriCorps*VISTA projects traditionally work with local community-based organizations and it is anticipated that all projects under this announcement will have at least three (3) AmeriCorps*VISTA members. If a project is national in scope, it is anticipated that each project will support between 25 and 50 AmeriCorps*VISTA members on a full-time basis for one year of service and that each local project affiliated with the national project will support at least three (3) members.

Applicants are encouraged to request AmeriCorps*VISTA Leaders for projects of eight (8) or more members. Leaders are former AmeriCorps*VISTA members who have completed a year of service in the AmeriCorps*VISTA program or have completed two years of service with the Peace Corps. They are charged with coordinating member activities across the project and assisting in recruitment and training activities.

Some applicants may want to apply for the Summer Associate program as part of their application. Summer Associates serve for 8–10 weeks on a full-time basis to bring an additional infusion of energy and expertise to achieving the projects' goals. Summer Associates receive the same living allowance (pro-rated for their length of service) and a partial education award, but are not eligible for relocation funds or national training. For example, applicants may consider incorporating into the proposal the placement of MBA students or business major undergraduates as a Summer Associate component to their project. An organization cannot propose a Summer Associates program without also proposing a full-year AmeriCorps*VISTA project.

Quality supervision of AmeriCorps*VISTA projects are critical for their success. At a minimum, there should be one full-time supervisor dedicated exclusively to the project for every 20 AmeriCorps*VISTA members and the equivalent prorated level for projects with fewer members. Supervision grants, if requested, are restricted to supporting a portion of the salary package of a person employed to directly supervise AmeriCorps*VISTA projects and for travel by staff listed under Project Personnel in the budget. No supervision grant can be less than $20,000 and typically does not exceed $1,000 per AmeriCorps*VISTA member requested.

Project applicants, particularly those applying for supervision grants, should demonstrate their commitment to matching the federal contribution toward the operation of the AmeriCorps*VISTA project by offsetting all, or part of, the costs of member supervision, transportation, on-site orientation and training, as well as the basic costs of the program itself (e.g., space, telephone, etc.). This support can be achieved through cash or in-kind contributions, and it must be documented in the budget.

Further, applicant organizations are encouraged to share in costs traditionally covered by federal funds.

In a cost-share arrangement, sponsoring organizations cover the living allowance (approximately $9,400 per member) for a specified number of AmeriCorps*VISTA positions. The Corporation will pay for training, relocation allowances, education awards, health care, and other expenses relating to the members' service.

Applications must demonstrate a multi-year development plan including work plans for individual members, broken down by quarter. Projects may be awarded for a three or five year project period and approved on a twelve-month cycle. The Corporation has no obligation to provide additional funding or AmeriCorps*VISTA placements for subsequent years. Continuation of a project, and possible funding of a supervisory grant, for approved projects is contingent upon the availability of funds, satisfactory progress in relation to the approved objectives, submission of proposed changes in activities or objectives, a detailed budget and budget narrative for the applicable program year, and other criteria established in the Memorandum of Agreement and grant award agreement. AmeriCorps*VISTA projects are usually expected to achieve capacity-building goals at a given site within three (3) years, or five (5) years if there is significant cost-share participation. Typically, these project time lines are broken down into quarterly benchmarks to ensure the achievement of work plan objectives. Applicants under this announcement should describe a clear time frame for the project to achieve new capacity, identify regular objectives and/or outcomes for intermediate achievements, and describe the proposed transition at the conclusion of the project time line. Satisfactory performance ratings during annual reviews will be based on meeting the time lines proposed in the application.

Publication of this announcement does not obligate the Corporation to award any specific number of grants, or to obligate the entire amount of funds or members available, or any part thereof, for grants under the AmeriCorps*VISTA program, or to approve any specific number of non-grant projects for the placement of AmeriCorps*VISTA members.

The Corporation will provide technical assistance to applicants under this announcement to complete project applications, including detailed budgets.

**E. Responsibilities of Sponsoring Organization**

Applicant organizations must demonstrate: the existing capacity and experience needed to monitor and support a project; previously demonstrated strong institutional commitment of personnel, resources, training, and technical expertise; and a well-coordinated project rather than loosely tying together several unrelated activities.

The Corporation State Offices will work with those governmental agencies and organizations selected as project sites to finalize Part B (CNS Form 1421B) (OMB Control Number 3045–0038) of the project application, assist in recruiting and training members to serve as AmeriCorps*VISTA members, and discuss various implementation issues including in-service training and technical assistance for members. The Corporation State Office also provides training to AmeriCorps*VISTA supervisors. The sponsoring organization is required to submit a Project Progress Report (CNS Form 1433) (OMB Control Number 3045–0043) to the Corporation State Office on a federal fiscal year quarterly basis.

**F. Submission Requirements**

1. A one-page narrative summary description, single-spaced, single-sided, of the proposed AmeriCorps*VISTA project including the name, address, telephone number, and contact person for the applicant organization. The summary should include the expected long-term antipoverty outcomes of the project, a description of what will be created that did not exist before the project started, and a description of how the project will be sustained once AmeriCorps*VISTA resources are withdrawn. The summary will be used as a project abstract to provide reviewers with an introduction to the substantive parts of the application. Therefore, care should be taken to produce a summary that accurately and concisely reflects the proposal.

2. Application for Federal Assistance (SF 424) (OMB Approval Number 0348–0043), including the Part II Budget. This is a standard form used by applicants as a required face sheet for applications requesting federal assistance. It includes attachments requiring signatures to ensure that applicants comply with all other relevant federal laws, rules and regulations, and certifications that: (a) The applicant has not been debarred from receiving federal assistance, (b) that it has a drug-free work plan, and (c) that it will comply with federal requirements governing lobbying activities.

3. Part A (CNS Form 1421A) (OMB Control Number 3045–0039) containing a description of the organization's mission, population to be served, experience in the areas of service, and specific problems of poverty to be addressed. In addition, the applicant must state:

- The specific needs of the low-income community or communities that will be served by the project, particular challenges facing that community, the scarcity of similar programs providing financial asset development opportunities, and recent demographic or socioeconomic changes that have increased challenges to the low-income community or communities.
- The specific strategy that will be used to achieve the financial asset development goals and how the success of that strategy will be measured.
- The long-term impacts that the new strategy, once institutionalized, will have on helping people out of poverty.
- The elements necessary for that strategy to be sustainable after AmeriCorps*VISTA resources are withdrawn.
- The activities that members undertake in each of the three years to achieve institutionalization of the strategy.
- The applicant's experience in coordinating the efforts of community volunteers and/or service participants.
- The resources that exist to support the project, including the organizations that will serve as collaborators, the amount of cost-share investment the applicant can make, the additional resources dedicated to training members, and whether housing will be provided.

4. Part B (CNS Form 1421B) (OMB Control Number 3045–0038) which includes a measurable and quantifiable description of the specific problem(s) the AmeriCorps*VISTA project will address, current activities to address the problem, and how AmeriCorps*VISTA members will complement this effort. This section needs to address site specific information and include the following:

- A detailed work plan must be completed for the first year of the project; it should contain objectives that are measurable, quantifiable, and time-phased according to specific milestones established by the applicant. A more general work plan must be submitted for each of the subsequent years. While there is no standard project length, the AmeriCorps*VISTA resource is a time-limited form of assistance and the application should provide a timetable

necessary to complete the project. An evolution of AmeriCorps*VISTA member work plans from the first year of the project to the last should clearly show how the project will reach maturity and then phase out in a way that leads to sustained support from the sponsor and its community partners.

- A list of the tasks and activities of the AmeriCorps*VISTA member assignments, required skills and qualifications of members, and factors to be considered in assigning members with disabilities.
- A description of the applicant's strategy for recruiting qualified AmeriCorps*VISTA members, including a sample position description for the online AmeriCorps recruitment system for each type of member desired.
- A description of how members will be supervised.
- A description of how project beneficiaries will be involved in the planning of the project (including its development and implementation), what resources will be provided by the community for a successful project, and how the community will be involved in assuring project sustainability.
- An overview of the content of an on-site orientation and training (typically one to three weeks) that the applicant will provide to enable members to quickly understand their assignment and the community in which they are serving.
- A description of on-going training and technical assistance the applicant will provide to their AmeriCorps*VISTA members.
- Plans for publicizing the project, recognizing member accomplishments, and generating community support in sustaining the project.

5. Documentation in the form of letters of support from collaborating organizations and/or individuals stating what will be provided by them in the overall project effort.

6. Copy of Articles of Incorporation (not applicable to public governmental entities).

7. List of Board of Directors or governing body (not applicable to public governmental entities).

8. Organizational chart illustrating the location of the AmeriCorps*VISTA project within the overall applicant organization.

9. List of Advisory Council Members if already selected.

10. Tax exempt status: either IRS determination or copy of application to IRS for exemption (not applicable to public governmental entities).

11. Copy of supervisor's resume and job description.

12. Copy of most recent financial audit if available.

13. A list of potential local project sponsors including all necessary contact information.

**G. Criteria for Project Selection**

All of the following elements will be used in judging the applications:

*I. Program Design*

a. Getting Things Done

The proposed project must:

1. Describe the community or communities that will be served and explain why they are of particular need at this time. The explanation may include comparable poverty rates, recent demographic changes, or data indicating a concerning shift, lack of financial asset development programs (for individual asset development projects) or nonprofit management services available (for organizational projects), etc.

2. Address the needs of low-income communities and otherwise comply with the provisions of the Domestic Volunteer Service Act of 1973, as amended (42 U.S.C. 4951 *et seq.*) applicable to AmeriCorps*VISTA and all applicable published regulations, guidelines, and Corporation policies.

3. Contain clear and measurable objectives/outcomes in the project application during the proposed timeline for the project (with quarterly benchmarks) that address the overall objectives of the initiative. Applicants must show how the new capacity the AmeriCorps*VISTA members will build will contribute to specific outcomes related to increased opportunity for low-income people. It is expected that outcome objectives will reflect the evolution of the project.

4. Indicate how the proposed project complements and/or enhances activities already underway in the communities that will be served by the project. To the extent possible, applicant organizations should seek out opportunities to collaborate with other Corporation programs, as well as with other community partners, including universities and colleges, the business sector, and foundations.

5. Describe how the number of AmeriCorps*VISTA members requested is appropriate for the project goals/objectives, and how the skills requested are appropriate for the assignment(s).

b. Strengthening Communities

The applicant organization must:

1. Describe how the financial asset development strategy described will help provide a clear step on the road to allowing people to leave poverty for the long-term.

2. Describe how the project will develop a new and sustainable capacity in the local community to effectively support the long-term financial asset strategies.

3. Demonstrate collaboration with organizations that provide supportive services to enhance project outcomes.

4. Explain how the project will be designed to generate public and/or private sector resources, and to promote local, part-time volunteer service at the community level.

5. Describe in measurable terms the anticipated outcomes at the conclusion of the project, including outcomes related to the sustainability of the project activities and the project's impact on poverty.

c. Member Development

The applicant organization must:

1. Clearly state how AmeriCorps*VISTA members will be trained, supervised, and supported to ensure the achievement of project goals and objectives as stated in the project work plan.

2. Describe any additional benefits that will be provided members in order to make the assignment more attractive or offer value to the member when he or she has completed service. Additional consideration will be given to proposals that include partnering with universities and colleges for academic credit, collaboration with financial institutions and other businesses, and for housing the members. An AmeriCorps*VISTA member may take, at any given time, no more than one educational course that must be directly related to the member's project assignment and/or be part of a member's career plan. Advance permission of the project supervisor and the Corporation State Program Director is required to take these courses.

3. Describe how AmeriCorps*VISTA assignments are designed to use the full-time AmeriCorps*VISTA members' time to the maximum extent.

*II. Organizational Capacity*

The applicant organization must:

1. Ensure that resources needed to achieve project goals and objectives are available.

2. Have the management and technical capability to implement the project successfully.

3. Have demonstrated experience in addressing the issues proposed by the project application.

4. Have systems for evaluating and monitoring project activities. Applicants must describe the methods that will be

used to track progress toward the stated objectives, and the procedures that will provide the feedback needed to make adjustments that improve project quality.

5. Invest its own resources in the administration, management, and supervision of members.

6. Consider cost-sharing AmeriCorps*VISTA members and if they are unable to do so, including future plans for possibly supporting cost-shared slots.

7. Explore partnering with higher education institutions and the business community in order to support this antipoverty initiative.

*III. Budget/Cost-Effectiveness*

The applicant organization must:

1. Include a budget that adequately supports the project design.

2. Include a budget that adheres to budget guidance provided with the application.

3. Describe how the applicant organization is committing resources necessary for project implementation.

**H. Application Review**

*Proposal Evaluation*

To ensure fairness to all applicants, the Corporation reserves the right to take action, up to and including disqualification, in the event that an application fails to comply with any requirements specified in this Notice.

The following weights will be used in judging the elements described above.

1. Program Design (60%) in the following order of importance:

a. Responsiveness to Strengthening Communities Criteria (25%)

b. Responsiveness to Getting Things Done Criteria (15%)

c. Responsiveness to Member Development Criteria (10%)

2. Organizational Capacity including demonstrated capacity in addressing proposed issues (25%).

3. Budget/Cost-Effectiveness (15%).

**I. Geographic Diversity**

After evaluating the overall quality of the proposal and its responsiveness to the criteria noted above, the Corporation will take into consideration whether funded projects are in areas of high concentration of low-income residents, including for example those in empowerment zones and enterprise communities, and rural champion communities.

**J. Program Authority**

Corporation authority to make these grants and approve projects is authorized under Title I, Part A of the Domestic Volunteer Service Act of 1973, as amended (Pub. L. 93–113).

Dated: December 10, 2001.

**Robert L. Bush,**

*Acting Director, AmeriCorps*VISTA, Corporation for National and Community Service.*

[FR Doc. 01–30843 Filed 12–13–01; 8:45 am]

BILLING CODE 6050–$$–P

## DEPARTMENT OF DEFENSE

### Office of the Secretary

### Defense Science Board; Meetings

**AGENCY:** Department of Defense.

**ACTION:** Notice of advisory committee meetings.

**SUMMARY:** The Defense Science Board (DSB) Task Force on Defense Against Terrorists' Use of Biological Weapons will meet in closed session on February 18–19, 2002; March 11–12, 2002; April 1–2, 2002; April 29–30, 2002; June 3–4, 2002; June 24–25, 2002; and July 22–23, 2002, at Strategic Analysis Inc., 3601 Wilson Boulevard, Arlington, VA. This Task Force will assess the scope of activities conducted by the DoD to ensure its future preparedness to deter, defend against, respond to, and attribute attack of the U.S. homeland by terrorists using biological weapons.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition, Technology & Logistics on scientific and technical matters as they affect the perceived needs of the Department of Defense. At these meetings, the Task Force will conduct an assessment of the most probable biological threats and the implications of new technologies on the threat spectrum, deterrence and consequence management; identify new technologies to provide satisfactory surveillance and verification of known and emerging diseases to ensure implementation of proactive defense measures and event mitigation; identify reliable and effective vaccines, anti-viral drugs and antibiotics, including the availability of sufficient vaccine and drug manufacturing capacity; determine logistical adequacy of the current supply chain for drug and vaccine production; identify capabilities to achieve reliable attribution of attackers once a BW attack has occurred; and identify defense capabilities and postures that have the largest potential for comprehensive protection of military and civilian targets.

In accordance with section 10(d) of the Federal Advisory Committee Act, Pub. L. 92–463, as amended (5 U.S.C. App. II), it has been determined that these Defense Science Board Task Force meetings concern matters listed in 5 U.S.C. 552b(c)(1) and that, accordingly, these meetings will be closed to the public.

Dated: December 7, 2001.

**L.M. Bynum,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 01–30844 Filed 12–13–01; 8:45 am]

BILLING CODE 5001–08–M

## DEPARTMENT OF DEFENSE

### Office of the Secretary

### Defense Science Board; Meeting

**AGENCY:** Department of Defense.

**ACTION:** Notice of advisory committee meeting.

**SUMMARY:** The Defense Science Board (DSB) Task Force on Precision Compellence will meet in closed session on February 25–26, 2002, and March 26–27, 2002, at SAIC, 4001 N. Fairfax Drive, Arlington, VA. The Task Force will conduct a comprehensive study of the ends and means of precision compellence, of the nuanced use of force, in concert with coalition partners, to achieve political, economic and moral change in countries affecting US interests.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition, Technology & Logistics on scientific and technical matters as they affect the perceived needs of the Department of Defense. At these meetings, the Defense Science Board Task Force on Precision Compellence will survey the focused use of force so as to alter regimes' behavior, and in ways that are most promising to isolate regimes of concern from their populations and supporting organs and bureaucracies. This will include the means to acquire a well-founded conceptual delineation of targets critically important to the diplomatic, economic and military dominance of the regime. A regime's values and vulnerabilities being highly idiosyncratic, the Task Force shall select some concrete case studies for exploration in depth. These might include current rogue states, terrorist organizations, and future potential adversaries. Of particular relevance are the cleavage planes, where the discriminating use of force might divide the interests of different strata, political,

ethnic or religious groups, or even personal rivalries.

In accordance with section 10(d) of the Federal Advisory Committee Act, Pub. L. 92–463, as amended (5 U.S.C. App. II), it has been determined that these Defense Science Board meetings concern matters listed in 5 U.S.C. 552b(c)(1) and that, accordingly, these meetings will be closed to the public.

Dated: December 7, 2001.

**L.M. Bynum,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 01–30845 Filed 12–13–01; 8:45 am]

BILLING CODE 5001–08–M

## DEPARTMENT OF DEFENSE

### Office of the Secretary

### Defense Science Board; Meeting

**AGENCY:** Department of Defense.

**ACTION:** Notice of advisory committee meetings.

**SUMMARY:** The Defense Science Board (DSB) Task Force on Defense Against Terrorists' Use of Biological Weapons will meet in closed session on February 18–19, 2002; March 11–12, 2002; April 1–2, 2002; April 29–30, 2002; June 3–4, 2002; June 24–25, 2002; and July 23–23, 2002, at Strategic Analysis Inc., 3601 Wilson Boulevard, Arlington, VA. This Task Force will assess the scope of activities conducted by the DoD to ensure its future preparedness to deter, defend against, respond to, and attribute attack of the US homeland by terrorists using biological weapons.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition, Technology & Logistics on scientific and technical matters as they affect the perceived needs of the Department of Defense. At these meetings, the Task Force will conduct an assessment of the most probable biological threats and the implications of new technologies on the threat spectrum, deterrence and consequence management; identify new technologies to provide satisfactory surveillance and verification of known and emerging diseases to ensure implementation of proactive defense measures and event mitigation; identify reliable and effective vaccines, anti-viral drugs and antibiotics, including the availability of sufficient vaccine and drug manufacturing capacity; determine logistical adequacy of the current supply chain for drug and vaccine production; identify capabilities to achieve reliable attribution to attackers once a BW attack has occurred; and identify defense capabilities and postures that have the largest potential for comprehensive protection of military and civilian targets.

In accordance with section 10(d) of the Federal Advisory Committee Act, Pub. L. 92–463, as amended (5 U.S.C. App. II), it has been determined that these Defense Science Board Task Force meetings concern matters listed in 5 U.S.C. 552b(c)(1) and that, accordingly, these matters will be closed to the public.

Dated: December 10, 2001.

**L.M. Bynum,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 01–30847 Filed 12–13–01; 8:45 am]

BILLING CODE 5001–08–M

## DEPARTMENT OF DEFENSE

### Department of the Army

### Privacy Act of 1974; System of Records

**AGENCY:** Department of the Army, DOD.

**ACTION:** Notice to alter a system of records.

**SUMMARY:** The Department of the Army is altering a system of records notice in its existing inventory of record systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended. The alteration adds a routine use and expands the purposes for collecting the information.

**DATES:** This proposed action will be effective without further notice on January 14, 2002 unless comments are received which result in a contrary determination.

**ADDRESSES:** Records Management Division, U.S. Army Records Management and Declassification Agency, ATTN: TAPC–PDD–RP, Stop 5603, 6000 6th Street, Ft. Belvoir, VA 22060–5603.

**FOR FURTHER INFORMATION CONTACT:** Ms. Janice Thornton at (703) 806–4390 or DSN 656–4390 or Ms. Christie King at (703) 806–3711 or DSN 656–3711.

**SUPPLEMENTARY INFORMATION:** The Department of the Army systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on November 29, 2001, to the House Committee on Government Reform, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, 'Federal Agency Responsibilities for Maintaining Records About Individuals,' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: December 7, 2001.

**L.M. Bynum,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

**A0381–20b DAMI**

**SYSTEM NAME:**

Counterintelligence/Security Files (October 4, 1995, 60 FR 51990).

**CHANGES:**

* * * * *

**SYSTEM NAME:**

Delete entry and replace with 'Counterintelligence/Information Operations/Security Files'.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Add to the entry 'individuals identified in foreign intelligence or counterintelligence reports and supportive material, including individuals involved in matters of foreign intelligence interest'', 'terrorism, narcotics trafficking, or activities that are a direct threat to national security, conduct of military operations'', and 'or those individuals suspected or involved in criminal and intelligence activities directed against or involving DoD Information Systems.''

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Add to entry 'intelligence requirements, analysis, and reporting; operational records; articles, open source data, and other published information on individuals and events of interest to INSCOM; actual or purported correspondence;'.

Delete 'requests for and National Agency checks' and (Defense Clearance and Investigations Index) (System Notice V5–02)'.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

Add to entry '10 U.S.C. 3013, Secretary of the Army; 18 U.S.C. 2511, Interception and Disclosure of Electronic Communications Prohibited; DoD Directive 5240.1, DoD Intelligence Activities; Army Regulation 381–10, U.S. Army Intelligence Activities'.

**PURPOSE(S):**

Add a new paragraph 'To maintain records on information operations, foreign intelligence, counterintelligence, counter-terrorism, counter-narcotics,

and matters relating to the protection of the national security, DoD personnel, facilities and equipment, including but not limited to, information systems. This information is shared with other DoD components for the purpose of collaborating on production of intelligence product and countering terrorist acts.''

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

Add to entry 'To the Department of State, Department of Treasury, Department of Justice, Federal Bureau of Investigation, Drug Enforcement Administration, U.S. Customs Service, the Bureau of Alcohol, Tobacco and Firearms, and the Central Intelligence Agency for the purpose of collaborating on production of intelligence product and countering terrorist acts.''

* * * * *

**RETRIEVABILITY:**

Delete entry and replace with 'Records are retrieved by name, aliases, or title in combination with Social Security Number or regular dossier number; date and/or place of birth. For those subjects who have no identifying data other than the name, the name only index is searched'.

* * * * *

**RECORD SOURCE CATEGORIES:**

Delete entry and replace with 'From individuals; DoD records; U.S. agencies and organizations; media, including periodicals, newspapers, broadcast transcripts; intelligence source documents/reports; other relevant Army documents and reports; informants; various Federal, state and local investigative and law enforcement agencies; foreign governments; and other individuals or agencies/organizations that may supply pertinent information.''

* * * * *

## A0381–20b DAMI

**SYSTEM NAME:**

Counterintelligence/Information Operations/Security Files.

**SYSTEM LOCATION:**

U.S. Army Intelligence and Security Command, 8825 Beulah Street, Fort Belvoir, VA 22060–5246.

Decentralized segments are located at U.S. Army Intelligence brigades, groups, battalions, companies, detachments, field offices and resident offices worldwide. Official mailing addresses are published as an appendix to the Army's compilation of systems of records notices.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Military personnel of the U.S. Army, including active duty, National Guard, reservists and retirees; civilian employees of the Department of the Army (DA), including contract, temporary, part-time, and advisory, citizen and alien employees located both in the U.S. and in overseas areas; individuals identified in foreign intelligence or counterintelligence reports and supportive material, including individuals involved in matters of foreign intelligence interest; industrial or contractor personnel working in private industry which have contracts involving classified Department of Defense (DoD) information; aliens granted limited access authorization to U.S. Defense information; alien personnel investigated for visa purposes; certain non-DoD affiliated persons whose activities involve them with the DoD, namely, activities involving requests for admission to DoD facilities or requests for certain information regarding DoD personnel, activities, or facilities; persons formerly affiliated with the DoD; persons who applied for or are/were being considered for employment with or access to DoD such as applicants for military service, pre inductees and prospective contractors; individuals residing on, having authorized official access to, or conducting or operating any business or other function at any DoD installation and facility; and U.S. Army Intelligence sources; and U.S. persons who have been declared missing, prisoners of war (POW), civilian persons who are being detained or held hostage or personnel recovered from hostile control; individuals about whom there is a reasonable basis to believe that they are engaged in, or plan to engage in, activities such as (1) sabotage, (2) possible compromise of classified defense information by unauthorized disclosure or by espionage, treason or spying, terrorism, narcotics trafficking, or activities that are a direct threat to national security, conduct of military operations, (3) subversion of loyalty, discipline or morale of DA military or civilian personnel by actively encouraging violation of lawful orders and regulations or disruption of military activities, and (4) activities that are a direct threat to the conduct of military operations or DoD personnel, facilities and material or classified Defense contractor facilities or those individuals suspected or involved in criminal and intelligence activities directed against or involving DOD Information Systems.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Requests for and results of investigations or inquiries conducted by U.S. Army Intelligence or other DoD, Federal, State or local investigative agency. Record includes: Personal history statements; fingerprint cards; personnel security questionnaire; medical and/or educational records and waivers for release; local agency checks; military records; birth records; employment records; education records; credit records and waivers for release; interviews of education, employment, and credit references; interviews of listed and developed character references; interviews of neighbors; requests for, documentation pertaining to, results of electronic surveillance, intelligence polygraph examinations and technical documents, physical surveillance, and mail cover and or search; polygraph examination summaries; documents which succinctly summarize information in subject's investigative file; case summaries prepared by both investigative control offices and requesters of investigative interrogation reports; temporary documents concerning security, suitability, and criminal incidents lawfully collected by U.S. Army counterintelligence units in the performance of the counterintelligence mission; intelligence requirements, analysis, and reporting; operational records; articles, open source data, and other published information on individuals and events of interest to INSCOM; actual or purported correspondence; correspondence pertaining to the investigation, inquiry, or its adjudication by clearance or investigative authority to include; (1) the chronology of the investigation, inquiry, and adjudication; (2) all recommendations regarding the future status of the subject; (3) actions of security/loyalty review boards (4) final actions/determinations made regarding the subject; and (5) security clearance, limited access authorization, or security determination; index tracing reference which contains aliases and the names of the subject and names of co-subjects; security termination and inadvertent disclosure statements; notification of denial, suspension, or revocation of clearance; and reports of casualty, biographic data and intelligence/counterintelligence debriefing reports concerning U.S. personnel who are missing, captured, or detained by a hostile entity. Case control and management documents that serve as the basis for conducting the investigation such as documents

requesting the investigation and documents used in case management and control such as lead sheets, other field tasking documents, and transfer forms. Administrative records required by the U.S. Army Investigative Records Repository for records management purposes such as form transmitting investigative or operational material to the U.S. Army Investigative Records Repository and providing instructions for indexing the record in the Defense Central Index of Investigations and release of material contained therein, form indicating dossier has been reviewed and all material therein conforms to DoD policy regarding retention criteria, form pertaining to the release of information pertaining to controlled records, form to indicate material has been removed and forwarded to other authorized Federal agencies such as the Defense Investigative Service, cross reference sheet to indicate the removal of investigative documents requiring limited access, form identifying material that has been segregated and or is exempt from release, and records accounting for the disclosure of intelligence, counterintelligence and security information made outside of the DoD.

Paper and automated indices of personnel investigations/operations which are under controlled access within the U.S. Army Investigative Records Repository, such as key USAINSCOM personnel, general officers, file procurement officers and their agencies, and sensitive spying, treason, espionage, sabotage, sedition, and subversion investigations and/or counterintelligence operations. Microform and automated indices and catalogue files, which constitute an index to all U.S. Army Investigative Records Repository holdings contained in microfilmed investigative and operational records.

Automated record indices maintained by the U.S. Army Investigative Records Repository to keep a record of all original dossiers charged out of the U.S. Army Investigative Records Repository on loan to user agencies or permanently transferred to National Archives and Records Administration.

Paper, card file, microform and computerized case and incident indices containing name, date/place of birth, address, case or incident title and number, and brief summary of case or incident of current interest to investigative activities.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

10 U.S.C. 3013, Secretary of the Army; E.O. 10450, Security Requirements for Government Employees; E.O. 12333, United States Intelligence Activities; the National Security Act of 1947, as amended; the Defense Authorization Act for FY 1988 and 1989; the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 401); 18 U.S.C. 2511, Interception and Disclosure of Electronic Communications Prohibited; DoD 5240–R, DoD Intelligence Activities; Army Regulation 381–10, U.S. Army Intelligence Activities; and E.O. 9397 (SSN).

**PURPOSE(S):**

To provide information to assess an individual's acceptability for assignment to or retention in sensitive positions consistent with the interest of national security; to document U.S. intelligence, counterintelligence and security investigations and operations pertaining to the U.S. Army's responsibilities for counterintelligence, and to detect, identify, and neutralize foreign intelligence and international terrorist threats to the DoD; and to temporarily document security, suitability, and criminal incident information not within U.S. Army counterintelligence jurisdiction to investigate, which is lawfully provided to U.S. Army counterintelligence units by cooperating sources of information collected incidental to the counterintelligence mission.

To maintain records on information operations, foreign intelligence, counterintelligence, counter-terrorism, counter-narcotics, and matters relating to the protection of the national security, DoD personnel, facilities and equipment, including but not limited to, information systems. This information is shared with other DoD components for the purpose of collaborating on production of intelligence product and countering terrorist acts.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as routine uses pursuant to 5 U.S.C. 552a(b)(3) as follows:

To the Immigration and Naturalization Service, Department of Justice for use in alien admission and naturalization inquiries conducted under section 105 of the Immigration and Naturalization Act of 1952, as amended.

To the Department of Veterans Affairs for the purpose of using the information in benefit determinations.

To the Department of State, the Department of Treasury, the Department of Justice, the Federal Bureau of Investigation, the Drug Enforcement Administration, U.S. Customs Service, the Bureau of Alcohol, Tobacco and Firearms, and the Central Intelligence Agency for the purpose of collaborating on production of intelligence product and countering terrorist acts. The distribution of investigative information is based on the Army's evaluation of the requesting agency's needs and the relevance of the information to the use for which it is provided. Information collected for one purpose is not automatically used for other purposes or by the other users indicated in this description.

The DoD 'Blanket Routine Uses' published at the beginning of the Army's compilation of systems of records notices also apply to this system.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Paper records in file folders and on electronic storage media.

**RETRIEVABILITY:**

Records are retrieved by name, aliases, or title in combination with Social Security Number or regular dossier number; date and/or place of birth. For those subjects who have no identifying data other than the name, the name only index is searched.

**SAFEGUARDS:**

Buildings employ alarms, security guards, and or rooms are security-controlled areas accessible only to authorized persons. Paper and microform records are maintained in General Service Administration approved security containers. Paper and microform records in the U.S. Army Investigative Records Repository are stored in security-controlled areas accessible only to authorized persons. Electronically and optically stored records are maintained in 'fail-safe' system software with password-protected access. Records are accessible only to authorized persons with a need-to-know who are properly screened, cleared, and trained.

**RETENTION AND DISPOSAL:**

Personnel security/adjudicative records on non-DoD persons who are considered for affiliation with DoD are destroyed after 1 year if affiliation is not completed.

Personnel security investigations and adjudicative records of a routine nature

are retained in the active file until no longer needed; retired to the U.S. Army Investigative Records Repository and retained for 15 years after last action reflected in the file, except that files which contain significant derogatory information and or resulted in adverse action(s) against the individual are destroyed after 25 years. However, once affiliation is terminated, acquiring and adding material to the file is prohibited unless affiliation is renewed. Records determined to be of historical value, of wide spread value, or Congressional interest and investigations of treason, spying, espionage, sabotage, sedition, and subversion or other major investigations or operations of a counterintelligence or security nature are permanent. They will be retained in the U.S. Army Investigative Records Repository for 25 years after the date of the last action reflected in the file and then permanently transferred to the National Archives.

Records pertaining to U.S. persons declared POW, missing, or detainees will be maintained in the active file until no longer needed, retired to the U.S. Army Investigative Records Repository and retained for 50 years after the date of the last action reflected in the file or the subject is declared Killed in Action or dead and then permanently transferred to the National Archives.

Records pertaining to counterintelligence polygraph technical files will be maintained in the active file until no longer needed and then disposed of after the final quality control review as follows: (1) For counterintelligence scope cases, 90 days for favorably resolved cases or 15 years for other than favorably resolved cases, (2) for counterintelligence investigative cases, 15 years, and (3) for offensive counterintelligence operations and Human Intelligence cases, material is transferred to the U.S. Army Investigative Records Repository, incorporated into an operational dossier, and disposed of 25 years from the date of last action.

Security, suitability, and criminal incident information that is collected in the performance of the counterintelligence mission and which is not within the U.S. Army counterintelligence jurisdiction to investigate is retained at the location only so long as necessary to transmit it to the appropriate law enforcement or investigative agency having jurisdiction for this incident.

Summarized records pertaining to local intelligence, counterintelligence or incidents of interest to the local military intelligence activity are reviewed annually and destroyed when determined to be of no further operational value. Destruction of records will be by shredding, burning, or pulping for paper records; magnetic erasing for computerized records. Optical digital data records should not be destroyed pending the development of a satisfactory destruction method.

**SYSTEM MANAGER(S) AND ADDRESS:**

Deputy Chief of Staff for Intelligence, Headquarters, Department of the Army, 1001 Army Pentagon, Washington, DC 20310–1001.

**NOTIFICATION PROCEDURE:**

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the U.S. Army Intelligence and Security Command, Freedom of Information/Privacy Office, 8825 Beulah Street, Fort Belvoir, VA 22060–5246.

Individual should provide their full name, aliases, date and place of birth, Social Security Number, service number(s), or other information verifiable from the records in written request.

**RECORD ACCESS PROCEDURES:**

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the U.S. Army Intelligence and Security Command, Freedom of Information/Privacy Office, 8825 Beulah Street, Fort Belvoir, VA 22060–5246

Individual should provide their full name, aliases, date and place of birth, Social Security Number, service number(s), current address, and telephone number in written request.

**CONTESTING RECORD PROCEDURES:**

The Army's rules for accessing records, and for contesting contents and appealing initial agency determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

**RECORD SOURCE CATEGORIES:**

From individuals; DoD records; U.S. agencies and organizations; media, including periodicals, newspapers, broadcast transcripts; intelligence source documents/reports; other relevant Army documents and reports; informants; various Federal, state and local investigative and law enforcement agencies; foreign governments; and other individuals or agencies/organizations that may supply pertinent information.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

Information specifically authorized to be classified under E.O. 12958, as implemented by DoD 5200.1–R, may be exempt pursuant to 5 U.S.C. 552a(k)(1).

Investigatory material compiled for law enforcement purposes, other than material within the scope of subsection 5 U.S.C. 552a(j)(2), may be exempt pursuant to 5 U.S.C. 552a(k)(2). However, if an individual is denied any right, privilege, or benefit for which he would otherwise be entitled by Federal law or for which he would otherwise be eligible, as a result of the maintenance of the information, the individual will be provided access to the information exempt to the extent that disclosure would reveal the identify of a confidential source. NOTE: When claimed, this exemption allows limited protection of investigative reports maintained in a system of records used in personnel or administrative actions.

Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for federal civilian employment, military service, federal contracts, or access to classified information may be exempt pursuant to 5 U.S.C. 552a(k)(5), but only to the extent that such material would reveal the identity of a confidential source.

An exemption rule for this system has been promulgated in accordance with requirements of 5 U.S.C. 553(b)(1), (2), and (3), (c), and (e) and published in 32 CFR part 505. For additional information contact the system manager.

[FR Doc. 01–30849 Filed 12–13–01; 8:45 am]

**BILLING CODE 5001–08–P**

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## DEPARTMENT OF DEFENSE

### Defense Logistics Agency

### Privacy Act of 1974; Systems of Records

**AGENCY:** Defense Logistics Agency, DOD.

**ACTION:** Notice to alter a system of records

**SUMMARY:** The Defense Logistics Agency proposes to alter a system of records notice in its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

**DATES:** This action will be effective without further notice on January 14, 2002 unless comments are received that would result in a contrary determination.

**ADDRESSES:** Send comments to the Privacy Act Officer, Headquarters, Defense Logistics Agency, ATTN: DSS–

C, 8725 John J. Kingman Road, Suite 2533, Fort Belvior, VA 22060–6221.

**FOR FURTHER INFORMATION CONTACT:** Ms. Susan Salus at (703) 767–6183.

**SUPPLEMENTARY INFORMATION:** The Defense Logistics Agency notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on December 5, 2001, to the House Committee on Government Reform, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, 'Federal Agency Responsibilities for Maintaining Records About Individuals,' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: December 7, 2001

**L.M. Bynum,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

## S322.50 DMDC

**SYSTEM NAME:**

Defense Eligibility Records (June 1, 2001, 66 FR 29780).

**CHANGES:**

* * * * *

**SYSTEM LOCATION:**

For the primary location, delete ''AHIPC, 985 West Entrance Drive'' and replace with ''EDS–SMC1, 1035 West Entrance Drive.''

Add a new paragraph 'Biometrics data is maintained at the Department of Defense Biometrics Fusion Center, 1600 Aviation Way, Bridgeport, WV 26330–9476.'

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**CATEGORIES OF RECORDS IN THE SYSTEM:**

After 'disability documentation,' add 'Medicare eligibility and enrollment data,'.

* * * * *

**PURPOSE:**

Add to entry 'to include appropriate collection actions arising out of any debts incurred as a consequence of such programs.'

* * * * *

**RETENTION AND DISPOSAL:**

Delete entry and replace with 'Data is destroyed when superseded or when no longer needed for operational purposes, whichever is later.'

## S322.50 DMDC

**SYSTEM NAME:**

Defense Eligibility Records.

**SYSTEM LOCATION:**

Primary location: Naval Postgraduate School Computer Center, Naval Postgraduate School, Monterey, CA 93943–5000.

**BACK-UP LOCATION:**

Defense Manpower Data Center, DoD Center Monterey Bay, 400 Gigling Road, Seaside, CA 93955–6771.

Biometrics data is maintained at the Department of Defense Biometrics Fusion Center, 1600 Aviation Way, Bridgeport, WV 26330–9476.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Active duty Armed Forces and reserve personnel and their family members; retired Armed Forces personnel and their family members; 100 percent disabled veterans and their dependents or survivors; surviving family members of deceased active duty or retired personnel; active duty and retired Coast Guard personnel and their family members; active duty and retired Public Health Service personnel (Commissioned Corps) and their family members; active duty and retired National Oceanic and Atmospheric Administration employees (Commissioned Corps) and their family members; and State Department employees employed in a foreign country and their family members; civilian employees of the Department of Defense; contractors; and any other individuals entitled to care under the health care program or to other DoD benefits and privileges; providers and potential providers of health care; and any individual who submits a health care claim.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Computer files containing beneficiary's name, Service or Social Security Number, enrollment number, relationship of beneficiary to sponsor, residence address of beneficiary or sponsor, date of birth of beneficiary, sex of beneficiary, branch of Service of sponsor, dates of beginning and ending eligibility, number of family members of sponsor, primary unit duty location of sponsor, race and ethnic origin of beneficiary, occupation of sponsor, rank/pay grade of sponsor, disability documentation, Medicare eligibility and enrollment data, index fingerprints and photographs of beneficiaries, blood test results, dental care eligibility codes and dental x-rays.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

5 U.S.C. 301, Departmental Regulations; 10 U.S.C. Chapters 53, 54, 55, 58, and 75; 10 U.S.C. 136; 31 U.S.C. 3512(c); 50 U.S.C. Chapter 23 (Internal Security); DoD Directive 1341.1, Defense Enrollment/Eligibility Reporting System; DoD Instruction 1341.2, DEERS Procedures; and E.O. 9397 (SSN).

**PURPOSE(S):**

The purpose of the system is to provide a database for determining eligibility to DoD entitlements and privileges; to support DoD health care management programs; to provide identification of deceased members; to record the issuance of DoD badges and identification cards; and to detect fraud and abuse of the benefit programs by claimants and providers to include appropriate collection actions arising out of any debts incurred as a consequence of such programs.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To the Department of Health and Human Services; Department of Veterans Affairs; Department of Commerce; Department of Transportation for the conduct of health care studies, for the planning and allocation of medical facilities and providers, for support of the DEERS enrollment process, and to identify individuals not entitled to health care. The data provided includes Social Security Number, name, age, sex, residence and demographic parameters of each Department's enrollees and family members.

To the Social Security Administration (SSA) to perform computer data matching against the SSA Wage and Earnings Record file for the purpose of identifying employers of Department of Defense (DoD) beneficiaries eligible for health care. This employer data will in turn be used to identify those employed beneficiaries who have employment-related group health insurance, to coordinate insurance benefits provided by DoD with those provided by the other insurance. This information will also be used to perform computer data matching against the SSA Master Beneficiary Record file for the purpose of identifying DoD beneficiaries eligible for health care who are enrolled in the Medicare Program, to coordinate

insurance benefits provided by DoD with those provided by Medicare.

To other Federal agencies and state, local and territorial governments to identify fraud and abuse of the Federal agency's programs and to identify debtors and collect debts and overpayment in the DoD health care programs.

To each of the fifty states and the District of Columbia for the purpose of conducting an ongoing computer matching program with state Medicaid agencies to determine the extent to which state Medicaid beneficiaries may be eligible for Uniformed Services health care benefits, including CHAMPUS, TRICARE, and to recover Medicaid monies from the CHAMPUS program.

To provide dental care providers assurance of treatment eligibility.

The DoD ''Blanket Routine Uses'' published at the beginning of DLA's compilation of systems of records notices apply to this system.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Records are maintained on magnetic tapes and disks, and are housed in a controlled computer media library.

**RETRIEVABILITY:**

Records about individuals are retrieved by an algorithm which uses name, Social Security Number, date of birth, rank, and duty location as possible inputs. Retrievals are made on summary basis by geographic characteristics and location and demographic characteristics. Information about individuals will not be distinguishable in summary retrievals. Retrievals for the purposes of generating address lists for direct mail distribution may be made using selection criteria based on geographic and demographic keys.

**SAFEGUARDS:**

Computerized records are maintained in a controlled area accessible only to authorized personnel. Entry to these areas is restricted to those personnel with a valid requirement and authorization to enter. Physical entry is restricted by the use of locks, guards, and administrative procedures (e.g., fire protection regulations).

Access to personal information is restricted to those who require the records in the performance of their official duties, and to the individuals who are the subjects of the record or their authorized representatives. Access to personal information is further restricted by the use of passwords which are changed periodically.

**RETENTION AND DISPOSAL:**

Data is destroyed when superseded or when no longer needed for operational purposes, whichever is later.

**SYSTEM MANAGER(S) AND ADDRESS:**

Deputy Director, Defense Manpower Data Center, DoD Center Monterey Bay, 400 Gigling Road, Seaside, CA 93955–6771.

**NOTIFICATION PROCEDURE:**

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Privacy Act Officer, Headquarters, Defense Logistics Agency, DSS–C, 8725 John J. Kingman Road, Suite 2533, Fort Belvoir, VA 22060–6221.

Written requests for the information should contain full name and Social Security Number of individual and sponsor, date of birth, rank, and duty location.

For personal visits the individual should be able to provide full name and Social Security Number of individual and sponsor, date of birth, rank, and duty location. Identification should be corroborated with a driver's license or other positive identification.

**RECORD ACCESS PROCEDURES:**

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Privacy Act Officer, Headquarters, Defense Logistics Agency, DSS–C, 8725 John J. Kingman Road, Suite 2533, Fort Belvoir, VA 22060–6221.

Written requests for the information should contain full name and Social Security Number of individual and sponsor, date of birth, rank, and duty location.

For personal visits the individual should be able to provide full name and Social Security Number of individual and sponsor, date of birth, rank, and duty location. Identification should be corroborated with a driver's license or other positive identification.

**CONTESTING RECORD PROCEDURES:**

The DLA rules for accessing records, for contesting contents and appealing initial agency determinations are contained in DLA Regulation 5400.21, 32 CFR part 323, or may be obtained from the Privacy Act Officer, Headquarters, Defense Logistics Agency, ATTN: DSS-C, 8725 John J. Kingman Road, Suite 2533, Fort Belvoir, VA 22060–6221.

**RECORD SOURCE CATEGORIES:**

Individuals, personnel pay, and benefit systems of the military and civilian departments and agencies of the Defense Department, the Coast Guard, the Public Health Service, Department of Commerce, the National Oceanic and Atmospheric Administration, Department of Commerce, and other Federal agencies.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

None.

[FR Doc. 01–30848 Filed 12–13–01; 8:45 am]

**BILLING CODE 5001–08–P**

## DEPARTMENT OF EDUCATION

### Notice of Proposed Information Collection Requests

**AGENCY:** Department of Education.

**ACTION:** Correction notice.

**SUMMARY:** On December 7, 2001, a notice was published for the Discretionary Grant collection, ''Generic Application Package for Discretionary Grant Programs'' in the **Federal Register** (Volume 66, Number 236) dated December 7, 2001. This collection needed to be processed through the emergency clearance process. Refer to last week's publication for the specific details of the collection. Since this information collection is now an emergency, ED is requesting OMB approval by December 17, 2001. ED is requesting emergency processing and a December 17 approval for this information collection since it could potentially result in public harm if this collection went through the normal clearance process. Approval by this date is urgent and directly relates to the nature of the work that will be funded under the grants to be awarded using this information collection. Applications for research grants must be available in early January in order to provide applicants with sufficient time to develop and submit strong research applications by March 1, 2002. The Department of Education must award these grants by the end of April or sooner to allow the involved local education agencies—essential participants in the research applications—sufficient time for planning during the summer so that implementation occurs in September, 2002. Any delay would jeopardize the timing of the conduct of important research on early childhood curricula. ED will consider any public comment received in order to improve this information collection. The Leader, Regulatory Information Management,

Office of the Chief Information Officer, hereby issues a correction notice as required by the Paperwork Reduction Act of 1995.

Dated: December 10, 2001.

**John Tressler,**

*Leader, Regulatory Information Management Group, Office of the Chief Information Officer.*

[FR Doc. 01–30872 Filed 12–13–01; 8:45 am]

BILLING CODE 4000–01–P

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–7118–4]**

## Agency Information Collection Activities OMB Responses

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notices.

**SUMMARY:** This document announces the Office of Management and Budget's (OMB) responses to Agency clearance requests, in compliance with the Paperwork Reduction Act (44 U.S.C. 3501 et. Seq.). An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15.

**FOR FURTHER INFORMATION CONTACT:** Sandy Farmer at 260–2740, or E-mail at *Farmer.sandy@epa.gov,* and please refer to the appropriate EPA Information Collection Request (ICR) Number.

**SUPPLEMENTARY INFORMATION:**

### OMB Responses to Agency Clearance Requests

*OMB Approvals*

EPA ICR No. 1885.01; IAQ Practices in Schools Survey; in 40 CFR part 68 was approved 07/27/01; OMB No. 2060–0463; expires 07/31/2004.

EPA ICR No. 2004.01; 2001 Emergency Planning and Community Right-to-know Act (EPCRA) and Risk Management Program (RMP) Implementation Status Questionnaire for Tribal Emergency Response Commission in 40 CFR part 68; was approved 08/13/2001; OMB No. 2009–0001; expires 08/31/2004.

EPA ICR No. 1755.05; Regulatory Reinvention Pilot Projects Under Projects XL: Pretreatment Program; was approved 08/01/2001; OMB No. 2010–0026; expires 02/28/2002.

EPA ICR No. 1425.05; Application for Reimbursement to Local Governments for Emergency Response to Hazardous Substance Releases Under CERCLA section 123 in 40 CFR part 310; was approved 08/21/2001; OMB No. 2050–0077; expires 08/31/2004.

EPA ICR No. 0155.07; Certification of Pesticide Applicators in 40 CFR part 171 was approved 08/24/2001; OMB No. 2070–0029; expires 08/31/2004.

EPA ICR No. 1715.03; TSCA Section 402 and Section 404 Training and Certification, Accreditation and Standards for Lead-Based Paint Activities in 40 CFR part 745 was approved 08/24/2001; OMB No. 2070–0155; expires 08/31/2004.

EPA ICR No. 1928.02; Information Collection Request for Filter Backwash Recycling Rule (Final Rule) in 40 CFR 141.76 and 142.16; OMB No. 2040–0224; was approved 08/14/2001; expires 08/31/2004.

EPA ICR No. 1988.01; 2001 Aquatic Animal Production Industry Surveys; was approved 08/01/2001; OMB No. 2040–0237; expires 08/31/2004.

EPA ICR No. 0866.06; Quality Assurance Specification and Requirements; was approved 08/29/2001; OMB No. 2080–0033; expires 08/31/2004.

EPA ICR No. 1446.07; PCB's Consolidated Reporting and Recordkeeping Requirements; in 40 CFR part 61; was approved on 08/29/2001; OMB No. 2070–0112; expires 08/31/2004.

EPA ICR No. 0922.06; Data Call-Ins for the Special Review and Registration Review Programs; was approved 08/29/2001; OMB No. 2070–0057; expires 08/31/2004.

EPA ICR No. 1695.07; Certification and the Averaging, Banking, and Trading Program for Non-road Spark-Ignition Engines at or Below 19 Kilowatts, in 40 CFR part 90, subpart C; was approved 09/21/2001; OMB No. 2060–0338; expires 09/30/2004.

EPA ICR No. 1862.02; Transition Program for Equipment Manufacturers, in 40 CFR part 89.101; was approved 09/21/2001; OMB No. 2060–0369; expires 09/30/2004.

EPA ICR No. 1718.03; Tax-exempt (Dyed) Highway Diesel Fuel; Requirements for Transferors and Transferees; in 40 CFR part 80.29(c), was approved 09/21/2001; OMB No. 2060–0308; expires 09/30/2004.

EPA ICR No. 0193.07; NESHAP for Beryllium in 40 CFR part 61, subpart C; was approved 09/21/2001; OMB No. 2060–0092; expires 09/30/2004.

EPA ICR No. 1722.03; Spark-ignition Marine Engine Application for Emission Certification and Participation in the Averaging, Banking and Trading Program in 40 CFR part 91, subpart B and C; was approved 09/21/2001; OMB No. 2060–0321; expires 09/30/2004.

EPA ICR No. 1681.04; NESHAP: Epoxy Resin and Non-Nylon Polyamide Production in 40 CFR part 63, subpart W; was approved 09/21/2001; OMB No. 2060–0290; expires 09/30/2004.

EPA ICR No. 1725.03; Marine Engine Manufacturer Production Line Testing Reporting and Recordkeeping Requirements, in 40 CFR part 91; was approved 09/21/2001; OMB No. 2060–0323; expires 09/30/2004.

EPA ICR No. 1761.03; Regulations for a Voluntary Emissions Standards Program Applicable to Manufacturers of Light-Duty Vehicles and Trucks Beginning in Model Year 1997 in part 40 CFR 86.1700; was approved 09/21/2001; OMB No. 2060–0345; expires 09/30/2004.

EPA ICR No. 1684.05; Non-Road Compression-Ignition Engine and On-Highway Heavy Duty Engine Application for Emissions Certification, and Participation in the Averaging, Banking, and Trading Program in 40 CFR 86.094, was approved 09/25/2001; OMB No. 2060–0287; expires 09/30/2004.

EPA ICR No. 1767.03; MACT for Primary Aluminum Reduction Plants in 40 CFR part 63, subpart LL; was approved 09/25/2001; OMB No. 2060–0360; expires 09/30/2004.

EPA ICR No. 1504.04; Data Generation for Pesticide Reregistration; in 40 CFR part 158 was approved 09/07/2001; OMB No. 2070–0107; expires 09/30/2004.

EPA ICR No. 1922.02; Storage, Treatment, Transportation, and Disposal of Mixed Waste (Final Rule); in 40 CFR part 266 was approved 08/02/2001; OMB No. 2050–0181; expires 08/31/2004.

*Comments Filed*

EPA ICR No. 1976.01; National Emission Standards for Hazardous Air Pollutants (NESHAP) for Reinforced Plastic Composites Production; in 40 CFR part 63, subpart WWWW on 09/21/2001 OMB filed a comment under comment No. 2060–0466. Note, this is not an OMB approval number.

*Short Term Extensions*

EPA ICR No. 1637.04; General Conformity of Federal Actions to State Implementation Plans, 40 CFR part 51, subpart W and 40 CFR part 93, subpart B; OMB No. 2060–0279; on 9/28/2001 OMB extended the expiration date through 12/30/2001.

*Comments Filed*

EPA ICR No. 1976.01; National Emission Standards for Hazardous Air

Pollutants (NESHAP) for Reinforced Plastic Composites Production; in 40 CFR part 63, subpart WWWW on 09/21/2001 OMB filed a comment under comment No. 2060–0466. Note, this is not an OMB approval number.

EPA ICR No. 1954.01; National Emission Standards for Hazardous Air Pollutant; Surface Coating of Large Appliances; in 40 CFR part 63, subpart NNNN on 09/21/2001 OMB filed a comment under comment No. 2060–0457. Note, this is not an OMB approval number.

Dated: November 28, 2001.

**Oscar Morales, Director,**

*Collection Strategies Division.*

[FR Doc. 01–30911 Filed 12–13–01; 8:45 am]

**BILLING CODE 6560–50–M**

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## ENVIRONMENTAL PROTECTION AGENCY

**[ER–FRL–6624–5]**

## Environmental Impact Statements; Notice of Availability

*Responsible Agency:* Office of Federal Activities, General Information (202) 564–7167 or *www.epa.gov/oeca/ofa*.

Weekly receipt of Environmental Impact Statements

Filed December 03, 2001 Through December 07, 2001

Pursuant to 40 CFR 1506.9.

EIS No. 010506, DRAFT EIS, AFS, UT, Quitchupah Creek Road Project, Construct a Public Road, To Provide Public Access from SR–10 to the Acord Lakes Road, Application for Right-of-Way, Fishlake National, Forest, Sevier County Special Services District (SSD), Sevier and Emery Counties, UT, Comment Period Ends: February 15, 2002, *Contact:* Linda Jackson (435) 896–9233.

EIS No. 010507, FINAL EIS, COE, ND, Maple River Dam and Reservoir, Construction and Operation, Flood Control, Cass County Joint Water Resource District, Cass County, ND, Wait Period Ends: January 14, 2002, *Contact:* Robert Nebel (402) 221–4621.

EIS No. 010508, DRAFT EIS, FHW, WV, US–340 Transportation Corridor Improvement Study, Implementation, Proposal to Improve US 340 from the four-lane Section of the Charles-Town Bypass, Jefferson County, WV, Comment Period Ends: February 08, 2002, *Contact:* Thomas Smith (304) 347–5928.

EIS No. 010509, DRAFT EIS, COE, AR, Greers Ferry Lake Shoreline Management Plan (SMP), Implementing Revision to Replace the 1994 Shore Management Plan, Revision include Zoning of Limited Development Areas, Vegetation Modification Provisions for Grandfathered Docks and Restrictions on Boats, Van Buren, Cleburne, Searcy, Stone, White, Independence and Pope Counties, AR, Comment Period Ends: January 28, 2002, *Contact:* Patricia Anslow (501) 324–5028.

EIS No. 010510, FINAL EIS, AFS, MT, Tobacco Root Vegetation Management Plan, Restore and Maintain a Mix of Vegetation, Beaverhead-Deer Lodge National Forest, Madison Ranger District, Madison County, MT , Wait Period Ends: January 14, 2002, *Contact:* Jan M. Bowey (406) 842–5432.

EIS No. 010511, FINAL EIS, APH, Fruit Fly Cooperative Control Program, Eradication Program, Implementation, Wait Period Ends: January 14, 2002, *Contact:* Harold T. Smith (301) 734–6742. This document is available on the Internet at: *http:www.aphis.usda.gov/ppd/es/ppq/ffeis.pdf*

EIS No. 010512, FINAL SUPPLEMENT, COE, CA, Prado Dam Water Conversion Plan, Implementation, New Information Concerning New Modified Flood Protection Features, Remaining Features of the Santa Ana River Project (SARP) and Stabilization of the Bluff Toe at Norco Bluffs, Riverside, Orange and San Bernardino Counties, CA, Wait Period Ends: January 14, 2002, *Contact:* Ms. Hayle Lovan (213) 452–3863.

EIS No. 010513, DRAFT EIS, FHW, OR, Lincoln Bypass Construction, South of Industrial Boulevard to North of Riosa Road, Funding and U.S. Army COE Section 404 Permit Issuance, Placer County, CA, Comment Period Ends: January 28, 2002, *Contact:* Maiser Khaled (916) 498–5020.

EIS No. 010514, FINAL EIS, USN, ME, South Weymouth Naval Air Station, Disposal and Reuse, Norfolk and Plymouth Counties, MA, Wait Period Ends: February 11, 2002, *Contact:* Robert K. Ostermueller (610) 595–0759.

EIS No. 010515, FINAL EIS, HUD, CA, North Hollywood Arts and Entertainment District Project, Construction and Operation, North Hollywood Redevelopment Project, City of Los Angeles, and Los Angeles County, CA, Wait Period Ends: January 14, 2002, *Contact:* Mr. Tony Kochinas (213) 847–4307.

EIS No. 010516, DRAFT EIS, FHW, OR, South Medford Interchange Project, Interchange Project, Relocation on I–5 south of its current location at Barnett Road, Funding, Jackson County, OR, Comment Period Ends: January 14, 2002, *Contact:* John Gernhauser (503) 399–5749. Due to an Administrative Error by the FHWA the above DEIS was not properly filed with the USEPA. FHWA has confirmed that distribution of the DEIS was made available to federal agencies and interested parties for a 45-Day Comment Period Ending on 12/03/2001. FHWA has Extended the Comment Period for 30-Days Ending 01/14/2002. For further information contact Mr. Greg Holthoff at 503–986–3504.

EIS No. 010517, DRAFT EIS, FRC, WA, Georgia Strait Crossing Pipeline (LP) Project, Construction and Operation, To Transport Natural Gas from the Canadian Border near Sumas, WA to US/Canada Border at Boundary Pass in the Strait of Georgia, Docket Nos. CP01–176–000 and CP01–179–000, Whatcom and San Juan Counties, WA, Comment Period Ends: February 04, 2002, *Contact:* Linwood A. Watson (202) 208–0400.

EIS No. 010518, FINAL EIS, IBR, WA, Potholes Reservoir Resource Management Plan, Implementation, COE Section 404 and NPDES Permits, Moses Lake, Grant County, WA, Wait Period Ends: January 14, 2002, *Contact:* Jim Blanchard (509) 754–0226.

EIS No. 010519, DRAFT EIS, TVA, TN, KY, MS, AL, GA, NC, Browns Ferry Nuclear Plant, Operating License Renewal, To Extend Operation of Units 2 and 3, and Potentially Unit 1, Athens, Limestone County, AL, Comment Period Ends: January 30, 2002, *Contact:* Bruce L. Yeager (865) 632–8051.

EIS No. 010520, FINAL SUPPLEMENT, NPS, AZ, Organ Pipe Cactus National Monument General Management Plan and Development Concept Plan Implementation, Portion of the Sonoran Desert, Pima County, AZ , Wait Period Ends: January 14, 2002, *Contact:* William E. Wellman (520) 387–7661.

EIS No. 010521, FINAL EIS, AFS, MT, Gold/Boulder/Sullivan (GBS), Implementation of Timber Harvest and Associated Activities Prescribed Burning, Kootenai National Forest, Rexford Ranger District, Lincoln County, MT , Wait Period Ends: January 14, 2002, *Contact:* Ron Komac (406) 296–2536.

EIS No. 010522, FINAL EIS, COE, OH, Ashtabula River and Harbor Dredging and Disposal Project, Design, Construction, Operation and Maintenance, Ashtabula River Partnership (ARP), Ashtabula County, OH , Wait Period Ends: January 14,

2002, *Contact:* John Mahan (440) 964–0277.

**Amended Notices**

EIS No. 010305, DRAFT SUPPLEMENT, FAA, MN, Flying Cloud Airport, Substantive Changes to Alternatives and New Information, Extension of the Runways 9R/27L and 9L/27R, Long-Term Comprehensive Development, In the City of Eden Prairie, Hennepin County, MN, Comment Period Ends: December 07, 2001, *Contact:* Glen Orcutt (612) 713–4354. Revision of FR Notice Published on 08/24/2001: CEQ. Comment Period Ending on 12/07/2001 has been Extended to 01/31/2002.

EIS No. 010401, DRAFT SUPPLEMENT, FHW, MI, US–31 Petoskey Area Improvement Study, To Reduce Congestion on US–31 in the City of Petoskey and Resort and Bear Creek Townships, COE Section 404 Permit, Emmet County, MI, Comment Period Ends: December 17, 2001, *Contact:* James A. Kirschensteiner (517) 702–1835. Revision of FR Notice Published on 11/02/2001: CEQ. Comment Period Ending 12/17/2001 has been extended to 01/15/2002.

EIS No. 010500, DRAFT SUPPLEMENT, BIA, NV, Moapa Paiute Energy Center/Associated Facilities Construction, Operation and Maintenance of a 760 Megawatt (MW) Baseload Natural Gas-Fired Combined Cycle Power Plant, New Information concerning Structural, Route and Substation Location Changes, Moapa River Indian Reservation and Bureau of Land Management Lands, Clark County, NV, Comment Period Ends: January 14, 2002, *Contact:* Amy L. Heuslien (602) 379–6750. Revision of FR notice published on 11/30/2001: CEQ Comment Period Ending 01/04/2002 has been Corrected to 01/14/2002.

Dated: December 11, 2001.

**Joseph C. Montgomery,**

*Director, NEPA Compliance Division, Office of Federal Activities.*

[FR Doc. 01–30932 Filed 12–13–01; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

**[ER–FRL–6624–6]**

## Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 564–7167.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated May 18, 2001 (66 FR 27647).

**Draft EISs**

ERP No. D–AFS–L65388–WA Rating EC2, Crystal Mountain Master Development Plan, To Provide Winter and Summer Recreational Use, Special-Use-Permit, Mt. Baker-Snoqualmie National Forest, Silver Creek Watershed, Pierce County, WA.

*Summary:* EPA expressed environmental concerns related to the purpose and need statement, the No Action Alternative, impacts to water quality and quantity, improved inter-governmental coordination, and more fully disclosed indirect and cumulative effects.

ERP No. D–CGD–A59014–00 Rating EC2, Programmatic EIS—Integrated Deepwater System Project, Surface, Air, Logistics Communication and Sensor Systems, Aging Nation-Wide System Replacement

*Summary:* EPA expressed concerns regarding potential impacts to the marine environment and air quality, and requested clarification of the methodology used to analyze cumulative impacts and potential impacts from hazardous wastes.

ERP No. D–SFW–A65170–00 Rating LO, Light Goose Management Plan, Implementation, Reducing and Stabilizing Specific Populations ''Light Geese'' in North America.

*Summary:* EPA did not identify any environmental concerns with the Service's preferred alternative of modifying harvest regulations and refuge management in order to reduce high population levels of light geese. EPA recommended that following selection of a management approach, the Service should carefully monitor its implementation and remain open to exploring other options as necessary and appropriate.

**Final EISs**

ERP No. F–AFS–J65344–MT Burned Area Recovery, Proposal to Reduce Fuels, Improve Watershed Conditions and Reforest Burned Lands, Sula, Darby, West Fork and Stevensville Ranger Districts, Bitterroot National Forest, Ravalli County, MT.

*Summary:* While the development of a new preferred alternative, Alternative F, was responsive to EPA's environmental concerns about sediment production and increased water yield from fuels reduction treatments, EPA still has concerns about sediment production from ground based logging systems.

Dated: December 11, 2001.

**Joseph C. Montgomery,**

*Director, NEPA Compliance Division, Office of Federal Activities.*

[FR Doc. 01–30933 Filed 12–13–01; 8:45 am]

BILLING CODE 6560–50–U

## ENVIRONMENTAL PROTECTION AGENCY

**[PF–1061; FRL–6813–5]**

## 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–1061, must be received on or before January 14, 2002.

**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–1061 in the subject line on the first page of your response.

**FOR FURTHER INFORMATION CONTACT:** By mail: William G. Sproat, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–8587; e-mail address: sproat.william@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<br>112<br>311<br><br>32532 | Crop production<br>Animal production<br>Food manufacturing<br>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–1061. 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–1061 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–1061. 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: November 29, 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 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.

**Dow AgroSciences LLC**

*PP EUP-LN*

EPA has received a pesticide petition (PP EUP-LN) from Dow AgroSciences LLC, 9330 Zionsville Road, Indianapolis, IN 46268 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 spinosad in or on the raw agricultural commodity stored grain (wheat, barley, corn, oats, rice, and sorghum/milo) at 3 parts per million (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 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 metabolism of spinosad in plants (apples, cabbage, cotton, tomato, and turnip) and animals (goats and poultry), are adequately understood for the purposes of these tolerances. A rotational crop study showed no carryover of measurable spinosad-related residues in representative test crops.

2. *Analytical method*. There is a practical method (immunoassay) for detecting (0.005 ppm) and measuring (0.01 ppm) levels of spinosad in or on food with a limit of detection that allows monitoring of food with residues at or above the level set for these tolerances. The method has had a successful method tryout in EPA's laboratories.

3. *Magnitude of residues*. Tolerances as high as 10 ppm (Brassica) and 8 ppm (leafy vegetables) have been previously established for crop commodities treated with spinosad. Magnitude of residue studies were conducted at three sites for artichokes. Residues found in these studies ranged from 0.062 ppm to 0.156 ppm. Magnitude of residue studies were conducted at three sites for asparagus. Residues found in these studies were all less than 0.009 ppm. Magnitude of residues studies were conducted at five sites for garden beet tops (one of the representative crops for the leaves of root and tuber vegetable crop group). Residues found in these studies ranged from 0.03 ppm to 4.0 ppm. Previously submitted data used in support of the established residue tolerance on Brassica (cole) leafy vegetables are also to be used in support of the proposed residue tolerance for leaves of root and tuber vegetables. Magnitude of residue studies were conducted at six sites for pears (one of the representative crops for the pome fruit crop group). Residues found in these studies ranged from non-detectable to 0.08 ppm. Previously submitted data used in support of the established residue tolerance on apples are to be used in support of the proposed residue tolerance for pome fruit. Magnitude of residue studies were conducted at four sites on pecans (one of the representative crops for the tree nut crop group). Residues found in these studies ranged from less than 0.0010 ppm to 0.0076 ppm. Previously submitted data used in support of the established residue tolerance on almonds are also to be used in support of the proposed residue tolerance for tree nuts and pistachio. A magnitude of residue study was conducted at 20 sites on tomatoes and peppers (two of the representative crops for the fruiting vegetables crop group). Residues found in this study ranged from less than 0.01 ppm to 0.13 ppm in tomatoes, and 0.01 ppm to 0.18 ppm in peppers. Previously submitted data used in support of the established residue tolerance on fruiting vegetables (except cucurbits) are to be used in support of the proposed residue tolerance for okra. Magnitude of residue studies were conducted at six sites for cranberry. No quantifiable residues (>0.01 ppm) were observed in any test sample. Magnitude of residue studies were conducted at five sites for garden beet roots (one of the representative crops for the root and tuber vegetable crop group) and tops (one of the representative crops for the leaves of root and tuber vegetable crop group). Residues found in beet tops ranged from 0.03 ppm to 4.0 ppm. Previously submitted data used in support of the established residue tolerance on Brassica (cole) leafy vegetables are also to be used in support of the proposed residue tolerance for leaves of root and tuber vegetables. This data support tolerances of 0.1 ppm in garden and sugar beet roots and a 10.0 ppm tolerance for Crop Group 2.

*B. Toxicological Profile*

1. *Acute toxicity*. Spinosad has low acute toxicity. The rat oral $LD_{50}$ is 3,738 milligrams/kilograms (mg/kg) for males and >5,000 mg/kg for females, whereas the mouse oral $LD_{50}$ is >5,000 mg/kg. The rabbit dermal $LD_{50}$ is >5,000 mg/kg and the rat inhalation $LC_{50}$ is >5.18 miligram/liter (mg/L) air. In addition, spinosad is not a skin sensitizer in guinea pigs and does not produce significant dermal or ocular irritation in rabbits. End use formulations of spinosad that are water based suspension concentrates have similar low acute toxicity profiles.

2. *Genotoxicity*. Short-term assays for genotoxicity consisting of a bacterial reverse mutation assay (Ames test), an *in vitro* assay for cytogenetic damage using the chinese hamster ovary (CHO) cells, an *in vitro* mammalian gene mutation assay using mouse lymphoma cells, an *in vitro* assay for DNA damage and repair in rat hepatocytes, and an *in vivo* cytogenetic assay in the mouse bone marrow (micronucleus test) have been conducted with spinosad. These studies show a lack of genotoxicity.

3. *Reproductive and developmental toxicity*. Spinosad caused decreased body weights in maternal rats given 200 mg/kg/day by gavage (highest dose tested (HDT)). This was not accompanied by either embryo toxicity, fetal toxicity, or teratogenicity. The no observed adverse effect levels (NOAELs) for maternal and fetal toxicity in rats were 50 and 200 mg/kg/day, respectively. A teratology study in rabbits showed that spinosad caused decreased body weight gain and a few abortions in maternal rabbits given 50 mg/kg/day highest dose tested (HDT). Maternal toxicity was not accompanied by either embryo toxicity, fetal toxicity, or teratogenicity. The NOAELs for maternal and fetal toxicity in rabbits were 10 and 50 mg/kg/day, respectively. In a 2–generation reproduction study in rats, parental toxicity was observed in both males and females given 100 mg/kg/day highest dose tested (HDT). Perinatal effects (decreased litter size and pup weight) at 100 mg/kg/day were attributed to maternal toxicity. The NOAEL for maternal and pup effects was 10 mg/kg/day.

4. *Subchronic toxicity*. Spinosad was evaluated in 13–week dietary studies and showed NOAELs of 4.89 and 5.38 mg/kg/day, respectively in male and female dogs; 6 and 8 mg/kg/day, respectively in male and female mice; and 33.9 and 38.8 mg/kg/day, respectively, in male and female rats. No dermal irritation or systemic toxicity occurred in a 21–day repeated dose

dermal toxicity study in rabbits given 1,000 mg/kg/day.

5. *Chronic toxicity*. Based on chronic testing with spinosad in the dog and the rat, EPA has set a reference dose (RfD) of 0.027 mg/kg/day for spinosad. The RfD has incorporated a 100–fold safety factor to the NOAELs found in the chronic dog study to account for interspecies and intraspecies variation. The NOAELs shown in the dog chronic study were 2.68 and 2.72 mg/kg/day, respectively for male and female dogs. The NOAELs (systemic) shown in the rat chronic/carcinogenicity/neurotoxicity study were 9.5 and 12.0 mg/kg/day, respectively for male and female rats. Using the Guidelines for Carcinogen Risk Assessment published in the **Federal Register** September 24, 1986 (51 FR 33992), it is proposed that spinosad be classified as Group E for carcinogenicity (no evidence of carcinogenicity) based on the results of carcinogenicity studies in two species. There was no evidence of carcinogenicity in an 18–month mouse feeding study and a 24–month rat feeding study at all dosages tested. The NOAELs shown in the mouse oncogenicity study were 11.4 and 13.8 mg/kg/day, respectively for male and female mice. A maximum tolerated dose was achieved at the top dosage level tested in both of these studies based on excessive mortality. Thus, the doses tested are adequate for identifying a cancer risk. Accordingly, a cancer risk assessment is not needed.

Spinosad did not cause neurotoxicity in rats in acute, subchronic, or chronic toxicity studies.

6. *Animal metabolism*. There were no major differences in the bioavailability, routes or rates of excretion, or metabolism of spinosyn A and spinosyn D following oral administration in rats. Urine and fecal excretions were almost completed in 48–hours post-dosing. In addition, the routes and rates of excretion were not affected by repeated administration.

7. *Metabolite toxicology*. The residue of concern for tolerance setting purposes is the parent material (spinosyn A and spinosyn D). Thus, there is no need to address metabolite toxicity.

8. *Endocrine disruption*. There is no evidence to suggest that spinosad has an effect on any endocrine system.

*C. Aggregate Exposure*

1. *Dietary exposure*. For purposes of assessing the potential dietary exposure from use of spinosad on the raw agricultural commodities listed in this notice, as well as from other existing spinosad crop uses, a conservative estimate of aggregate exposure is determined by basing the theoretical maximum residue contribution (TMRC) on the proposed tolerance level for spinosad and assuming that 100% of the proposed new crops and other existing (registered for use) crops grown in the U.S. were treated with spinosad. The TMRC is obtained by multiplying the tolerance residue levels by the consumption data which estimates the amount of crops and related foodstuffs consumed by various population subgroups. The use of a tolerance level and 100% of crop treated clearly results in an overestimate of human exposure and a safety determination for the use of spinosad on crops cited in this summary that is based on a conservative exposure assessment. In addition, for the use of dermal application of spinosad to cattle, the risk assessment applies a conservative (overestimate) 35% of market share for the dermal application to cattle, to the tolerance levels for animal commodities based on existing crop uses.

*Drinking water*. Another potential source of dietary exposure is residues in drinking water. Based on the available environmental studies conducted with spinosad wherein its properties show little or no mobility in soil, there is no anticipated exposure to residues of spinosad in drinking water. In addition, there is no established maximum concentration level (MCL) for residues of spinosad in drinking water.

2. *Non-dietary exposure*. Spinosad is currently registered for use on a number of crops including cotton, fruits, and vegetables in the agriculture environment. Spinosad is also currently registered for outdoor use on turf and ornamentals at low rates of application (0.04 to 0.54 lb active ingredient per acre) and indoor use for drywood termite control (extremely low application rates used with no occupant exposure expected). Thus, the potential for non-dietary exposure to the general population is considered negligible.

*D. Cumulative Effects*

The potential for cumulative effects of spinosad and other substances that have a common mechanism of toxicity is also considered. In terms of insect control, spinosad causes excitation of the insect nervous system, leading to involuntary muscle contractions, prostration with tremors, and finally paralysis. These effects are consistent with the activation of nicotinic acetylcholine receptors by a mechanism that is clearly novel and unique among known insecticidal compounds. Spinosad also has effects on the gamma aminobatopic acid (GABA) receptor function that may contribute further to its insecticidal activity. Based on results found in tests with various mammalian species, spinosad appears to have a mechanism of toxicity like that of many amphiphilic cationic compounds. There is no reliable information to indicate that toxic effects produced by spinosad would be cumulative with those of any other pesticide chemical. Thus, it is appropriate to consider only the potential risks of spinosad in an aggregate exposure assessment. Spinosad is classified in a mechanism-of-action group of its own for the purpose of resistance management in insects and for rotation with other crop protection products.

*E. Safety Determination*

1. *U.S. population*. Using the conservative exposure assumptions and the RfD described above, the aggregate exposure to spinosad use on existing crop uses utilizes 36.9% of the RfD for the U.S. population from a previous EPA assessment based on the chronic population adjusted dose (cPAD) (as posted in the **Federal Register** of May 3, 2000 (65 FR 25721) (FRL–6555–9)). EPA generally has no concern for exposures below 100% of the RfD, because the RfD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health. The new crop uses proposed in this notice are minor ones and are expected to contribute only a negligible impact to the RfD. Thus, it is clear that there is reasonable certainty that no harm will result from aggregate exposure to spinosad residues on existing and all pending crop uses listed in this notice.

2. *Infants and children*. In assessing the potential for additional sensitivity of infants and children to residues of spinosad, data from developmental toxicity studies in rats and rabbits and a 2–generation reproduction study in the rat is considered. The developmental toxicity studies are designed to evaluate adverse effects on the developing organism resulting from pesticide exposure during prenatal development. Reproduction studies provide information relating to effects from exposure to the pesticide on the reproductive capability and potential systemic toxicity of mating animals and on various parameters associated with the well-being of pups.

FFDCA section 408 provides that EPA may apply an additional safety factor for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the data base. Based on the current toxicological data requirements, the data base for spinosad

relative to prenatal and postnatal effects for children is complete. Further, for spinosad, the NOAELs in the dog chronic feeding study which was used to calculate the RfD (0.027 mg/kg/day) are already lower than the NOAELs from the developmental studies in rats and rabbits by a factor of more than 10–fold. Concerning the reproduction study in rats, the pup effects shown at the HDT were attributed to maternal toxicity. Therefore, it is concluded that an additional uncertainty factor (UF) is not needed and that the RfD at 0.027 mg/kg/day is appropriate for assessing risk to infants and children. In addition, EPA has determined that the 10X factor to account for enhanced sensitivity of infants and children is not needed because:

i. The data provided no indication of increased susceptibility of rats or rabbits to *in utero* and/or postnatal exposure to spinosad. In the prenatal developmental toxicity studies in rats and rabbits and 2–generation reproduction in rats, effects in the offspring were observed only at or below treatment levels that resulted in evidence of parental toxicity.

ii. No neurotoxic signs have been observed in any of the standard required studies conducted.

iii. The toxicology data base is complete and there are no data gaps.

iv. Exposure data are complete or is estimated based on data that reasonably account for potential exposure.

Using the conservative exposure assumptions previously described (tolerance level residues), the percent RfD utilized by the aggregate exposure to residues of spinosad on existing crop uses is 81.9% for children 1 to 6 years old, the most sensitive population subgroup from an EPA assessment based on the cPAD (as posted in the **Federal Register** of May 3, 2000). Additional refinements to the dietary exposure based on market share information would reduce the exposure of children 1 to 6 years old to less than 50% the cPAD. Grain treated under a temporary tolerance is expected to contribute only a negligible impact to the RfD. Thus, based on the completeness and reliability of the toxicity data and the conservative exposure assessment, it is concluded that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to spinosad residues on the above proposed uses, including existing crop uses.

*F. International Tolerances*

There is no Codex maximum residue levels established for residues of spinosad.

[FR Doc. 01–30913 Filed 12–13–01; 8:45 am]

BILLING CODE 6560–50–S

## ENVIRONMENTAL PROTECTION AGENCY

**[PF–1060; FRL–6813–2]**

## Notice of Filing Pesticide Petitions 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 pesticide petitions 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–1060, must be received on or before January 14, 2002.

**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–1060 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<br>112<br>311<br><br>32532 | Crop production<br>Animal production<br>Food manufacturing<br>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?*

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2. *In person.* The Agency has established an official record for this action under docket control number PF–1060. 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.

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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.

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2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
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## 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: November 29, 2001.

**Peter Caulkins,**

*Acting Director, Registration Division, Office of Pesticide Programs.*

## Summaries of Petitions

The petitioner's summaries of pesticide petitions are printed below as required by section 408(d)(3) of the FFDCA. The summaries of petitions were prepared by the petitioner and represents the view of the petitioner. EPA is publishing the petitions summaries verbatim without editing them in any way. The petitions summaries 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 methods are needed.

### Interregional Research Project Number 4 (IR–4) and Uniroyal Chemical Company

*PP 0E6167, 1E6347, and 1F6235*

EPA has received pesticide petitions (0E6167, 1E6347 and 1F6235) from the Interregional Research Project Number 4 (IR-4), 681 US Highway #1 South, North Brunswick, NJ 08902 and Uniroyal Chemical Company Inc., Middlebury, CT 06749 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 180.377 by establishing tolerances for residues of diflubenzuron, (*N*-(4-chlorophenyl)amino]carbonyl-2,6-difluorobenzamide) in or on the following raw agricultural commodities:

- PP 0E6167 proposes the establishment of a tolerance for pear at 0.5 part per million (ppm).
- PP 1E6347 proposes the establishment of a tolerance for the grass, forage, fodder, and hay group at 6.0 ppm.
- PP 1F6235 proposes the establishment of tolerances for stonefruit (except cherries) at 0.05 ppm, tree nuts and pistachios at 0.05 ppm, almond hulls at 5.0 ppm, peppers at 1.0 ppm, and meat-by-products at 0.15 ppm.

EPA has determined that the 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 the petitions. Additional data may be needed before EPA rules on the petitions. This notice of filing contains a summary of the petition provided by Uniroyal Chemical Company, Inc., the registrant.

*A. Residue Chemistry*

1. *Plant metabolism*. The nature of the residue in plants is adequately understood. The metabolism of diflubenzuron was investigated in soybeans, oranges, and rice. The main component of residues in rice was p-chlorophenylurea (CPU); levels of p-chloroaniline (PCA) were negligible to non-detectable. The main component of the residues in soybeans and oranges was the parent diflubenzuron (DFB). A considerable portion of the residues were bound. DFB showed very limited absorption and translocation in plants

with most of the residues remaining on the surface.

2. *Analytical method*. Practical analytical methods for detecting levels of DFB, CPU and PCA, in or on food with a limit of detection that allows monitoring of the residue at or above the level set in the tolerance was used to determine residues in the proposed commodities. Residues of the individual analytes are detectable and quantifiable using three separate analytical methods. Residues of DFB are extracted from the proposed commodities with dichloromethane. Extracts are purified with deactivated florisil. An aliquot of the extract is hydrolyzed with phosphoric acid and the DFB is partitioned into hexane. The resulting extract is derivatized in heptafluorobutyric anhydride (HFBA). Quantification of DFB is accompanied by gas chromatography using an electron capture detector.

The analytical method for quantitation of the 4-chlorophenylurea requires ethyl acetate extraction of the residue from the matrix. Column chromatography is utilized for clean-up of the extract immediately prior to derivitization with HFBA. Derivatized extracts are analyzed by gas chromatography equipped with an electron capture detector.

The analysis for the determination of PCA residues from the proposed commodities utilize an internal standard method. Samples of matrix to be analyzed are fortified with the internal standard. Residues of 12C-PCA and the internal standard are subjected to acid and base hydrolysis. The final extract is passed through florisil column for clean-up and derivatized with HFBA in hexane. An aliquot of the derivatized extract is analyzed by gas chromatography using a mass spectrometry detector in the selective ion monitoring mode. Recovery of PCA is determined by the combined peak areas for the two mass spectral ions obtained from the derivatized 12C-PCA relative to the response factor derived from the combined areas of the corresponding two mass spectral ions from the internal standard.

3. *Magnitude of residues*. Individual residue trials have been conducted with diflubenzuron on the proposed commodities. Analyses of these trials show that the maximum total residue for diflubenzuron and its conversion products PCA and CPU will be at or below the proposed tolerance levels.

*B. Toxicological Profile*

1. *Acute toxicity*. Studies for diflubenzuron technical indicate the acute oral toxicity in rats and mice is >4,640milligram per kilogram (mg/kg), and the acute dermal toxicity in rats is >10,000 mg/kg. The acute inhalation lethal concentration $(LC)_{50}$ in rats is >35 mg/L (6 hours). Diflubenzuron technical is not an eye or skin irritant to rabbits, and is not a dermal sensitizer in guinea pigs.

2. *Genotoxicity*. Diflubenzuron did not show any mutagenic activity in point mutation assays employing *S. typhimurium*, *S. cerevisiae*, or L5178Y Mouse Lymphoma cells. Diflubenzuron did not induce chromosomal aberrations in chinese hamster ovary (CHO) cells and it did not induce unscheduled DNA synthesis (UDS) in human WI–38 cells. Diflubenzuron was also negative in mouse micronucleus and mouse dominant lethal assays and it did not induce cell transformation in Balb/3T3 cells.

3. *Developmental and reproductive*. In a rat developmental toxicity study, diflubenzuron was administered by oral gavage to pregnant female rats at dosage levels of 0, 1, 2, and 4 mg/kg/day. No treatment-related effects were seen. A subsequent study was conducted in pregnant Sprague Dawley rats at a dose of 0 and 1,000 mg/kg/day. No maternal toxicity was observed. The incidence of fetuses with skeletal abnormalities was slightly increased in the treated group, but was within historical background range. The no observed adverse effect level (NOAEL) for maternal and developmental toxicity in rats was greater than 1,000 mg/kg/day.

Diflubenzuron was also administered by oral gavage to pregnant New Zealand white rabbits at dosage levels of 0, 1, 2, and 4 mg/kg/day. No treatment-related effects were seen. A subsequent study was conducted in pregnant rabbits at a dose of 0 and 1,000 mg/kg/day. No maternal or developmental toxicity was seen. The NOAEL for maternal and developmental toxicity in rabbits was greater than 1,000 mg/kg/day.

In a rat reproduction study, diflubenzuron was fed to 2–generations of male and female rats at dietary concentrations of 0, 10, 20, 40, and 160 ppm. No effects were seen on parental body weight gain and there were no reproductive effects. A subsequent study was conducted on one generation (1 litter) of rats at dietary concentrations of 0, 1,000, and 100,000 ppm. Systemic effects were seen in adults at these doses but there was no effect on reproductive parameters. The NOAEL for reproductive toxicity was greater than 100,000 ppm (5 g/kg/day).

4. *Subchronic toxicity.* To assess subchronic toxicity, a 4–week inhalation study and a 3–week dermal study were conducted. In the inhalation study rats were exposed nose only to 10, 30, or 100 milligram per cubic meters ($mg/m^3$) for 6 hours per day, 5 days per week for 4 weeks. Treatment-related findings were a slight reduction in erythrocytes, hemoglobin and hematocrit in male and female rats at a concentration of 100 $mg/m^3$ and an increase in total bilirubin in high dose female rats. There was no effect on methemoglobin concentration at any dose level. The NOAEL for subchronic inhalation toxicity was 30 $mg/m^3$.

To assess subacute dermal toxicity, diflubenzuron was applied to the backs of male and female CD rats for 3 weeks at dose levels of 20, 500, and 1,000 mg/kg/day. Hematology evaluation showed reductions in red blood cell (RBC), hemoglobin (Hgb) and hematocrit values at 500 and 1,000 mg/kg/day. An increased incidence of *polychromasia, hypochromasia,* and *anisocytosis* was seen at 500 and 1,000 mg/kg/day. An increase in methemoglobin and sulfhemoglobin values was seen at 1,000 mg/kg/day. The NOAEL for systemic toxicity was 20 mg/kg/day. Also, a dermal absorption factor of 0.5%, for systemic absorption, was derived from a study where rats were dosed with either 0.005 or 0.05 $mg/cm^2$ of ($^{14}C$) diflubenzuron technical. This value can be used for converting dermal exposure to oral equivalents.

5. *Chronic toxicity*. Diflubenzuron was given by capsule to male and female Beagle dogs for 1 year at dose levels of 0, 2, 10, 50, and 250 mg/kg/day. Body weight (bwt) gain was slightly reduced in females at 250 mg/kg/day. Absolute liver and spleen weights were increased in males given 50 and 250 mg/kg/day. A reduction in hemoglobin and mean corpuscular hemoglobin concentration, with an elevation in reticulocyte count, was seen at 50 and 250 mg/kg/day. Methemoglobin and sulfhemoglobin values were increased at doses of 10 mg/kg/day and greater. Histopathological findings were limited to pigmented macrophages and Kupffer cells in the liver at doses of 50 and 250 mg/kg/day. The NOAEL for chronic toxicity in dogs was 2 mg/kg/day.

Diflubenzuron was fed to male and female Sprague Dawley rats for 2 years at dose levels of 0, 156, 625, 2,500, and 10,000 ppm. Methemoglobin values were elevated in female rats at all dose levels and in male rats at the two highest dose levels. Sulfhemoglobin was elevated in females, only, at dose levels of 2,500 and 10,000 ppm. Mean corpuscular volume (MCV) and reticulocyte counts were increased in high dose females. Spleen and liver weights were elevated at the two highest doses. Histopathological examination

demonstrated an increase in hemosiderosis of the liver and spleen, bone marrow and erythroid hyperplasia and areas of cellular alteration in the liver. In another study diflubenzuron was administered to male and female CD rats for 2 years at dose levels of 0, 10, 20, 40, and 160 ppm. Elevated methemoglobin levels were seen in high dose males and females. No additional effects, including carcinogenic findings, were observed. The NOAEL for chronic toxicity in rats was 40 ppm (2 mg/kg/day).

A 91–week carcinogenicity study in CFLP mice was conducted at doses of 0, 16, 80, 400, 2,000, and 10,000 ppm. There was no increase in tumor incidence as a result of diflubenzuron administration. Target organ effects included: Increased methemoglobin and sulfhemoglobin values, Heinz bodies, increased liver and spleen weight, hepatocyte enlargement, and vacuolation, extramedullary hemopoiesis in the liver and spleen, siderocytosis in the spleen and pigmented Kupffer cells. A NOAEL for these effects was 16 ppm (2 mg/kg/day).

Diflubenzuron was fed to male and female Sprague Dawley rats for 2 years at dose levels of 0, 156, 625, 2,500, and 10,000 ppm. Methemoglobin values were elevated in female rats at all dose levels and in male rats at the two highest dose levels. Blood sulfhemoglobin was elevated in females, only, at dose levels of 2,500, and 10,000 ppm. MCV and reticulocyte counts were increased in high dose females. Spleen and liver weights were elevated at the two highest doses. Histopathological examination demonstrated an increase in hemosiderosis of the liver and spleen, bone marrow and erythroid hyperplasia, and areas of cellular alteration in the liver. There was no increase in tumor formation. In another study, diflubenzuron was administered to male and female CD rats for 2 years at dose levels of 0, 10, 20, 40, and 160 ppm. Elevated methemoglobin levels were seen in high dose males and females. No additional effects, including carcinogenic findings, were observed.

6. *Animal metabolism*. DFB in rats at a single dose of 100 mg/kg and 5 mg/kg single and multiple oral doses depicted limited absorption from the gastrointestinal tract. No major difference was observed between the single and multiple doses. In single dose treatments, after 7 days, 20% and 3% of the applied dose 5 and 100 mg/kg, respectively, were excreted in urine, while 79% and 98% of the applied dose 5 and 100 mg/kg, respectively, were eliminated in the feces. Very little bioaccumulation in the tissues was observed. In the feces, only unchanged parent compound was detected. Several metabolites were observed in the urine which are, among others, 2,6-diflurobenzoic acid (DFBA), 2,6-difluorophippuric acid, 2,6-difluorobenzamide (DFBAM), and 2-hydroxydiflubenzuron (2-HDFB). An unresolved peak that was characterized as *p-chloroaniline* (PCA) and/or *p-chlorophenylurea* (CPU) was found. This latter peak accounted for about 2% of the administered dose (5 mg/kg). To resolve if PCA and CPU are indeed metabolites of DFB, rats were administered a single oral dose, 100 mg/kg of 14C DFB. The major metabolites identified in rat urine were 4-chloroaniline-2-sulfate, accounting for almost 50% of the total radioactive residue (TRR) in the urine and *N*-(4-chlorophenyl)oxamic acid which accounted for about 15% of the (TRR). Neither CPU, PCA nor their *N*-hydroxyl derivatives were found in rat urine at a limit of detection of 23 parts per billion (ppb). As in the previous study, DFB was the only residue found in the feces.

7. *Metabolite toxicology*. NCI/NTP conducted chronic feeding and gavage studies with p-chloroaniline (PCA), a minor potential metabolite of diflubenzuron, in Fischer 344 rats and B6C3F1 mice.

PCA was administered in the diet to Fischer 344 rats at dietary concentrations of 250 and 500 ppm for 78 weeks, followed by a 24–week observation period. A slight body weight depression was seen in high dose females rats, compared to controls. Survival was reduced in high dose males compared to controls. In male rats there was a slight increase in uncommon fibromas or fibrosarcomas of the spleen, which was not statistically significant. Non-neoplastic proliferative and chronic inflammatory lesions were found in spleens of treated rats. It was concluded that, under the conditions of the assay, sufficient evidence was not found to establish the carcinogenicity of PCA for Fischer 344 rats.

PCA was administered 5 days/week by oral gavage, as a hydrochloride salt in water, to male and female F344/N rats at doses of 0, 2, 6, or 18 mg/kg/day. Mean body weights of dosed rats were generally within 5% of those of controls throughout the study. High dose animals generally showed mild hemolytic anemia and dose-related methemoglobinemia. Non-neoplastic lesions seen were bone marrow hyperplasia, hepatic hemosiderosis, and splenic fibrosis, suggesting treatment-related effects on the hematopoietic system. Adrenal medullary hyperplasia was observed in high dose female rats. The incidence of uncommon sarcomas of the spleen was significantly increased in high dose male rats. A marginal increase in pheochromocytomas of the adrenal gland was seen in high dose male and female rats. It was concluded that, under the conditions of this 2–year gavage study, there was clear evidence of carcinogenic activity of PCA hydrochloride for male F344/N rats and equivocal evidence of carcinogenic activity of PCA hydrochloride for female F344/N rats.

PCA was administered in the diet to B6C3F6 mice at dietary concentrations of 2,500 and 5,000 ppm for 78 weeks followed by a 13–week observation period. A body weight depression was seen in treated mice of both sexes, compared to controls. An increased incidence of hemangiomas and hemangiosarcomas in spleen, kidney, liver, and other sites was seen in treated mice of both sexes; however this increase was not statistically significant compared to controls. Non-neoplastic proliferative and chronic inflammatory lesions were found in spleens of treated mice. The evidence was considered insufficient to conclusively relate the hemangiomatous tumors in mice to compound administration. It was concluded that, under the conditions of the assay, sufficient evidence was not found to establish the carcinogenicity of PCA for B6C3F1 mice.

PCA hydrochloride was administered 5 days/week by oral gavage to male and female B6C3F1 mice at doses of 0, 3, 10, or 30 mg/kg/day. Mean body weights of high dose male and female mice were generally within 5% of those of controls throughout the study. The incidence of hepatocellular adenomas or carcinomas (combined) was increased in a non-dose-dependent manner in treated male mice. Metastasis of carcinoma to the lung was seen in the high dose group. An increased incidence of hemangiosarcomas of the liver or spleen was seen in high dose male mice. It was concluded that, under the conditions of this 2–year gavage study, there was some evidence of carcinogenic activity of PCA hydrochloride for male B6C3F1 mice and no evidence of carcinogenic activity of PCA hydrochloride for female B6C3F1 mice.

In addition to PCA, 4-chlorophenylurea (CPU) is also a potential minor metabolite of diflubenzuron. By association with PCA, EPA has concluded that CPU has carcinogenic potential and the same carcinogenic potency ($q^{1*}$) as PCA. In the NTP report of the PCA bioassay, it is proposed that PCA undergoes *N*-hydroxylation to form the corresponding *N*-hydroxylamine

metabolites; *N*-hydroxylation of aromatic amines is a well know mechanism of aromatic amine carcinogenicity. This metabolite, or proximate carcinogen, is then conjugated to form the ultimate carcinogen capable of ionizing and reacting with DNA to form adducts which result in splenic tumor formation. An alternate mechanism involving toxicity resulting in erythrocyte damage, splenic scavenging, hemorrhage, hyperplasia and fibrosis and ultimately splenic tumor formation is also proposed, but both mechanisms are based on the formation of *N*-hydroxy PCA.

This metabolite also causes methemoglobinemia in animals. Therefore, methemoglobin formation can be used as an indicator of the presence of PCA and *N*-hydroxy metabolite. However, in recent CPU rat toxicity studies, both dietary (7–day) and gavage, and a CPU rat metabolism study, it has been demonstrated that CPU does not induce methemoglobin formation and it is neither metabolized to PCA nor forms an *N*-hydroxylamine derivative. Since *N*-hydroxylation is the required first step in the mechanism of action of PCA's carcinogenicity, it can be concluded that CPU's mechanism of action and toxicity is different from that of PCA's.

8. *Endocrine disruption*. The standard battery of required studies has been completed and evaluated to determine potential estrogenic or endocrine effects of diflubenzuron. These studies include an evaluation of the potential effects on reproduction and development, and an evaluation of the pathology of the endocrine organs following repeated or long-term exposure. These studies are generally considered to be sufficient to detect any endocrine effects. No such effects were noted in any of the studies with diflubenzuron.

*C. Aggregate Exposure*

1. *Dietary exposure*. Since 1–day single dose oral studies in rats and mice indicated only marginal effects, an acute exposure risk assessment is not needed, as there were no significant acute effects observed.

i. *Food*—a. *Diflubenzuron*. The chronic dietary exposure from diflubenzuron was estimated based on the average residue values from the various currently labeled raw agricultural commodities (RACs) and the proposed pear use. Percent of crop treated was also factored into the estimate. Residues in meat, milk, and egg products were obtained from extrapolation of metabolism study data to anticipated livestock dietary burdens. The dietary exposure analysis was estimated based on 1989–1992 USDA food consumption data.

For the U.S. population (total), the dietary exposure of diflubenzuron was estimated as 0.000027 mg/kg/day. For nursing and non-nursing infants, the exposure was estimated as and 0.000110 and 0.000304 mg/kg/day, respectively. For children, the exposure was 0.000046 and 0.000033 mg/kg/day for 1–6 year olds and 7–12 year olds, respectively.

b. *p-Chloroaniline*. The chronic dietary exposure from p-chloroaniline (PCA) which has been detected in some food products was also determined. Average residues from field trials for mushrooms, rice, pears, nut crops, and pistachios, stonefruit (except cherries), and peppers were used. Residues in liver were obtained from extrapolation of metabolism data to anticipated livestock dietary burdens. EPA has previously used a 2% *in vivo* conversion factor of DFB to PCA for foods derived from plant products. However, based on results of a recent rat metabolism study showing that no PCA is formed, this is no longer appropriate. The percent treated of each crop was also factored into the exposure estimate.

For the U.S. population (total), the dietary exposure of PCA was estimated as <0.000001 mg/kg/day. For nursing and non-nursing infants, the exposure was estimated as 0.000002 and 0.000007 mg/kg/day, respectively. For children 1 to 6 years old and 7 to 12 years old, the exposure was 0.000001 mg/kg/day.

ii. *Drinking water*. Diflubenzuron degrades in soil relatively quickly with an aerobic half-life ranging from 3 to 7 days. Major degradates include difluorobenzoic acid (DFBA) and CPU. DFBA is further metabolized through decarboxylation and ring cleavage by soil microbes whereas CPU is slowly degraded to soil-bound entities. Under anaerobic aquatic conditions, diflubenzuron has a half-life of 34 days with the main degradates being DFBA and CPU. In surface water, diflubenzuron is degraded by microbes with a half-life of 5 to 10 days. The soil mobility of diflubenzuron is considered quite limited based on a number of experimental studies as well as by computer modeling. CPU has also been shown to be relatively immobile in soil. Although DFBA shows mobility in soil, it is rapidly degraded. Therefore, based on results of laboratory and field studies, it is not likely that diflubenzuron or its degradates will impact ground water quality to any significant extent.

Based on EPA's PRZM/EXAMS modeling, the average annual mean concentration of diflubenzuron in surface water sources is not expected to exceed 0.05 ppb. These values were determined using the maximum concentrations for any diflubenzuron crop uses including the proposed commodities. The drinking water level of concern (DWLOC) for chronic (non-cancer) exposure to diflubenzuron in drinking water was determined as 700 ppb for the U.S. population (total) and approximately 200 ppb for infants and children. The estimated maximum concentration of diflubenzuron in surface and ground water (0.05 ppb) is much less than the DWLOCs as a contribution to chronic (non-cancer) aggregate exposure.

2. *Non-dietary exposure*. Diflubenzuron is a restricted use pesticide based on its toxicity to aquatic invertebrates. This restricted use classification makes it unavailable for use by homeowners. Occupational uses of diflubenzuron may expose people in residential locations, parks, or forests treated with diflubenzuron. However, diflubenzuron has very low residues detected in forestry dissipation studies, low dermal absorption rate (0.05%), and extremely low dermal and inhalation toxicity.

*D. Cumulative Effects*

Uniroyal Chemical Co. has considered the potential for cumulative effects of diflubenzuron and other substances with a common mechanism of toxicity. The mammalian toxicity of diflubenzuron is well defined. We are not aware of any other pesticide product registered in the United States that could be metabolized to p-chloroaniline. For this reason, consideration of potential cumulative effects of residues from pesticidal substances with a common mechanism of action as diflubenzuron is not appropriate. Thus only the potential exposures to diflubenzuron were considered in the total exposure assessment.

*E. Safety Determination*

1. *U.S. population*. Based on the available toxicology and exposure data base for diflubenzuron, Uniroyal has determined that the total possible non-occupational aggregate exposure from diflubenzuron would occur from the dietary route. Dietary exposure to the U.S. population (total) from diflubenzuron was estimated at 0.000027 mg/kg/day. Based on the 0.02 mg/kg/day RfD (reference dose) derived from the dog chronic NOAEL of 2 mg/kg/day and a 100–fold safety factor, this dietary exposure is 0.1% of the RfD. Despite the potential for exposure to diflubenzuron in drinking water,

aggregate exposure is not expected to exceed 100% of the RfD.

For PCA, Uniroyal has also determined that the total possible non-occupational aggregate exposure would occur from the dietary route. Dietary exposure to the U.S. population (total) from PCA was estimated as less than 0.000001 mg/kg/day. The risk from diflubenzuron-derived PCA can be estimated using a linear extrapolation of the dose-response from the rat chronic study conducted by the National Toxicology Program in which rats were dosed via gavage with p-chloroaniline (hydrochloride) for 24 months. EPA has determined the $q^{1*}$ as 0.0638 based on the combined sarcoma incidence in the spleen of male rats.

In view of the results of recent CPU rat mechanistic and metabolism studies, and the DFB rat metabolism study, the dietary risk assessment included here considers only actual residues of PCA found in food and animal by-products. This is consistent with a parent compound, such as diflubenzuron, which is negative (category E) for carcinogenicity.

Using the $q^{1*}$ of 0.0638, the risk to the U.S. population (total) from dietary exposure to diflubenzuron-derived PCA is $3.09 \times 10^{-8}$.

2. *Infants and children*. The same assumptions as for the U.S. population were used for the dietary exposure risk determination in infants and children. The dietary exposure of diflubenzuron was calculated as 0.000110 and 0.000304 mg/kg/day, respectively for nursing and non-nursing infants. These values are 0.6% and 1.5%, respectively of the RfD for diflubenzuron. The dietary exposure from diflubenzuron in children 1 to 6 years and 7 to 12 years old was determined as 0.000046 mg/kg/day and 0.000033 mg/kg/day, respectively. These values are 0.2% of the RfD.

As previously discussed, the NOAELs for maternal and developmental toxicity in rats and rabbits were greater than 1,000 mg/kg/day, and the NOAEL for reproductive toxicity was greater than 5,000 mg/kg/day. Therefore, based on the completeness and reliability of the toxicity data and the conservative exposure assessment, Uniroyal concludes that there is reasonable certainty that no harm will result in infants and children from aggregate exposure to residues of diflubenzuron and its conversion products containing the p-chloroaniline moiety.

*F. International Tolerances*

There is a Codex maximum residue limit (MRL) for pears at 1.0 mg/kg, a Mexican MRL at 1.0 mg/kg, and no limits set for Canada for pears. A Codex MRL has also been established for plums (including prunes) at 1.0 mg/kg. There are no Codex maximum residue limits established for other stonefruit, tree nuts or peppers.

[FR Doc. 01–30914 Filed 12–13–01; 8:45 am]

BILLING CODE 6560–50–S

## ENVIRONMENTAL PROTECTION AGENCY

**[PF–1057; FRL–6812–4]**

## 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–1057, must be received on or before January 14, 2002.

**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–1057 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; 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 codes | Examples of potentially affected entities |
|---|---|---|
| Industry | 111<br>112<br>311 | Crop production<br>Animal production<br>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'' 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–1057. 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–1057 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–1057. 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: November 29, 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 Federal Food, Drug, and Cosmetic Act (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.

**Sygenta Crop Protection Inc.**

*PP 1E6349*

EPA has received a pesticide petition (1E6349) from Sygenta Crop Protection Inc., P.O. Box 18300, Greensboro, NC 27419–8300 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 thiamethoxam and its metabolite, (N-(2-chloro-thiazol-5-ylmethyl)-N'methyl-N-nitro-guanidine, in or on the raw agricultural commodity imported green and roasted coffee beans and instant coffee at 0.05 parts per million (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 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 primary metabolic pathways of thiamethoxam in plants (corn, rice, pears, and cucumbers) were similar to those described for animals, with certain extensions of the pathway in plants. Parent compound, thiamethoxam, and its metabolite, (N-(2-chloro-thiazol-5-ylmethyl)-N'methyl-N-nitro-guanidine, were the major residues in all crops. The metabolism of thiamethoxam in plants and animals is understood for the purposes of the proposed tolerances. Parent thiamethoxam and the metabolite, are the residues of concern for tolerance setting purposes.

2. *Analytical method.* Syngenta Crop Protection Inc. has submitted practical analytical methodology for detecting and measuring levels of thiamethoxam in or on raw agricultural commodities. The method is based on crop specific cleanup procedures and determination by liquid chromatography with either ultraviolet (UV) or mass spectrometry (MS) detection. The limit of detection (LOD) for each analyte of this method is 1.25 nanogram (ng) injected for samples analyzed by UV and 0.25 ng injected for samples analyzed by MS, and the limit of quantitation (LOQ) is 0.005 ppm for

milk and juices and 0.01 ppm for all other substrates.

3. *Magnitude of residues.* A residue program was performed for thiamethoxam on coffee as prescribed in draft EPA Guidance on Import Tolerances. A total of nine trials were conducted in the major coffee producing countries of Brazil (four), Columbia (three) and Mexico (two). The applications in these trials consisted of soil applications (trench, furrow or broadcast) at the proposed maximum rate of 300 grams active ingredient per hectare. The first applications were made just after petal fall and a second application at the beginning of fruit development. There were no detectable residues <0.02 ppm of thiamethoxam or the metabolite CGA–322701 in coffee berries or dried green coffee beans.

In addition, there was a single 5X exaggerated rate processing trial conducted. There were detectable residues of thiamethoxam and its metabolite (<0.022 ppm and 0.012 ppm, respectively) in the dry beans for processing. There were no detectable residues (<0.005 ppm) of thiamethoxam or it metabolite, in roasted beans, ground roasted beans, brewed extracts, spent grounds or instant coffee.

*B. Toxicological Profile*

1. *Acute toxicity.* The acute oral $LD_{50}$ for thiamethoxam in the rat is 1,563 mg/kg body weight. The acute dermal $LD_{50}$ of thiamethoxam is >2,000 milligrams/kilogram (mg/kg) body weight. Thiamethoxam is non-toxic at atmospheric concentrations of 3.72 mg/L. Thiamethoxam is minimally irritating to the eye, non-irritating to skin, and is not a dermal sensitizer.

In an acute neurotoxicity screening study in rats (OPPTS 870.6200a), the no observed adverse effect level (NOAEL) was 100 mg/kg/day with a NOAEL of 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).

2. *Genotoxicity.* In gene mutation studies with *S. typhimurium* and *E. coli* (OPPTS 870.5100 and 870.5265), there was no evidence of gene mutation when tested up to 5,000 µg/plate and there was no evidence of cytotoxicity. In a gene mutation study with chinese hamster V79 cells at HGPRT focus (OPPTS 870.5300) there was no evidence of gene mutation when tested up to the solubility limit.

In a CHO cell cytogenetics study (OPPTS 870.5375) there was no evidence of chromosomal aberrations when tested up to cytotoxic or solubility limit concentrations.

An *in vivo* mouse bone marrow micronucleus study (OPPTS 870.5395) was negative when tested up to levels of toxicity in whole animals; however, there was no evidence of target cell cytotoxicity.

An UDS assay (OPPTS 870.5550) was negative when tested up to precipitating concentrations.

3. *Reproductive and developmental toxicity.* A prenatal developmental study in the rat (OPPTS 870.3700) resulted in maternal and developmental NOAELs of 30 mg/kg/day and 200 mg/kg/day, respectively. The maternal lowest observed adverse effect level (LOAEL) is 200 mg/kg/day based on decreased body weight, body weight gain and food consumption. The developmental LOAEL was 750 mg/kg/day based on decreased fetal body weight and an increased incidence of skeletal anomalies.

A prenatal developmental study in the rabbit (OPPTS 870.3700) resulted in maternal and developmental NOAELs of 50 mg/kg/day. The maternal and developmental LOAEL is 150 mg/kg/day. The maternal LOAEL is based on maternal deaths, hemorrhagic discharge, decreased body weight, and food intake during the dosing period. The developmental LOAEL is based on decreased fetal body weights, increased incidence of post-implantation loss and a slight increase in the incidence of a few skeletal anomolies/variations.

In a reproduction and fertility effects study in rats (OPPTS 870.3800) the parental/systemic NOAEL is 1.84 (males), 202.06 (females) mg/kg/day; the reproductive NOAEL is 0.61 (males), 202.06 (females) mg/kg/day, and the offspring NOAEL is 61.25 (males), 79.20 (females) mg/kg/day. The parental/systemic LOAEL is 61.25 (males), not determined (females) mg/kg/day based on increased incidence of hyaline change in renal tubules in F0 and F1 males. The reproductive LOAEL is 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. The offspring LOAEL is 158.32 (males), 202.06 (females) mg/kg/day based on reduced body weight gain during the lactation period in all litters.

4. *Subchronic toxicity.* A 90–day oral toxicity study in rats (OPPTS 870.3100) resulted in a NOAEL of 1.74 (males) and 92.5 (females) mg/kg/day. The LOAEL is 17.64 (male), 182.1 (female) mg/kg/day based on increased incidence of hyaline change of renal tubules epithelium (males), fatty change in adrenal gland of females, liver changes in females, all at the LOAEL.

A 90–day oral toxicity study in mice (OPPTS 870.3100) resulted in an NOAEL of 1.41 (males) and 19.2 (females) mg/kg/day. The LOAEL was 14.3 (male) and 231 (female) mg/kg/day based on an increased incidence of hepatocellular hypertrophy. At higher dose levels: decrease in body weight and body weight gain, necrosis of individual hepatocytes, pigmentation of Kupffer cells, and a 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.

In a 90–day oral toxicity study in dogs (OPPTS 870.3150), the NOAEL is 8.23 (males) and 9.27 (females) mg/kg/day. The LOAEL is 32.0 (male), 33.9 (female) mg/kg/day based on slightly prolonged prothrombin times and decreased plasma albumin and A/G ration (both sexes); decreased calcium levels and ovary weights and delayed maturation in the ovaries (female); decreased cholesterol and phospholipid levels, testes weights, spermatogenesis, and spermatic giant cells in testes (male).

In a 28–day dermal study in rats (OPPTS 870.3200) the NOAEL was 250 (male) and 60 (female) mg/kg/day. The LOAEL was 1,000 (male),and 250 (female) mg/kg/day based on an increased plasma glucose, triglyceride levels, and alkaline phosphatase activity and an inflammatory cell infiltration in the liver and necrosis if single hepatocytes in females and a 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 an inflammatory cell infiltration in the adrenal cortex were observed.

In a subchronic neurotoxicity screening study in rats (OPPTS 870.6200) the NOAEL was 95.4 (male) and 216.4 (female) mg/kg/day, both at the highest dose tested. The LOAEL was 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, a new study is not required because the weight of the evidence from other toxicity studies indicates no evidence of concern.

5. *Chronic toxicity.* In a chronic toxicity study in dogs (OPPTS 870.4100) the NOAEL was 4.05 (male), and 4.49 (female) mg/kg/day. The LOAEL was 21.0 (male) and 24.6 (female) mg/kg/day based on an increase of creatinine in both sexes, transient decrease in food consumption in females, and an occasional increase in urea levels, decrease in ALT, and atrophy of seminiferous tubules in males.

In a mouse carcinogenicity study (OPPTS 870.4200) the NOAEL was 2.63 (male) and 3.68 (female) mg/kg/day. The LOAEL was 63.8 (male) and 87.6 (female) 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 hepatocelluar adenocarcinoma (both sexes) and the number of animals with multiple tumors, evidence of carcinogenicity. In a combined chronic caricinogenicity study in rats (OPPTS 870.4300), the NOAEL was 21.0 (male) and 50.3 (female) mg/kg/day. The LOAEL was 63.0 (male) and 255 (female) mg/kg/day based on an 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.

In a hepatic cell proliferation study in mice, the NOAEL was 16 (male) and 20 (female) mg/kg/day. The LOAEL was 72 (male) and 87 (female) mg/kg/day based on proliferative activity of hepatocytes. At higher dose levels, increases in absolute and relative liver weights, speckled liver, heptocellular glycogenesis/fatty change, heptocellular necrosis, apoptosis and pigmentation were observed.

In a 28–day feeding study to assess replicative DNA syntehsis in the male rat, the NOAEL was 711 mg/kg/day. The LOAEL was 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 syntesizing hepatocytes in S-phase. Thiamethoxam did not stimulate hepatocyte cell proliferation in male rats.

In a special study to assess liver biochemistry in the mouse, the NOAEL was 17 (male) and 92 (female) mg/kg/day. The LOAEL was 74 (male) and 92 (female) 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 glutathionw S-transfersase activity. Treatment did not affect peroxisomal fatty acid B-oxidation.

6. *Animal metabolism.* The metabolism of thiamethoxam in rats and livestock animals is adequately understood. The residues of concern have been determined to be parent thiamethoxam and its metabolite (N-(2-chloro-thiazol-5-ylmethyl)-N'methyl-N-nitro-guanidine).

7. *Metabolite toxicology.* For risk assessment purposes, residues of the metabolite corrected for molecular weight are considered to be toxicologically equivalent to parent thiamethoxam.

*C. Aggregate Exposure*

1. *Dietary exposure.* Permanent tolerances have been established (40 CFR 180.565) for the 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 it metabolite (N-(2-chloro-thiazol-5-ylmethyl)-N'-methyl-N-nitro-guanidine), in or on a variety of raw agricultutal commodities at levels ranging from 0.02 ppm to 1.5 ppm including barley, canola, cotton, sorghum, wheat, cucurbit vegetables, fruiting vegetables, pome fruits and livestock commodities. Pending tolerances include coffee, grapes, raisins, grape juice, pecans, peanut nutmeats, peanut hay, corn grain, sweet corn (kernal with husk removed), pop corn, corn forage and stover, head and stem brassica, leafy brassica greens and leafy vegetables.

i. *Food*—a. *Acute risk.* The acute dietary risk from food use tolerances previously set as published in the **Federal Register** of December 21, 2000 (65 FR 80343) (FRL–6758–1) and May 23, 2001 (66 FR 28386) (FRL–6784–7) indicate that acute dietary exposure from food will occupy 3% of the acute population adjusted dose (aPAD) for the U.S. population, 2% of the aPAD for females 13–50 years old, 8% of the aPAD for infants less than 1 year old and 7% of the aPAD for children 6–11 years old. Therefore, it is expected that the proposed tolerances for coffee will have minimal impact on acute dietary risk, and that the aggregate exposure will not exceed 100% of the aPAD.

b. *Chronic risk.* The chronic dietary risk from food use tolerances previously set as published in the **Federal Register** of December 21, 2000 (65 FR 80343), and May 23, 2001 (66 FR 28386) indicate that chronic dietary exposure from food will utilize 5% of the chronic population adjusted dose (cPAD) for the U.S. population, 13% of the cPAD for children 1–6 years old. Therefore, it is expected that the proposed tolerances for coffee will have minimal impact on chronic dietary risk and the aggregate exposure will not exceed 100% of the cPAD.

c. *Cancer risk.* Since there were no detectable residues of thiamethoxam or its metabolite in samples from the residue trials conducted in Brazil, Columbia and Mexico, it can be concluded that there is no increased cancer risk from the proposed use on imported coffee. Syngenta DEEM analysis indicates that the proposed tolerance on coffee contributes only 3.00 x $10^{E-9}$ lifetime dietary cancer risk.

ii. *Drinking water.* Since the proposed tolerance is for imported coffee, there is no potential exposure from drinking water.

2. *Non-dietary exposure.* Thiamethoxam is not currently registered for use on any sites that would result in residential exposure.

*D. Cumulative Effects*

The potential for cumulative effects of thiamethoxam, and other substances that have a common mechanism of toxicity has also been considered. Thiamethoxam belongs to a new pesticide chemical class known as the neonicotinoids. There is no reliable information to indicate that toxic effects produced by thiamethoxam would be cumulative with those of any other chemical including another pesticide. Therefore, Syngenta believes it is appropriate to consider only the potential risks of thiamethoxam in an aggregate risk assessment.

*E. Safety Determination*

1. *U.S. population.* Syngenta concludes, as described above, that there is reasonable certainty that no harm to the U.S. population will result from aggregate acute or chronic dietary exposure to thiamethoxam residues including the proposed tolerances for imported coffee.

2. *Infants and children.* Syngenta concludes, as described above, that there is reasonable certainty that no harm to infants and children will result from aggregate acute or chronic exposure to thiamethoxam residues, including the proposed tolerances for imported coffee.

*F. International Tolerances*

There are no Codex maximum residue levels established for residues of thiamethoxam on coffee.

[FR Doc. 01–30915 Filed 12–13–01; 8:45 am]

BILLING CODE 6560–50–S

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–7118–5]**

### Proposed Agreement and Covenant Not To Sue Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as Amended by the Superfund Amendments and Reauthorization Act of 1986; In Re: Western Sand and Gravel Superfund Site, Located on the Boundary of Burrillville and North Smithfield, RI

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice of proposed agreement; request for public comment.

**SUMMARY:** In accordance with the Comprehensive Environmental Response Compensation, and Liability Act, as amended (''CERCLA''), 42 U.S.C. 9601, *et. seq.,* notice is hereby given of a proposed Agreement and Covenant Not to Sue between the United States, on behalf of the U.S. Environmental Protection Agency (''EPA'') and Supreme Mid-Atlantic Corporation, Inc. (''Purchaser''). The Purchaser plans to acquire approximately 25 acres of property that is currently owned by Western Sand and Gravel, Inc., a portion of which was used for the disposal of liquid wastes, including hazardous substances. The Purchaser intends to use the property for the purpose of constructing and operating a truck body manufacturing plant. Under the Proposed Agreement, the United States grants a Covenant Not to Sue to the Purchaser with respect to existing contamination at the Site in exchange for the Purchaser's agreement to pay EPA $25,000. In addition, the Purchaser agrees to provide an irrevocable right of access to representatives of EPA and to comply with Institutional Controls.

For thirty (30) days following the date of publication of this notice, the Agency will receive written comments relating to the settlement. The Agency will consider all comments received and may modify or withdraw its consent to the settlement if comments received disclose facts or considerations which indicate that the settlement is inappropriate, improper, or inadequate. The Agency's response to any comments received will be available for public inspection at One Congress Street, Boston, MA 02214.

**DATES:** Comments must be submitted on or before January 14, 2002.

**ADDRESSES:** Comments should be addressed to the Regional Hearing Clerk, U.S. Environmental Protection Agency, Region I, One Congress Street, Suite 1100, Mailcode RAA, Boston, Massachusetts 02203, and should refer to: In re: Western Sand and Gravel Superfund Site, U.S. EPA Docket No. CERCLA–01–2001–0067.

**FOR FURTHER INFORMATION CONTACT:** A copy of the proposed Agreement and Covenant Not to Sue can be obtained from Ann Gardner, Paralegal, U.S. Environmental Protection Agency, Region I, One Congress Street, Mailcode SES, Boston, Massachusetts 02214, (617) 918–1895.

Dated: October 17, 2001.

**Robert V. Varney,**

*Regional Administrator, Region I.*

[FR Doc. 01–30912 Filed 12–13–01; 8:45 am]

BILLING CODE 6560–50–P

## FEDERAL COMMUNICATIONS COMMISSION

### Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission for Extension Under Delegated Authority, Comments Requested

December 5, 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 February 12, 2002. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

**ADDRESSES:** Direct all comments to Les Smith, Federal Communications Commissions, Room 1 A–804, 445 Twelfth Street, SW., Washington, DC 20554 or via the Internet to *lesmith@fcc.gov.*

**FOR FURTHER INFORMATION CONTACT:** For additional information or copies of the information collections contact Les Smith at (202) 418–0217 or via the Internet at *lesmith@fcc.gov.*

**SUPPLEMENTARY INFORMATION:**

*OMB Control Number:* 3060–0567.

*Title:* Section 76.962 Implementation and certification of compliance.

*Form Number:* N/A.

*Type of Review:* Delegated.

*Respondents:* Business or other for-profit entities, State, local or Tribal Government.

*Number of Respondents:* 500.

*Estimated Time Per Response:* .5 hours (30 minutes).

*Total Annual Burden to Respondents:* 250.

*Total Annual Costs:* $0.00.

*Needs and Uses:* Section 76.962 requires any cable operator that has been deemed subject to remedial requirements to certify to the Commission its compliance with the Commission order requiring prospective rate reductions, refunds or other relief to subscribers. The certification must be filed with the Commission within 90 days from the date the Commission released the order mandating a remedy. These certifications are used by the Commission to monitor a cable operator's compliance with Commission rate orders.

*OMB Control Number:* 3060–0668.

*Title:* Section 76.936 Written Decisions.

*Form Number:* N/A.

*Type of Review:* Delegated.

*Respondents:* State or Local, or Tribal government.

*Number of Respondents:* 1,200.

*Estimated Time Per Response:* 1 hour.

*Total Annual Burden to Respondents:* 1,200 hours.

*Total Annual Costs:* $0.

*Needs and Uses:* Section 76.936 states that a franchising authority must issue a written decision in a rate-making proceeding whenever it disapproves an

initial rate for the basic service tier or associated equipment in whole or in part, disapproves a request for a rate increase in whole or in part, or approves a request for an increase whole or in part over the objection of interested parties. Franchising authorities are required to issue a written decision in rate-making proceedings pursuant to section 76.936 so that cable operators and the public are made aware of the proceeding.

*OMB Control Number:* 3060–0673.

*Title:* Section 76.956 Cable Operator Response.

*Form Number:* N/A.

*Type of Review:* Extension of a currently approved collection.

*Respondents:* Business or other for-profit entities.

*Number of Respondents:* 50.

*Estimated Time Per Response:* 4 hours.

*Total Annual Burden to Respondents:* 200 hours.

*Total Annual Costs:* $0.

*Needs and Uses:* Section 76.956 states that unless otherwise directed by the local franchising authority, a cable operator must file with the local franchising authority a response to a cable service complaint. In addition to responding to the merits of a complaint, the cable operator also may move for dismissal of the complaint for failure to meet the minimum showing requirement. The local franchising authority and the Commission use this information to ensure a process for cable operators to file a motion to dismiss a rate complaint filed against them if they feel that the complaint fails to meet the minimum showing.

Federal Communications Commission.

**Magalie Roman Salas,**

*Secretary.*

[FR Doc. 01–30868 Filed 12–13–01; 8:45 am]

BILLING CODE 6712–01–P

## FEDERAL COMMUNICATIONS COMMISSION

### Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission, Comments Requested

December 5, 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, 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 February 12, 2002. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

**ADDRESSES:** Direct all comments to Les Smith, Federal Communications Commissions, 445 12th Street, SW., Room 1–A804, Washington, DC 20554 or via the Internet to *lesmith@fcc.gov.*

**FOR FURTHER INFORMATION CONTACT:** For additional information or copies of the information collections contact Les Smith at (202) 418–0217 or via the Internet at *lesmith@fcc.gov.*

**SUPPLEMENTARY INFORMATION:**

*OMB Control Number:* 3060–0289.

*Title:* Section 76.76.601(a) Performance Tests, Section 76.1704(a)(b) Proof of Performance Test Data, Section 76.1705 Performance Tests (Channels Delivered).

*Form Number:* N/A.

*Type of Review:* Extension of a currently approved collection.

*Respondents:* Business or other for-profit entities.

*Number of Respondents:* 10,838.

*Estimated Time Per Response:* .5–70 hours.

*Total Annual Burden to Respondents:* 328,379 hours.

*Total Annual Costs:* $3,000.00.

*Needs and Uses:* These rules require that the operator of each cable television system shall be responsible for insuring that each such system is designed, installed, and operated in a manner that fully complies with the provisions of the Commission rules. In addition, the rules require proof of performance tests and identify files to be maintained and a list of channels that a system delivers to its subscribers. The Commission uses this information to assure compliance with such rules.

*OMB Control Number:* 3060–0638.

*Title:* Section 76.934(g) Alternative rate regulation agreements.

*Form Number:* N/A.

*Type of Review:* Extension of a currently approved collection.

*Respondents:* Business or other for-profit entities.

*Number of Respondents:* 10,838.

*Estimated Time Per Response:* .5 hours.

*Total Annual Burden to Respondents:* 50 hours.

*Total Annual Costs:* $300.

*Needs and Uses:* This rule requires that local franchising authorities, certified pursuant to section 76.910, and small systems operated by small cable companies may enter into an alternative rate regulation agreements affecting the basic service tier and the cable programming service tier. Small systems must file with the Commission a copy of the operative alternative agreement within 30 days after its effective date. Alternative rate regulation agreements are filed with the Commission so that verification can be made the such agreements have been entered into and executed pursuant to the Commission rules.

Federal Communications Commission.

**Magalie Roman Salas,**

*Secretary.*

[FR Doc. 01–30869 Filed 12–13–01; 8:45 am]

BILLING CODE 6712–01–P

## FEDERAL COMMUNICATIONS COMMISSION

### Revised Sunshine Notice*; Open Commission Meeting Wednesday, December 12, 2001

December 11, 2001.

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Wednesday, December 12, 2001, which is scheduled to commence at 9:30 a.m. in Room TW–C305, at 445 12th Street, SW., Washington, DC.

| Item No. and Bureau | Subject |
|---|---|
| 1 Common Carrier | **Revised Title:* Review of Regulatory Requirements for Incumbent LEC Broadband Telecommunications Services; SBC Petition for Expedited Ruling That it is Non-Dominant in its Provision of Advanced Services and for Forbearance from Dominant Carrier Regulation of Those Services.<br>*Revised Summary:* The Commission will consider a Notice of Proposed Rule Making initiating a comprehensive examination of the appropriate regulatory requirements for incumbent LECs' provision of broadband services. As part of this proceeding, the Commission also invites comment on the Petition filed by SBC Communications, Inc. |
| 2 Common Carrier | *Title:* Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers; Implementation of the Local Competition Provisions of the Telecommunications Act of the 1996 (CC Docket No. 96–98); and Deployment of Wireline Services Offering Advanced Telecommunications Capability (CC Docket No. 98–147).<br>*Summary:* The Commission will consider a Notice of Proposed Rule Making to initiate its ''triennial'' review of the definitions of and rules concerning access to incumbent LEC unbundled network elements. |
| 3 Common Carrier | *Title:* Numbering Resource Optimization (CC Docket No. 99–200); Petition for Declaratory Ruling and Request For Expedited Action on the July 15, 1997 Order of the Pennsylvania Public Utility Commission Regarding Area Codes 412, 610, 215, and 717 (CC Docket No. 96–98); and Telephone Number Portability (CC Docket No. 95–116).<br>*Summary:* The Commission will consider a Third Report and Order and Second Order on Reconsideration in CC Docket No. 96–98 and CC Docket No. 99–200 regarding plans for nationwide thousands-block number pooling and other strategies to ensure that the numbering resources of the North American Numbering Plan are used efficiently. |
| 4 Mass Media | *Title:* Review of the Commission's Broadcast and Cable Equal Employment Opportunity Rules and Policies (MM Docket No. 98–204).<br>*Summary:* The Commission will consider a Second Notice of Proposed Rule Making concerning new equal employment opportunity rules for broadcast licensees and cable entities. |
| 5 Office of Engineering and Technology and Wireless Telecommunications. | *Title:* Reallocation and Service Rules for the 698–746 MHz Spectrum Band (Television Channels 52–59) (GN Docket No. 01–74).<br>*Summary:* The Commission will consider a Report and Order concerning allocation and service rules to reallocate television channels 52–59, pursuant to the Balanced Budget Act of 1997. |
| 6 Office of Engineering and Technology | *Title:* Revision of part 15 of the Commission's Rules Regarding Ultra-Wideband Transmission System (ET Docket No. 98–153).<br>*Summary:* The Commission will consider a First Report and Order to provide for new ultra-wideband devices. |

Additional information concerning this meeting may be obtained from Maureen Peratino or David Fiske, Office of Media Relations, telephone number (202) 418–0500; TTY 1–888–835–5322.

Copies of materials adopted at this meeting can be purchased from the FCC's duplicating contractor, Qualex International (202) 863–2893; Fax (202) 863–2898; TTY (202) 863–2897. These copies are available in paper format and alternative media, including large print/type; digital disk; and audio tape. Qualex International may be reached by e-mail at Qualex@apl.com

This meeting can be viewed over George Mason University's Capitol Connection. The Capitol Connection also will carry the meeting live via the Internet. For information on these services call (703) 993–3100. The audio portion of the meeting will be broadcast live on the Internet via the FCC's Internet audio broadcast past at *<http://www.fcc.gov/realaudio/>*. The meeting can also be heard via telephone, for a fee, from National Narrowcast Network, telephone (202) 966–2211 of fax (202) 966–1770. Audio and video tapes of this meeting can be purchased from Infocus, 341 Victory Drive, Herndon, VA 20170, telephone (703) 834–1470, Ext. 10; fax number (703) 834–0111.

Federal Communications Commission.

**Magalie Roman Salas,**

*Secretary.*

[FR Doc. 01–30987 Filed 12–12–01; 12:00 pm]

**BILLING CODE 6712–01–M**

## FEDERAL COMMUNICATIONS COMMISSION

### Deletion of Agenda Item From December 12th Open Meeting; Sunshine Act

December 11, 2001.

The following item has been deleted from the list of agenda items scheduled for consideration at the December 12, 2001, Open Meeting and previously listed in the Commission's Notice of December 5, 2001.

| Item No. and Bureau | Subject |
|---|---|
| 6 Office of Engineering and Technology | *Title:* Revision of Part 15 of the Commission's Rules Regarding Ultra-Wideband Transmission System (ET Docket No. 98–153).<br>*Summary:* The Commission will consider a First Report and Order to provide for new ultra-wideband devices. |

Federal Communications Commission.

**Magalie Roman Salas,**

*Secretary.*

[FR Doc. 01–30988 Filed 12–12–01; 12 pm]

BILLING CODE 6712–01–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Agency for Healthcare Research and Quality

### Agency Information Collection Activities: Proposed Collection; Comment Request

**AGENCY:** Agency for Healthcare Research and Quality, HHS.

**ACTION:** Notice.

**SUMMARY:** This notice announces the intention of the Agency for Healthcare Research and Quality (AHRQ) to request the Office of Management and Budget (OMB) to allow the proposed information collection: ''Voluntary Customer Surveys of 'Partners' for the Agency for Healthcare Research and Quality.'' In accordance with the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)), AHRQ invites the public to comment on this proposed information collection request to allow AHRQ to conduct these customer satisfaction surveys.

This proposed information collection was previously published in the **Federal Register** on September 21, 2001 and allowed 60 Days for public comment.

No public comments were received. The purpose of this notice is to allow an additional 30 Days of public comment.

**DATES:** Comments on this notice must be received by January 14, 2002.

**ADDRESSES:** Written comments should be submitted to: Allison Eydt, Human Resources and Housing Branch, Office of Information and Regulatory Affairs, OMB: New Executive Office Building, Room 10235; Washington, DC 20503.

Comments submitted in response to this notice will be summarized and included in the request for OMB approval of the proposed information collection. All comments will become a matter of public record.

**FOR FURTHER INFORMATION CONTACT:** Cynthia D. McMichael, AHRQ, Reports Clearance Officer, (301) 594–3132.

**SUPPLEMENTARY INFORMATION:**

#### Proposed Project

Voluntary Customer Surveys of ''Partners'' for the Agency for Healthcare Research and Quality.

In response to Executive Order 12862, the Agency for Healthcare Research and Quality (AHRQ) plans to conduct voluntary customer surveys of ''partners'' to identify how well AHRQ is performing its functions with its partners and to use this information to determine the kind and quality of services they like and expect, their level of satisfaction with existing services, and to implement improvements where feasible and practical.

AHRQ partners are typically health care payers, plans, practitioners and providers, researchers, professional associations, AHRQ data suppliers, and State and local governments, as well as persons or entities that provide service to the public for AHRQ, e.g., dissemination of AHRQ publications by a ''middle man'' such as a professional society.

Partner surveys to be conducted by AHRQ may include surveys of research grantees to measure satisfaction with technical assistance received from AHRQ. The questions asked may include whether there is a need for extended hours to answer inquiries related to grant applications or for the development of a comprehensive manual on submission of grant applications. In addition, AHRQ wants to survey individual recipients of training grants to evaluate their experience with AHRQ training grant programs. Similarly, the Office of Health Care Information (OHCI) is proposing to survey researchers to determine how AHRQ could better serve the research community. Results of these surveys will be used to assess and redirect resources and efforts needed to improve services.

#### Method of Collection

The data will be collected using a combination of preferred methodologies appropriate to each survey. These methodologies are:

- Mail and telephone surveys;
- Electronic technologies; and
- Focus groups.

The estimated annual hour burden is as follows:

| Type of survey | Number of respondents | Average burden/response in minutes | Total hours of burden |
|---|---|---|---|
| Mail/Telephone Surveys/Electronic Technologies | 9,400 | 20 | 3,133.3 |
| Focus Groups | 700 | 97.7 | 1140 |
| Totals | 10,100 | 25.4 | 4,273.3 |

#### Request for Comments

In accordance with the above cited Paperwork Reduction Act legislation, comments on this AHRQ information collection proposals are requested with regard to any of the following: (a) Whether the proposed collection of information is necessary for the proper performance of functions of the Agency, including whether the information will have practical utility; (b) the accuracy of the Agency's estimate of burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information upon the respondents, including the use of automated collection techniques or other forms of information technology. Comments submitted in response to this notice will be summarized and included in the request for OMB approval of the proposed information collection. All comments will become a matter of public record. Copies of the proposed collection plans and can be obtained from the AHRQ Reports Clearance Officer (see above).

Dated: December 10, 2001.

**John M. Eisenberg,**

*Director.*

[FR Doc. 01–30850 Filed 12–13–01; 8:45 am]

BILLING CODE 4160–90–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Agency for Healthcare Research and Quality

### Agency Information Collection Activities: Proposed Collection; Comment Request

**AGENCY:** Agency for Healthcare Research and Quality, HHS.

**ACTION:** Notice.

**SUMMARY:** This notice announces the intention of the Agency for Healthcare Research and Quality (AHRQ) to request the Office of Management and Budget (OMB) to allow the proposed information collection project: ''Medical Expenditure Panel Survey—Medical Provider Component (MEPS–MPC) for 2001 and 2002.'' In accordance with the Paperwork Reduction Act as amended (see in particular 44 U.S.C. 3506(c)(2)(A)), AHRQ invites the public to comment on this proposed information collection.

The proposed information collection was previously published in the **Federal Register** on October 3, 2001 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.

**DATES:** Comments on this notice must be received by January 14, 2002.

**ADDRESSES:** Written comments should be submitted to: Allison Eydt, Human Resources and Housing Branch, Office of Information and Regulatory Affairs, OMB: New Executive Office Building, Room 10235; Washington, DC 20503.

Comments submitted in response to this notice will be summarized and included in the request for OMB approval of the proposed information collection. All comments will become a matter of public record.

**FOR FURTHER INFORMATION CONTACT:** Cynthia D. McMichael, AHRQ, Reports Clearance Officer, (301) 594–3132.

**SUPPLEMENTARY INFORMATION:**

### Proposed Project

''Medical Expenditure Panel Survey—Medical Provider Component (MEPS–MPC) for 2001 and 2002''

The MEPS–MPC is a survey of hospitals, physicians and other medical providers. The purposes of this survey is to supplement and verify the information provided by household respondents in the household component of the MEPS (MEPS–HC) about the use of medical services in the United States based on a nationally representative sample. With the permission of members of the households surveyed in the MEPS–HC, AHRQ contractor will contract the medical providers of the HC Survey respondents to determine the actual dates of service, the diagnoses, the services provided, the amount that was charged, the amount that was paid and the source of payment. Thus, the MPC is derived from or is based upon the core survey, (MEPS–HC) and will improve the quality of the core survey data.

The Medical Expenditure Panel Survey Household Component (MEPS–HC) to be conducted in 2001 through 2003, will provide annual, nationally representative estimates of health care use, expenditures, sources of payment and insurance coverage, for the U.S. civilian non-institutionalized population for 2001 and 2002 respectively. MEPS is co-sponsored by the Agency for Healthcare Research and Quality (AHRQ) and the National Center For Health Statistics (NCHS).

Data from medical providers linked to household respondents in the MEPS Household component for calendar year 2001, will be collected beginning in 2002 and continuing into the year 2003, data for calendar year 2002 will be collected beginning in 2003 and continue into the year 2004.

### Data Confidentiality Provisions

MEPS data confidentiality is protected under the NCHS and AHRQ confidentiality statutes, sections 308(d) and 924(c) of the Public Service Act [42 U.S.C. 242m(d) and 42 U.S.C. 299c–3(c) respectively].

### Method of Collection

The medical provider survey will be conducted predominantly by telephone, but may include self-administered mail surveys, if requested by the respondent.

The *MPC for Calendar Year 2001* estimated annual hour burden is as follows:

| Type of provider | Number of respondents | Average number of patients/providers | Average number of events/patient | Average burden/event (in minutes) | Total hours of burden |
|---|---|---|---|---|---|
| Hospital | 5,000 | 2.15 | 3.2 | 5 (.083 hrs.) | 2,867 |
| Office-based Director | 23,000 | 1.15 | 3.5 | 5 | 7,715 |
| Separately Billing Doctor | 11,200 | 1.22 | 1.3 | 5 | 1,480 |
| Home Health | 500 | 1.0 | 5.8 | 5 | 242 |
| Pharmacy | 9,000 | 1.75 | 10.3 | 3 | 8,111 |
| Estimated Annual Burden Total | | | | | 20,415 |

*MPC for Calendar Year 2002*

| Type of provider | Number of respondents | Average number of patients/providers | Average number of events/patient | Average burden/event (in minutes) | Total hours of burden |
|---|---|---|---|---|---|
| Hospital | 5,000 | 2.60 | 3.2 | 5 (.083 hrs.) | 3,467 |
| Office-based Doctor | 24,000 | 1.15 | 3.5 | 5 | 8,050 |
| Separately Billing Doctor | 13,360 | 1.22 | 1.3 | 5 | 1,766 |
| Home Health | 600 | 1.00 | 5.8 | 5 | 290 |
| Pharmacy | 10,700 | 1.75 | 10.3 | 3 | 9,643 |
| Estimated Annual Burden Total | | | | | 23,216 |

**Request for Comments**

In accordance with the above cited Paperwork Reduction Act legislation, comments on this AHRQ information collection proposals are requested with regard to any of the following: (a) Whether the proposed collections of information is necessary for the proper performance of functions of the Agency, including whether the information will have practical utility; (b) the accuracy of the Agency's estimate of burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility and clarity of the information to be collected; and, (d) ways to minimize the burden of the collection of information upon the respondents, including the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the request for OMB approval of the proposed information collection. All comments will become a matter of public record. Copies of the proposed collection plans, data collection instruments, and specific details on the estimated burden can be obtained from the AHRQ Reports Clearance Officer (see above).

Dated: December 7, 2001.

**John M. Eisenberg,**

*Director.*

[FR Doc. 01–30851 Filed 12–13–01; 8:45 am]

**BILLING CODE 4160–90–M**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

**[60Day–02–16]**

### Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the CDC Reports Clearance Officer on (404) 639–7090.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Send comments to Anne O'Connor, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS–D24, Atlanta, GA 30333. Written comments should be received within 60 days of this notice.

*Proposed Project:* Formative Research and Evaluation of Native American and Asian American Populations associated with CDC's Youth Media Campaign—New—National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC).

In FY 2001, Congress established the Youth Media Campaign at the Centers for Disease Control and Prevention (CDC). Specifically, the House Appropriations Language said: The Committee believes that, if we are to have a positive impact on the future health of the American population, we must change the behaviors of our children and young adults by reaching them with important health messages. CDC, working in collaboration with the Health Resources and Services Administration (HRSA), the National Center for Child Health and Human Development (NICHD), and the Substance Abuse and Mental Health Services Administration (SAMHSA), is coordinating an effort to plan, implement, and evaluate a campaign designed to clearly communicate messages that will help kids develop habits that foster good health over a lifetime. The Campaign will be based on principles that have been shown to enhance success, including: Designing messages based on research; testing messages with the intended audiences; involving young people in all aspects of Campaign planning and implementation; enlisting the involvement and support of parents and other influencers; tracking the Campaign's effectiveness and revising Campaign messages and strategies as needed.

For the Campaign to be successful, a thorough understanding of Native American and Asian American tweens (youth ages 9–13), the health behaviors promoted, and the barriers and motivations for adopting and sustaining them is essential. Additionally, a thorough understanding of those who can influence the health behaviors of Native American and Asian American tweens is important. This understanding will facilitate the development of messages, strategies, and tactics that resonate with Native American and Asian American tweens, parents and other influencers.

Research for the national and minority audience components of the Youth Media Campaign will identify the Native American and Asian American target audience(s) using standard market research techniques and will address geographic and demographic diversity to the extent necessary to assure appropriate audience representation. This Native American and Asian American audience research may include, but not be limited to, intercept interviews, theater testing, expert reviews, in-depth interviews, pilot/field tests/partial launches, telephone and/or face-to-face interviews, and mail questionnaires with various Native American and Asian American audiences (tweens, ages 9–13; parents; adult influencers; older teen influencers; and partners/alliances). In addition, panels or reoccurring focus groups of Native American and Asian American tweens and parents will convene to generate on-going feedback to the Campaign. The panels will suggest ideas, review creative executions, and provide feedback on what works and what does not work.

The intent of this Native American and Asian American audience research is to solicit input and feedback from audiences on a national level and from Native American and Asian American audiences within targeted populations. Information gathered from both Native American and Asian American audiences will be used to modify/refine and/or revise Campaign messages and strategies and evaluate Campaign effectiveness.

| Respondents | Number of respondents | Number of responses/ respondent | Average burden/ response (in hours) | Total burden (in hours) |
|---|---|---|---|---|
| Tweens (ages 9–13) | 5,000 | 1 | 15/60 | 1,250 |

| Respondents | Number of respondents | Number of responses/ respondent | Average burden/ response (in hours) | Total burden (in hours) |
|---|---|---|---|---|
| Reoccurring tween panel(s) | 10 | 4 | 2 | 80 |
| Parents | 2,500 | 1 | 15/60 | 625 |
| Reoccurring parent panel(s) | 20 | 4 | 2 | 160 |
| Adult influencers | 1,000 | 1 | 15/60 | 250 |
| Older teen influencers | 500 | 1 | 15/60 | 125 |
| Total | | | | 2,490 |

Dated: December 6, 2001.

**Nancy E. Cheal,**

*Acting Associate Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention.*

[FR Doc. 01–30862 Filed 12–13–01; 8:45 am]

**BILLING CODE 4163–18–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare & Medicaid Services

**[HCFA–1191–N]**

### Medicare Program; Meeting of the Advisory Panel on Ambulatory Payment Classification Groups

**AGENCY:** Centers for Medicare & Medicaid Services (CMS), HHS.

**ACTION:** Notice of meeting.

**SUMMARY:** In accordance with section 10(a) of the Federal Advisory Committee Act (5 U.S.C. App. 2), this notice announces the second annual meeting of the Advisory Panel on Ambulatory Payment Classification Groups. The purpose of this panel is to review the ambulatory payment classification (APC) groups and provide technical advice to the Secretary of the Department of Health and Human Services (the Secretary) and the Administrator of the Centers for Medicare & Medicaid Services (the Administrator) concerning the clinical integrity of the APC groups and their associated weights. This meeting is taking place at this time because the technical advice of the panel will be considered as CMS prepares its annual Notice of Proposed Rulemaking that will propose changes to the Outpatient Prospective Payment System (OPPS) that will be published in the spring of 2002. The next meeting of the panel will be in early calendar year 2003.

**DATES:** The meeting is scheduled for Tuesday, January 22, Wednesday, January 23, and Thursday, January 24, 2002 from 9 a.m. to 5 p.m. e.s.t.

**ADDRESSES:** The meeting will be held in the Multipurpose Room at the CMS Central Office, 7500 Security Boulevard, Baltimore, MD 21244.

**FOR FURTHER INFORMATION CONTACT:** Angela Mason (410) 786–7452 or Valerie Barton (410) 786–2803. Please refer to the CMS Advisory Committees Information Line (1–877–449–5659 toll free)/(410–786–9379 local), or the Internet at *http://www.hcfa.gov/fac/apcpage.htm* for additional information and updates on committee activities.

**SUPPLEMENTARY INFORMATION:** The Secretary is required by section 1833(t)(9)(A) of the Social Security Act (the Act), as added by section 201(h)(1)(B) and redesignated by section 202(a)(2) of the Balanced Budget Refinement Act of 1999, to consult with an APC advisory panel. The panel will meet once annually to review the APC groups and provide technical advice to the Secretary and the Administrator of CMS concerning the clinical integrity of the groups and their associated weights. The technical advice provided by the panel at its annual meeting will be considered as CMS prepares the annual Notice of Proposed Rulemaking that will propose changes to the OPPS for the next calendar year.

The panel consists of 15 representatives of Medicare providers that are subject to the OPPS. The members were selected by the Administrator of CMS based upon either self-nominations or nominations submitted by providers or organizations.

The current members of the panel are: Michelle Burke, R.N.; Leslie Jane Collins, R.N.; Geneva Craig, R.N.; Lora A. DeWald, M.Ed; Gretchen M. Evans, R.N.; Robert E. Henkin, M.D.; Lee H. Hilborne, M.D.; Stephen T. House, M.D.; Kathleen P. Kinslow, CRNA, Ed.D; Mike Metro, R.N.; Gerald V. Naccarelli, M.D.; Beverly K. Philip, M.D.; Karen L. Rutledge, B.S.; William A. Van Decker, M.D.; and Paul E. Wallner, D.O. The panel Chairperson is Paul M. Rudolf, M.D., J.D., a CMS medical officer.

The agenda will provide for discussion and comment on the following topics:

- Reconfiguration of APCs, such as splitting of an APC and moving CPT codes from one APC to another.
- Consideration of the effects of using single versus multiple claims in setting relative weights.
- Consideration of guidelines for hospital billing of clinic visits and evaluation and management visits.
- Other technical issues concerning APC structure.

The panel will not be discussing the incorporation of the estimated cost of the pass-through devices into the base APC rates at this meeting.

For more detailed information on the agenda topics see our web site at *http://www.hcfa.gov/fac/apcpage.htm.*

Comments relating to this meeting must be received no later than 5 p.m. on Tuesday, January 8, 2002. Send comments to the following address: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attn: Valerie Barton, Mail Stop C4–05–17, 7500 Security Boulevard, Baltimore, MD 21244–1850.

Comments may also be sent via electronic mail to *outpatientpps@cms.hhs.gov.* Because of staffing and resource limitations, we cannot accept comments by facsimile (FAX) transmission and cannot acknowledge or respond individually to comments we receive. Comments that are included in the agenda topics will be addressed in the proposed rule that will be published in the spring of 2002.

The meeting is open to the public, but attendance is limited to the space available. Individuals or organizations wishing to make oral presentations on the agenda items must submit a copy of the presentation and the name, address and telephone number of the proposed presenter. In addition, all presentations must contain, at a minimum, the following supporting information and data:

- Financial relationship(s), if any, with any company whose products, services, or procedures are under consideration;
- CPT codes involved;
- APC(s) affected;
- Description of the issue;

• Clinical description of the service under discussion, with comparison to other services within the APC;

• Description of the resource inputs associated with the service under discussion, with a comparison to other services within the APC;

• Recommendations and rationale for change; and

• Expected outcome of change and potential consequences of no change.

Further details can be found on our web site at *http://www.hcfa.gov/fac/apcpage.htm.* Presentations submitted without the required data and information will not be considered.

In order to be scheduled to speak, this information must be received no later than 5 p.m., Tuesday, January 8, 2002 at the above address. Alternatively, the information may be sent electronically to the email address specified above. Because of staffing and resource limitations, we cannot accept this information by facsimile (FAX).

Presentations are limited to no more than 5 minutes and must be on the listed agenda topics only. The number of presentations may be limited by the time available.

In addition to formal presentations, there will be an opportunity during the meeting for public comment, limited to 1 minute for each individual or organization. The number of speakers may be limited by the time available.

Any persons wishing to attend this meeting located on Federal property must call the meeting coordinator, Angela Mason, at (410) 786–7452 to register at least 72 hours in advance. Persons attending must show a photographic identification to the Federal Protective Service or Guard Service personnel before they will be allowed to enter the building. Persons not registered in advance will not be permitted into the building and will not be permitted to attend the meeting. News media representatives should contact the CMS Press Office at (202) 690–6145.

Individuals requiring sign language interpretation for the hearing impaired or other special accommodations should contact the meeting coordinator at least 10 days before the meeting.

**Authority:** Section 1833 of the Social Security Act (42 U.S.C. 1395l) and section 10(a) of Public Law 92–463 (5 U.S.C. App. 2, section 10(a)); 45 CFR part 11)

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare-Hospital Insurance; and Program No. 93.774, Medicare-Supplementary Medical Insurance Program)

Dated: December 11, 2001.

**Thomas A. Scully,**

*Administrator, Centers for Medicare & Medicaid Services.*

[FR Doc. 01–30990 Filed 12–13–01; 8:45 am]

BILLING CODE 4120–01–P

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers For Medicare & Medicaid Services

**[CMS–4031–N]**

### Medicare Program; Open Public Meeting on January 16, 2002 to Discuss Activities Related to the Collection of Diagnostic Data from Medicare+Choice Organizations for Risk Adjustment

**AGENCY:** Centers for Medicare & Medicaid Services (CMS), Health and Human Services.

**ACTION:** Notice of meeting.

**SUMMARY:** This notice announces a public meeting to provide Medicare+Choice Organizations (M+COs), providers, practitioners, and other interested parties an opportunity to ask questions and raise issues regarding the risk adjustment model that will be selected for use beginning in 2004 and reporting requirements for diagnostic information. The purpose of the meeting is to provide information about risk adjustment model options and associated data collection issues and to allow for public comment regarding the models and data collection.

**DATES:** The meeting is scheduled for January 16, 2002 from 9 a.m. until 4 p.m., EST.

**ADDRESSES:** The meeting will be held in the CMS Auditorium, 7500 Security Boulevard, Baltimore, Maryland, 21244–1850.

**FOR FURTHER INFORMATION CONTACT:** Bobbie Knickman at (410) 786–4161. To submit public comment no later than February 1, 2002, email: Bobbie Knickman at *bknickman@cms.hhs.gov* or fax to (410) 786–1048.

**SUPPLEMENTARY INFORMATION:**

### Background

The Balanced Budget Act of 1997 (BBA) (Public Law 105–33) established the Medicare+Choice program that significantly expanded the health care options available to Medicare beneficiaries. Under the BBA, the Secretary of the Department of Health and Human Services (the Secretary) must implement a risk adjustment methodology that accounts for variations in per capita costs based on health status and other demographic factors for payment to Medicare+Choice organizations (M+COs). The BBA also gives the Secretary the authority to collect inpatient hospital data for discharges on or after July 1, 1997, and additional data for other services occurring on or after July 1, 1998. Risk adjustment implementation began January 1, 2000. Payments to M+COs are made at 10 percent risk adjusted rates and 90 percent demographically adjusted rates for years 2000 through 2003. The Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act (BIPA), enacted in December 2000, stipulates that the risk adjustment methodology for 2004 and succeeding years should be based on data from inpatient hospital and ambulatory settings. BIPA contains a provision that phases in future risk adjusted payments as follows: 30 percent in 2004; 50 percent in 2005; 75 percent in 2006; and 100 percent in 2007. The collection of physician encounter data, which began on October 1, 2000, and hospital outpatient encounter data, which began on April 1, 2001, was suspended on May 25, 2001 through July 1, 2002. The Secretary indicated that we will be working closely with all interested parties to explore and implement a risk adjustment process for M+C payments that balances accuracy with administrative burden. The meeting will address the following topics:

• Risk adjustment models incorporating ambulatory and inpatient diagnoses;

• Collection/reporting of beneficiary and diagnostic information for Medicare+Choice enrollees in hospital inpatient, outpatient, and physician settings for use in risk adjustment models; and

• Data issues.

The agenda will include presentations by our staff and a question and answer sessions. Written public comments are preferred following the meeting and will be accepted until February 1, 2002.

### Registration

Registration for this public meeting is required and will be on a first-come, first-serve basis, limited to two attendees per organization. A waiting list will be available for additional requests. The registration deadline will be January 11, 2002 at 5:00 pm. EST. Registration will be done via the Internet at *http://www.hcfa.gov/events/events.htm.* A confirmation notice will be sent to attendees upon finalization of registration.

Persons who are not registered in advance will not be permitted into the Federal Building and thus not be able to attend the meeting. Persons attending the meeting will be required to show a photographic identification, preferably a valid drivers' license before entering the building. Please note that if the meeting is cancelled we will post that information on our website.

Attendees will be provided with meeting materials at the time of the meeting. Written meeting materials will be posted on the CMS website before the January 16, 2002 meeting at: *http://www.hcfa.gov* and *http://www.cms.hhs.gov.* We will accept written questions about meeting logistics or requests for meeting materials either before the meeting or up to 14 days after the meeting. Written submissions must be sent to:

Aspen Systems Corporation, ATTN: Kim Slaughter, 2275 Research Boulevard, Mail Stop 5W, Rockville, Maryland 20850.

You may also contact Encounter Data Representative: Kim Slaughter, Telephone Number: (301) 519–5388, Fax Number: (301) 519–6360, E-mail: *encounterdata@aspensys.com.*

Written public comments will be accepted until February 1, 2002. Written public comments should be sent to Bobbie Knickman at bknickman@cms.hhs.gov or fax to (410) 786–1048.

(Authority: Sections 1851 through 1859 of the Social Security Act (42 U.S.C. 1395w–21 through 1395w–28))

(Catalog of Federal Domestic Assistance Program No. 93.773 Medicare—Hospital Insurance Program; and No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: December 11, 2001.

**Thomas A. Scully,**

*Administrator, Centers for Medicare & Medicaid Services.*

[FR Doc. 01–30991 Filed 12–13–01; 8:45 am]

**BILLING CODE 4120–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. 01N–0393]**

### Agency Information Collection Activities; Submission for OMB Review; Comment Request; Prescription Drug Product Labeling; Medication Guide Requirements

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing that the proposed collection of information listed below has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (the PRA).

**DATES:** Submit written comments on the collection of information by January 14, 2002.

**ADDRESSES:** Submit written comments on the collection of information to the Office of Information and Regulatory Affairs, OMB, New Executive Office Bldg., 725 17th St. NW., rm. 10235, Washington, DC 20503, Attn: Stuart Shapiro, Desk Officer for FDA.

**FOR FURTHER INFORMATION CONTACT:** Karen L. Nelson, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1482.

**SUPPLEMENTARY INFORMATION:** In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

### Prescription Drug Product Labeling; Medication Guide Requirements (OMB Control No. 0910–0393)—Extension

FDA regulations require the distribution of patient labeling, called Medication Guides, for certain prescription human drug and biological products used primarily on an outpatient basis that pose a serious and significant public health concern requiring distribution of FDA-approved patient medication information. These Medication Guides inform patients about the most important information they should know about these products in order to use them safely and effectively. Included are information such as the drug's approved uses, contraindications, adverse drug reactions, and cautions for specific populations, with a focus on why the particular product requires a Medication Guide. These regulations are intended to improve the public health by providing information necessary for patients to use certain medication safely and effectively.

The regulations contain the following reporting requirements that are subject to the PRA. The estimates for the burden hours imposed by the following regulations are listed in table 1 of this document:

21 CFR 208.20—Applicants must submit draft Medication Guides for FDA approval according to the prescribed content and format.

21 CFR 314.70(b)(3)(ii) and 601.12(f)—Application holders must submit changes to Medication Guides to FDA for prior approval as supplements to their applications.

21 CFR 208.24(e)—Each authorized dispenser of a prescription drug product for which a Medication Guide is required, when dispensing the product to a patient or to a patient's agent, must provide a Medication Guide directly to each patient unless an exemption applies under § 208.26 (21 CFR 208.26).

Section 208.26(a)—Requests may be submitted for exemption or deferral from particular Medication Guide content or format requirements.

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

| 21 CFR Section | No. of Respondents | Annual Frequency per Response | Total Annual Responses | Hours per Response | Total Hours |
|---|---|---|---|---|---|
| 208.20 | 8 | 1 | 8 | 242 | 1,936 |
| 314.70(b)(3)(ii) and 601.12(f) | 3 | 1 | 3 | 24 | 72 |
| 208.24(e) | 55,000 | 8.3 | 460,000 | .0014 | 644 |
| 208.26(a) | 1 | 1 | 1 | 4 | 4 |
| Total | | | | | 2,656 |

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

In the **Federal Register** of September 25, 2001 (66 FR 49024), the agency requested comments on the proposed collections of information. FDA received one comment on the September 25, 2001, notice. The

comment stated that clarification is needed as to whether Medication Guides would be needed for medical devices that have a prescription drug either as a coating or incorporated into the material of the device, or as a component in a kit. The comment said that some of these types of products might be considered combination products.

FDA requested comments on the information collection burden estimates described in the notice. Because the comment does not pertain to the burden estimates, FDA has forwarded the comment to Docket Number 93N–0371, ''Prescription Drug Product Labeling; Medication Guide Requirements.'' FDA appreciates the comment and will consider it as part of its Medication Guide program.

Dated: December 7, 2001.

**Margaret M. Dotzel,**

*Associate Commissioner for Policy.*

[FR Doc. 01–30852 Filed 12–13–01; 8:45 am]

BILLING CODE 4160–01–S

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of Diabetes and Digestive and Kidney 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 Diabetes and Digestive and Kidney Diseases Special Emphasis, Panel.

*Date:* January 6–8, 2002.

*Time:* 7 p.m. to 12 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Hotel Wales, 1295 Madison Avenue, New York, NY 10128.

*Contact Person:* Francisco O. Calvo, PhD, Chief, Review Branch, DEA, NIDDK, Room 752, 6707 Democracy Boulevard, National Institutes of Health, Bethesda, MD 20892–6600, (301) 594–8897.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: December 5, 2001.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 01–30874 Filed 12–13–01; 8:45 am]

BILLING CODE 4140–01–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute on Deafness and Other Communications Disorders; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the National Deafness and Other Communications Disorders Advisory Council.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Deafness and Other Communication Disorders Advisory Council.

*Date:* January 18, 2002.

*Open:* 8:30 a.m. to 11:15 a.m.

*Agenda:* Staff reports on divisional, programmatic, and special activities.

*Place:* 31 Center Drive, Bldg. 31, Conf. Rm. 6, Bethesda, MD 20892.

*Closed:* 11:15 a.m. to Adjournment.

*Agenda:* To review and evaluate grant applications.

*Place:* 31 Center Drive, Bldg. 31, Conf. Rm. 6, Bethesda, MD 20892.

*Contact Person:* Craig A. Jordan, PhD, Chief, Scientific Review Branch, NIH/NIDCD/DER, Executive Plaza South, Room 400C, Bethesda, MD 20892–7180, 301–496–8683.

In the interest of security, NIH has instituted stringent procedures for entrance into the building by non-government employees. Persons without a government I.D. will need to show a photo I.D. and sign-in at the security desk upon entering the building.

Information is also available on the Institute's/Center's home page: *www.nidcd.nih.gov/about/councils/ndcdac/ndcdac.htm,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.173, Biological Research Related to Deafness and Communicative Disorders, National Institutes of Health, HHS)

Dated: December 5, 2001.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 01–30875 Filed 12–13–01; 8:45 am]

BILLING CODE 4140–01–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of Child Health and Human Development Special Emphasis Panel, Mental Retardation and Developmental Disabilities.

*Date:* December 10, 2001.

*Time:* 11 a.m. to 12 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* 6100 Executive Blvd., Room 5E01, Rockville, MD 20852 (Telephone Conference Call).

*Contact Person:* Norman Chang, PhD, Scientific Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, National Institute of Health, 6100 Executive Blvd., Room 5E03, Bethesda, MD 20892, (301) 496–1485.

This notice is being published less than 15 days prior to the meeting due to the timing

limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.209, Contraception and Infertility Loan Repayment Program; 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research, National Institutes of Health, HHS)

Dated: December 6, 2001.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 01–30877 Filed 12–13–01; 8:45 am]

BILLING CODE 4140–01–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of Dental and Craniofacial Research; 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 Dental and Craniofacial Research Special Emphasis Panel 02–12, Review of R01 Grants.

*Date:* December 13, 2001.

*Time:* 2 p.m. to 4 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* 45 Center Drive, Bethesda, MD 20892 (Telephone Conference Call).

*Contact Person:* Anna Sandberg, MPH, DRPH, Scientific Review Administrator, National Institute of Dental and Craniofacial Res., 45 Center Drive, Natcher Building, Rm. 4AN44F, Bethesda, MD 20892, (301) 594–3089.

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 of Dental and Craniofacial Research Special Emphasis Panel 02–16, Review of R 13 Grants.

*Date:* December 17, 2001.

*Time:* 12 p.m. to 1 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* 45 Center Drive, Bethesda, MD 20892 (Telephone Conference Call).

*Contact Person:* H. George Hausch, PhD., Acting Director, 4500 Center Drive, Natcher Building, Rm. 4AN44F, National Institutes of Health, Bethesda, MD 20892, (301) 594–2372.

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 of Dental and Craniofacial Research Special Emphasis Panel. 02–30, Review of R44 Grants.

*Date:* December 18, 2001.

*Time:* 11 a.m. to 1 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* 45 Center Drive, Natcher Building, Conference Room H, Bethesda, MD 20892 (Telephone Conference Call).

*Contact Person:* Philip Washko, PhD. DMD, Scientific Review Administrator, 45 Center Drive, Natcher Building, Rm. 4AN44F, National Institutes of Health, Bethesda, MD 20892, (301) 594–2372.

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 of Dental and Craniofacial Research Special Emphasis Panel 02–17, Review of R01 Grants.

*Date:* January 4, 2002.

*Time:* 2 p.m. to 4 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* 45 Center Drive, Natcher Building, Conference Room C, Bethesda, MD 20892 (Telephone Conference Call).

*Contact Person:* Anna Sandberg, MPH, DRPH, Scientific Review Administrator, National Institute of Dental and Craniofacial Res., 45 Center Drive, Natcher Building, Rm. 4AN44F, Bethesda, MD 20892, (301) 594–3089.

*Name of Committee:* National Institute of Dental and Craniofacial Research Special Emphasis Panel. 02–26, Review of R44 Grants.

*Date:* January 10, 2002.

*Time:* 1:30 p.m. to 3 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* 45 Center Drive, Natcher Bldg., Conf. Rms. A & D, Bethesda, MD 20892 (Telephone Conference Call).

*Contact Person:* Philip Washko, PhD, DMD, Scientific Review Administrator, 45 Center Drive, Natcher Building, Rm. 4AN44F, National Institutes of Health, Bethesda, MD 20892, (301) 594–2372.

*Name of Committee:* National Institute of Dental and Craniofacial Research Special Emphasis Panel 02–35, Review of R 13 Grants.

*Date:* January 16, 2002.

*Time:* 12 p.m. to 2 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* 45 Center Drive, Bethesda, MD 20892 (Telephone Conference Call).

*Contact Person:* H. George Hausch, PhD, Acting Director, 4500 Center Drive, Natcher Building, Rm. 4AN44F, National Institutes of Health, Bethesda, MD 20892, (301) 594–2372.

(Catalogue of Federal Domestic Assistance Program Nos. 93.121, Oral Diseases and Disorders Research, National Institutes of Health, HHS)

Dated: December 6, 2001,

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 01–30878 Filed 12–13–01; 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:* December 10, 2001.

*Time:* 10 a.m. to 12 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

*Contact Person:* Priscilla B. Chen, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4104, MSC 7814, Bethesda, MD 20892, (301) 435–1787.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel.

*Date:* December 10, 2001.

*Time:* 2 p.m. to 5 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

*Contact Person:* Priscilla B. Chen, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4104, MSC 7814, Bethesda, MD 20892, (301) 435–1787.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel.

*Date:* December 12, 2001.

*Time:* 12 p.m. to 3 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

*Contact Person:* Priscilla B. Chen, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4104, MSC 7814, Bethesda, MD 20892, (301) 435–1787.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel.

*Date:* December 14, 2001.

*Time:* 1 p.m. to 2:30 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

*Contact Person:* Ranga V. Srinivas, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5108, MSC 7852, Bethesda, MD 20892, (301) 435–1167, *srinivar@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel.

*Date:* December 20, 2001.

*Time:* 3 p.m. to 5 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

*Contact Person:* Paul K. Strudler, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4100, MSC 7804, Bethesda, MD 20892, (301) 435–1716.

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: December 5, 2001.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 01–30873 Filed 12–13–01; 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:* December 13, 2001.

*Time:* 10 a.m. to 11:30 a.m.

*Agenda:* To review and evaluate grant applications.

*Place:* NIH, Rockledge 2, Bethesda, MD 20892. (Telephone Conference Call).

*Contact Person:* John L. Bowers, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4168, MSC 7806, Bethesda, MD 20892, (301) 435–1725.

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:* December 19, 2001.

*Time:* 11 a.m. to 1 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* NIH, Rockledge 2, Bethesda, MD 20892. (Telephone Conference Call).

*Contact Person:* Ranga V. Srinivas, PhD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Heath, 6701 Rockledge Drive, Room 5108, MSC 7852, Bethesda, MD 20892, (301) 435–1167, *srinivar@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(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: December 6, 2001.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 01–30876 Filed 12–13–01; 8:45 am]

BILLING CODE 4140–01–M

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**[Docket No. FR–4644–N–50]**

### Federal Property Suitable as Facilities To Assist the Homeless

**AGENCY:** Office of the Assistant Secretary for Community Planning and Development, HUD.

**ACTION:** Notice.

**SUMMARY:** This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

**FOR FURTHER INFORMATION CONTACT:** Clifford Taffet, room 7266, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708–1234; TTY number for the hearing- and speech-impaired (202) 708–2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

**SUPPLEMENTARY INFORMATION:** In accordance with 24 CFR part 581 and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This Notice is also published in order to comply with the December 12, 1988 Court Order in *National Coalition for the Homeless* v. *Veterans Administration,* No. 88–2503–OG (D.D.C.).

Properties reviewed are listed in this Notice according to the following categories: Suitable/available, suitable/unavailable, suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) its intention to declare the property excess to the agency's needs, or

(3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Where property is described as for ''off-site use only'' recipients of the property will be required to relocate the building to their own site at their own expense. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to Brian Rooney, Division of Property Management, Program Support Center, HHS, room 5B–41, 5600 Fishers Lane, Rockville, MD 20857; (301) 443–2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utili8ze a suitable property, providers should submit their written expressions of interest as soon a possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 24 CFR part 581.

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this Notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1–800–927–7588 for detailed instructions or write a letter to Clifford Taffet at the address listed at the beginning of this Notice. Included in the request for review should be the property address (including zip code), the date of publication in the **Federal Register**, the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (*i.e.,* acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: *Army:* Ms. Julie Jones-Conte, Headquarters, Department of the Army, Office of the Assistant Chief of Staff for Installation Management, Program Integration Office, Attn: DAIM–MD, Room 1E677, 600 Army Pentagon, Washington, DC 20310–0600; (703) 692–9223; *GSA:* Mr. Brian K. Polly, Assistant Commissioner, General Services Administration, Office of Property Disposal, 18th and F Streets, NW., Washington, DC 20405; (202) 501–0052; *Interior:* Ms. Linda Tribby, Acquisition & Property Management, Department of the Interior, 1849 C Street, NW., Washington, DC 20240; (202) 219–0728; (These are not toll-free numbers).

Dated: December 6, 2001.

**John D. Garrity,**

*Director, Office of Special Needs Assistance Programs.*

**TITLE V, FEDERAL SURPLUS PROPERTY PROGRAM FEDERAL REGISTER REPORT FOR 12/14/01**

**Suitable/Available Properties**

*Buildings (by State)*

Arizona

15 Bldgs.
Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Location: 44116, 44305, 44306, 44409, 44410, 44411, 44415, 44416, 44501, 44502, 44503, 44504, 44505, 44506, 44507.
Landholding Agency: Army.
Property Number: 21200140074.
Status: Excess.
Comment: Family housing, duplex, triplex, fourplex, sixplex, (2–3 bedrooms), presence of asbestos/lead paint, off-site use only.

Georgia

Bldg. 02301
Fort Gordon
Ft. Gordon Co: Richmond GA 30905–
Landholding Agency: Army.
Property Number: 21200140075.
Status: Unutilized.
Comment: 8484 sq. ft., needs major rehab, potential asbestos/lead paint, most recent use—storage, off-site use only.

Idaho

Ditchrider House
25822 Middleton Rd.
Middleton Co: Canyon ID 83644–
Landholding Agency: Interior.
Property Number: 61200140006.
Status: Unutilized.
Comment: 832 sq. ft., residence, needs rehab, off-site use only.

Maryland

Bldgs. 187, 239, 999
Ft. George G. Meade
Ft. Meade Co: Anne Arundel MD 20755–
Landholding Agency: Army.
Property Number: 21200140077.
Status: Unutilized.
Comment: 2284 sq. ft., presence of asbestos/lead paint, most recent use—admin., off-site use only.

Bldg. 219
Ft. George G. Meade
Ft. Meade Co: Anne Arundel MD 20755–
Landholding Agency: Army.
Property Number: 21200140078.
Status: Unutilized.
Comment: 8142 sq. ft., presence of asbestos/lead paint, most recent use—admin., off-site use only.

Bldg. 229
Ft. George G. Meade
Ft. Meade Co: Anne Arundel MD 20755–
Landholding Agency: Army.
Property Number: 21200140079.
Status: Unutilized.
Comment: 2250 sq. ft., presence of asbestos/lead paint, most recent use—admin., off-site use only.

Bldg. 287
Ft. George G. Meade
Ft. Meade Co: Anne Arundel MD 20755–
Landholding Agency: Army.
Property Number: 21200140080.
Status: Unutilized.
Comment: 2892 sq. ft., presence of asbestos/lead paint, most recent use—storehouse, off-site use only.

Bldg. 294
Ft. George G. Meade
Ft. Meade Co: Anne Arundel MD 20755–
Landholding Agency: Army.
Property Number: 21200140081.
Status: Unutilized.
Comment: 3148 sq. ft., presence of asbestos/lead paint, most recent use—entomology facility, off-site use only.

Bldg. 942
Ft. George G. Meade
Ft. Meade Co: Anne Arundel MD 20755–
Landholding Agency: Army.
Property Number: 21200140082.
Status: Unutilized.
Comment: 3557 sq. ft., presence of asbestos/lead paint, most recent use—chapel, off-site use only.

Bldg. 949
Ft. George G. Meade
Ft. Meade Co: Anne Arundel MD 20755–
Landholding Agency: Army.
Property Number: 21200140083.
Status: Unutilized.
Comment: 2441 sq. ft., presence of asbestos/lead paint, most recent use—storehouse, off-site use only.

Bldg. 979
Ft. George G. Meade
Ft. Meade Co: Anne Arundel MD 20755–
Landholding Agency: Army.
Property Number: 21200140084.
Status: Unutilized.
Comment: 2331 sq. ft., presence of asbestos/lead paint, most recent use—admin., off-site use only.

Bldg. 1007
Ft. George G. Meade
Ft. Meade Co: Anne Arundel MD 20755–
Landholding Agency: Army.
Property Number: 21200140085.
Status: Unutilized.
Comment: 3108 sq. ft., presence of asbestos/lead paint, most recent use—storage, off-site use only.

Bldg. 2122
Ft. George G. Meade
Ft. Meade Co: Anne Arundel MD 20755–
Landholding Agency: Army.
Property Number: 21200140086.
Status: Unutilized.
Comment: 9092 sq. ft., presence of asbestos/lead paint, most recent use—admin., off-site use only.

Bldg. 3000
Ft. George G. Meade
Ft. Meade Co: Anne Arundel MD 20755–
Landholding Agency: Army.
Property Number: 21200140087.
Status: Unutilized.
Comment: 10,663 sq. ft., presence of asbestos/lead paint, most recent use—storehouse, off-site use only.

Bldg. 4283
Ft. George G. Meade
Ft. Meade Co: Anne Arundel MD 20755–
Landholding Agency: Army.
Property Number: 21200140088.
Status: Unutilized.
Comment: 2609 sq. ft., presence of asbestos/lead paint, most recent use—admin., off-site use only.

Ohio

Quarters 120
Defense Supply Center
Columbus Co: Franklin OH 43216–5000,
Landholding Agency: Army.
Property Number: 21200140089.
Status: Unutilized.
Comment: 5670 sq. ft., needs repair, presence of lead paint, most recent use—residence, off-site use only.

Texas

Federal Courthouse
512 Starr Street
Corpus Christi Co: Nueces TX 78401–
Landholding Agency: GSA.
Property Number: 54200140011.
Status: Excess.
Comment: 6000 sq. ft., needs maintenance, eligible for Nat'l Register of Historic Places.
GSA Number: 7–G–TX–1049.

*Land (by State)*

Arizona

WC–1–2c & WC–1–2f
Range 1 East
Peoria Co: Maricopa AZ 85382–
Landholding Agency: Interior.
Property Number: 61200140007.
Status: Excess.
Comment: 10 acres, portion of parcels, remote location, no utilities.

**Suitable/Unavailable Properties**

*Buildings (by State)*

Georgia

Bldg. 2410
Fort Gordon
Ft. Gordon Co: Richmond GA 30905–
Landholding Agency: Army.
Property Number: 21200140076.
Status: Unutilized.
Comment: 8480 sq. ft., needs rehab, potential asbestos/lead paint, most recent use—storage, off-site use only.

**Unsuitable Properties**

*Buildings (by State)*

California

Solstice Canyon House
Santa Monica Mountains
Malibu Co: Los Angeles CA 90265–
Landholding Agency: Interior.
Property Number: 61200140003.
Status: Unutilized.
Reason: Extensive deterioration.

Screen House
Rt 140/RT 120
Yosemite Co: Mariposa CA 95389–
Landholding Agency: Interior.
Property Number: 61200140004.
Status: Unutilized.
Reason: Extensive deterioration.

Florida

U.S. Customs House
1700 Spangler Boulevard
Hollywood Co: Broward FL 33316–
Landholding Agency: GSA.
Property Number: 54200140012.
Status: Surplus.
Reason: Within 2000 ft. of flammable or explosive material Secured Area.
GSA Number: 4–G–FL–1173.

Storage Bldg.
75th Street
Bradenton Co: Manatee FL 34209–
Landholding Agency: Interior.
Property Number: 61200140005.
Status: Unutilized.
Reason: Extensive deterioration.

[FR Doc. 01–30644 Filed 12–13–01; 8:45 am]
BILLING CODE 4210–29–M

## DEPARTMENT OF THE INTERIOR

## Fish and Wildlife Service

**RIN 1018–AH69**

## U.S. Fish and Wildlife Service Manual Chapters on Audits

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice and request for comments.

**SUMMARY:** The U.S. Fish and Wildlife Service (Service) plans to establish policy on State audits accomplished by its Division of Federal Aid by issuing U.S. Fish and Wildlife Service Manual Chapters on the subject. The Service is requesting comments and suggestions on the chapters as described below.

**DATES:** Comments must be received by February 12, 2002.

**ADDRESSES:** Comments should be addressed to Kris E. LaMontagne, Chief, Division of Federal Aid, Attn: Audit Chapters, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, Suite 140, Arlington, Virginia 22203. Send e-Mail comments to *Fw9_Federal_Aid@fws.gov*, with ''Audit Chapter Comment'' in the subject line.

**FOR FURTHER INFORMATION CONTACT:** Doug Alcorn, Region 7 Chief, Division of Federal Aid, U.S. Fish and Wildlife Service, Telephone: (907) 786–3545.

**SUPPLEMENTARY INFORMATION:**

### Background

Through the Federal Aid in Sport Fish and Wildlife Restoration Program, the Service disburses funds to States in the form of grants to restore and manage the Nation's fish and wildlife resources. The States use the funds to conduct research, surveys and management; purchase and restore habitat; operate fish hatcheries; build boat access sites; and provide education, outreach and communications.

The Program is authorized by the Federal Aid in Sport Fish Restoration Act, 16 U.S.C. 777 *et seq.*, enacted in 1950 and the Federal Aid in Wildlife Restoration Act, 16 U.S.C. 669 *et seq.*, enacted in 1937. The Program's regulations can be found in Title 50 Code of Federal Regulations, part 80, ''Administrative Requirements, Federal Aid in Fish and Federal Aid in Wildlife Restoration Acts;'' Title 43 Code of Federal Regulations, part 12, ''Administrative and Cost Principles for Assistance Programs;'' and other applicable regulations. Various Office of Management and Budget (OMB) circulars, and guidance in the form of Service policy also apply to these chapters.

Funds for the Program are derived from excise and import taxes on fishing equipment, firearms, archery equipment and certain motorboat fuels paid into the Sport Fish Restoration Account or the Federal Aid to Wildlife Restoration Fund. The manufacturer or U.S. Customs (on imports) collects these taxes and pays it to the U.S. Department of the Treasury, who transfers the money to the Service for distribution to the States.

Periodically the Service conducts audits of our State partners, testing for compliance with applicable Acts, regulations, accounting principles, and Service policy. The purpose of these proposed chapters is to clarify the processes and guidelines for conducting an audit, from beginning through close-out of the audit process and resolution of any findings or other issues.

Generally our State partners are: The 50 States, the District of Columbia, the Commonwealths of Puerto Rico and the Northern Mariana Islands, Guam, the U.S. Virgin Islands, and American Samoa.

We are inviting comments on all chapters. Comments are welcome regarding completeness of the content of material in chapters; clear, easy to

understand language; any burden placed on any Division of the Service, the Department of the Interior, or a State partner; or any other aspect of these documents. Comments must be written, but e-mailed comments are acceptable. The administrative record for this rule is available for viewing, by appointment only, Monday through Friday, 9 a.m. to 3 p.m., in the Division of Federal Aid, 4401 North Fairfax Drive, Suite 140, Arlington, Virginia 22203.

The draft chapters are as follows:

**Chapter 1, Policy and Responsibilities for Grantee Audits, Part 417 Fish and Wildlife Service Manual (417 FW 1)**

*1.1 What Is the Purpose of This Chapter?*

This chapter establishes policy and responsibilities for grantee audits, defines terms associated with audits, and provides an overview of the audit process. Other chapters in this Part (417) establish policy and procedures for audit scoping and planning, conducting and reporting, resolution, and appeals.

*1.2 To What Program Does This Part Apply?*

This Part applies to audits of grantees who receive grants through the Federal Aid Program.

*1.3 What Authorities Govern the Conduct of Grantee Audits?*

A. OMB Circular A–50, Audit Followup

B. OMB Circular A–87, Cost Principles for State, Local and Indian Tribal Governments

C. OMB Circular A–133, Audits of States, Local Governments, and Non-Profit Organizations

D. 43 CFR 12, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments

E. 50 CFR 80, Administrative Requirements, Federal Aid in Sport Fish and Federal Aid in Wildlife Restoration Acts

F. Part 360 (Departmental Audits), Department Manual

G. Part 361(Audit Followup), Department Manual

H. Part 415 (Departmental Audits), Fish and Wildlife Service Manual

I. Government Auditing Standards (Yellow Book)

J. Wildlife and Sport Fish Restoration Programs Improvement Act of 2000

*1.4 What Is the Service's Policy Regarding Grantee Audits?*

We will:

A. Audit each grantee, once in each five-year period, as specified in the Wildlife and Sport Fish Restoration Programs Improvement Act of 2000. The Regional Director notifies the grantee(s), in writing, of the five-year audit schedule.

B. Provide adequate oversight and financial resources to ensure timely audit completion.

C. Cooperate and coordinate fully with grantees, auditors, the Office of the Inspector General (OIG), and Office of Financial Management (PFM).

*1.5 What Are the Objectives of the Federal Aid Program Grantee Audit?*

The Federal Aid Audit Program supplements single statewide audits performed according to the requirements of OMB Circular A–133 (see 417 FW 6). The objectives of Federal Aid grantee audits are to:

A. Promote economy, efficiency, and effectiveness in administration of programs and operations.

B. Aid in the prevention and detection of fraud and abuse in programs and operations.

C. Assure financial integrity, accountability, and financial controls of the Federal Aid Program in accordance with generally accepted accounting principles.

D. Assure compliance with applicable Federal laws, rules, and regulations.

*1.6 Who Is Responsible for Administering the Federal Aid Audit Program?*

A. Director

(1) Oversees the Federal Aid Audit Program.

(2) Makes the final decision on internal Service disagreements associated with resolving audit findings and preparing Corrective Action Plans (CAP).

(3) Makes the final decision on all grantee appeals to the Service.

B. Regional Directors

(1) Ensure that Federal Aid Program staff receive the training necessary to oversee audits.

(2) Provide information to the auditor on Region-specific issues proposed for audit.

(3) Provide guidance and interpret laws, rules, regulations, and policies for the auditor during an audit.

(4) Work with the grantee and auditor throughout the audit to resolve issues as they arise and to identify those issues with potential national implications.

(5) Negotiate with grantees to develop corrective actions to resolve audit findings. Approve, distribute, and monitor implementation of the CAP.

(6) Request closeout of the audit when the grantee has resolved all findings.

(7) Maintain records pertaining to grantee audits, including the CAP and all appeals.

C. Assistant Director—Migratory Birds and State Programs

(1) Ensures consistent interpretation and application of rules, regulations, and laws concerning the Federal Aid Audit Program.

(2) Establishes the national audit schedule pursuant to the Wildlife and Sport Fish Restoration Programs Improvement Act of 2000.

(3) Coordinates Washington Office review of the CAP prior to signature by the Regional Director.

(4) Provides an objective representation of issues when there is a disagreement between the Regional Director and the Assistant Director on the CAP.

(5) Evaluates the Federal Aid Audit Program for efficiency, timeliness, and effectiveness prior to initiating each national audit cycle. The Assistant Director produces a written report at least once every five years, for the Director identifying issues and making recommendations for improving the Audit Program.

D. Chief, Division of Federal Aid (Washington Office)

(1) Advises the Assistant Director—Migratory Birds and State Programs on scheduling of grantee audits. Coordinates audits and provides an independent auditor to conduct the audit.

(2) Ensures that audits are in accordance with Federal policies, regulations, and laws.

(3) Identifies national audit training needs and makes training available. Ensures that appropriate Washington Office Federal Aid Program staff receive the training necessary to oversee audits.

(4) Establishes the scope of the Audit Program in accordance with Government Auditing Standards (Yellow Book).

(5) Provides technical assistance on audit issues to the Regional Office staff and the Assistant Director—Migratory Birds and State Programs prior to and during the development of the CAP's.

(6) Coordinates with the Chief, Division of Policy and Directives Management and the OIG to determine appropriate means of responding to audit-related Freedom of Information Act (FOIA) requests and for distributing final audit reports and final CAP's.

E. Chief, Division of Policy and Directives Management

(1) Oversees activities of the Service Audit Liaison Officer, who, in turn,

serves as liaison to PFM and OIG regarding Federal Aid grantee audit followup.

(2) Advises Service officials on audit liaison matters.

(3) Tracks the implementation of audit recommendations and reports to the Directorate and PFM on grantee audit followup.

*1.7 Who Maintains Audit Resolution Files?*

The Regional Director is responsible for maintaining audit resolution files in accordance with the Service's records schedule. The office or Region that administers the grant being audited will maintain the following documents in the audit resolution file:

A. All audit-related correspondence, incoming and outgoing.

B. OIG final audit report.

C. Approved CAP for both tracked and nontracked audit findings.

D. Documentation provided by the grantee and used by the Regional Director to verify that the grantee resolved each finding or implemented the auditor's recommendation.

E. Documentation that the audit has been officially closed out.

*1.8 What Are the Definitions for Terms Used in This Part?*

A. Appeal

A deliberative process that the grantee initiates when he/she does not agree with the Regional Director's determinations, corrective actions, or the resolutions contained in the CAP.

B. Audit

Examination of Federal Aid Program grantees conducted by the Department of the Interior, OIG, other Federal agencies, and independent public accountants.

C. Auditor

The OIG's designee to conduct the audit.

D. Corrective Action

Specific action(s) to resolve an audit finding in a manner consistent with the Service determination.

E. Corrective Action Plan

Management's two-part plan for addressing all audit findings and implementing all recommendations contained in audit reports. The first part addresses all audit findings and recommendations identified in the OIG's transmittal memorandum with the final audit report. The second part, called the addendum, addresses all other audit findings in the final audit report not specifically identified in the OIG's transmittal memorandum. The audit resolution plan in each part contains four components: Auditor's Findings and Recommendations, Service Determination, Corrective Action, and Resolution.

F. Draft Audit Report

Any report prepared by the auditor for review and comment by the Service or the grantee prior to issuance of the final audit report by the OIG.

G. Engagement Letter

The official notification of a pending audit from the auditor to the grantee.

H. Entrance Conference

The meeting involving the auditor, the Service, the grantee, and others, if needed, that officially begins the onsite portion of the audit.

I. Exit Conference

The meeting involving the auditor, the Service, the grantee, and others, if needed, to review the draft audit report and end the field audit.

J. Federal Aid Program

A Program that administers the responsibilities of the Secretary of the Interior under the Federal Aid in Sport Fish Restoration Act, Federal Aid in Wildlife Restoration Act, Clean Vessel Act, Coastal Wetlands Act, the Partnerships for Wildlife Act, and other Acts that establish grant programs. The Service's Division of Federal Aid fulfills these responsibilities.

K. Field Audit

Work that the auditor performs while on the grantee's premises or project sites.

L. Final Action

The completion of all actions, including documentation, necessary to implement a specific audit recommendation and resolve an audit finding.

M. Final Audit Report

The auditor's final report of findings for an audit of a grantee, issued by the OIG. It includes the auditor's recommendations, the grantee's response to the draft audit report, and the auditor's rejoinder.

N. Grantee

The entity to which the Service awards a grant and who is accountable for use of the Federal funds provided.

O. Office of Financial Management

The Department of the Interior organization under the Assistant Secretary—Policy, Management and Budget that tracks audit recommendations to final action.

P. Office of the Inspector General

The Department of the Interior organization responsible for conducting, supervising, and coordinating audits, investigations, and other activities in the Department designed to promote economy and efficiency or prevent and detect fraud, waste, and abuse.

Q. Planning

Helps to ensure that we conduct audits in an economical and efficient manner.

R. Rejoinder

The auditor's answer to the grantee's response to an audit finding and recommendation.

S. Resolution

A process to address and resolve each finding and recommendation in the audit report.

T. Scoping

The process to identify programmatic and financial elements to be audited.

U. Service Audit Liaison Officer

The Washington Office representative that serves as the point of contact for certain followup activities pertaining to grantee audits.

V. Service Determination

The Service decision to sustain (accept) or not sustain (reject) the auditor's finding and recommendation.

W. Single Audit Report

An audit of a grantee completed in accordance with the requirements of the Single Audit Act of 1984 and OMB Circular A–133. These audits are separate from Federal Aid Program specific audits (grantee audits).

X. We/Us

As used throughout this Part, the terms we or us refer to the Fish and Wildlife Service.

*1.9 What Phases Are Included in a Federal Aid Program Grantee Audit?*

A. Scoping and Planning, Part 417 Fish and Wildlife Service Manual, Chapter 2 (417 FW 2)

During the scoping phase, the auditor identifies programmatic and financial elements to be audited, establishes the period to be audited, identifies issues of potential concern, and ensures that the audit meets Government standards. The planning phase helps to ensure a nationally consistent, effective, and timely audit process. Audit planning

establishes the audit schedule, identifies who will conduct the audit, identifies point(s) of contact, sets milestones, and describes logistical requirements.

B. Conducting and Reporting, Part 417 Fish and Wildlife Service Manual, Chapter 3 (417 FW 3)

The audit conduct and reporting phase helps to ensure independent examination of grantees consistent with Government auditing standards.

C. Resolution, Part 417 Fish and Wildlife Service Manual, Chapter 4 (417 FW 4)

The audit resolution phase ensures that all findings and recommendations are tracked and resolved in a timely and efficient manner.

D. Appeals, Part 417 Fish and Wildlife Service Manual, Chapter 5 (417 FW 5)

The appeals process allows a grantee to appeal Service determinations, corrective actions, or resolutions.

E. Single Audit Act Audits, Part 417 Fish and Wildlife Service Manual, Chapter 6 (417 FW 6)

Policy for resolving findings from audits conducted under the Single Audit Act.

**Chapter 2, Scoping and Planning, Part 417 Fish and Wildlife Service Manual (417 FW 2)**

*2.1 What Is the Purpose of This Chapter?*

This chapter describes the audit scoping and planning processes. See 417 FW 1 for authorities, responsibilities, and definitions. Other chapters in this Part establish policy and procedures for audit conducting and reporting, resolution, and appeals.

*2.2 What Is Audit Scoping?*

This process identifies the programmatic and financial elements to be audited.

*2.3 Who Determines the Scope of an Audit?*

The Chief, Division of Federal Aid (Washington Office) establishes the overall scope of grantee audits nationwide. Through discussions with the grantee and the auditor, Regional Directors help define the scope of specific audits. However, the auditor, supplementing and building upon other audits of the grantee, is responsible for identifying the depth and coverage of the audit.

*2.4 What Could an Audit Include?*

An audit may include one or more of the following components.

A. A financial compliance component to determine if:

(1) A grantee properly conducts financial operations,

(2) Financial reports conform with generally accepted accounting principles, and

(3) Operations comply with applicable laws and regulations.

B. A component to determine whether or not the grantee accomplished the work approved in the grant.

C. An economy and efficiency component to determine whether or not the grantee efficiently and economically managed resources; e.g., personnel, property, space, etc.

*2.5 What Steps Are Involved In Audit Scoping?*

A. Pre-Audit Coordination

After consulting with the Chief, Division of Federal Aid (Washington Office), the Regional Director, and the grantee about the appropriate time frames for the audit, the auditor schedules a pre-audit coordination meeting with the Regional Director to: (1) Define the period of the audit, identify specific concerns, and (2) to become familiar with grants that were active during the audit period.

B. Coordination With State Auditor

The auditor contacts the audit agency or group that performed the Statewide audit to obtain access to audit work papers. The auditor reviews prior audits of the grantee's program to: (1) Aid in identifying issues to be evaluated, (2) obtain a general understanding of the grantee's accounting and internal control systems; and (3) avoid duplication of effort.

C. Engagement Letter

The auditor is responsible for notifying a grantee of a pending audit. The auditor sends an engagement letter to the grantee, with a copy to the Regional Director, at least 30 calendar days prior to the audit entrance conference. This letter informs the grantee of the audit objectives, the audit period, the key program elements being audited, the information and documents the grantee must make available, and the logistical needs for conducting the field audit.

*2.6 Can a Grantee Appeal the Scope of An Audit?*

No. An audit is an independent examination of the grantee's Federal Aid Program.

*2.7 Will the Auditor Review Past Audit Findings?*

Yes. Using Government Auditing Standards, the auditor is required to review corrective actions from prior audits to determine if the grantee has implemented them or if additional actions are needed.

*2.8 Can the Scope of the Audit Change?*

Yes. The scope of the audit may change when new information becomes available as the audit progresses. We expect the depth and coverage of work to change throughout the course of the audit. This is a routine aspect of the audit, not a change in scope. The most significant change in scope that we normally encounter is the need to change the period being audited.

*2.9 Who Can Change the Audit Period?*

The auditor provides a written recommendation to change the audit period to the Chief, Division of Federal Aid (Washington Office). The Chief, in consultation with the Regional Director, determines whether or not to change the audit period. The Regional Director provides the grantee written notification of any change in the period and the reason for the change.

*2.10 What Is Audit Planning and Why Do It?*

Audit planning helps to ensure that we have a nationally consistent, effective, and timely audit process. Audit planning establishes the audit schedule, identifies who will conduct the audit, identifies point(s) of contact for the grantee, sets audit milestones, and describes logistical requirements. The auditor coordinates with the grantee and Service representatives during audit planning.

*2.11 Who Ensures That Audit Planning is Accomplished?*

The Assistant Director—Migratory Birds and State Programs ensures collaboration among Service staff, the auditor, and the grantee by monitoring audit progress through the Chief, Division of Federal Aid (Washington Office).

*2.12 What Steps Does Audit Planning Involve?*

A. Grantee's Initial Reply to the Auditor

The grantee will acknowledge the auditor's engagement letter within 30 calendar days providing as much information as possible. See paragraph 2.13.

B. Consultation With the Service

Prior to starting the field audit, the auditor meets with Service Regional Federal Aid staff to discuss specific program audit concerns. Regional Federal Aid staff solicit grantee input during this process.

*2.13 What Is the Content of the Grantee's Initial Reply to the Engagement Letter?*

The grantee acknowledges the auditor's engagement letter by providing a written response, including as much requested data as is practical at that time. The grantee notifies the auditor of any information that is not available and estimates the date when the information will be available or explains why he/she cannot provide the information. Auditor review of data prior to arriving onsite will help to ensure a more timely and efficient onsite audit with minimal disruption of the grantee's normal operations.

**Chapter 3, Conducting and Reporting on Grantee Audits, Part 417 Fish and Wildlife Service Manual (417 FW 3)**

*3.1 What Is the Purpose of This Chapter?*

This chapter provides procedures for conducting and reporting on audits of Federal Aid Program grantees. See 417 FW 1 for authorities, responsibilities, and definitions. Other chapters in this Part establish policy and procedures for audit scoping and planning, resolution, and appeals.

*3.2 What Is the Objective of the Conduct and Reporting Phase?*

To ensure independent examination of grantees consistent with Government auditing standards. This examination results in a final audit report issued by the OIG.

*3.3 What Steps Does the Conducting and Reporting Phase Involve?*

A. Audit Entrance Conference

This meeting marks the official beginning of the field audit.

B. Field Audit

Field audits usually take three to four months to complete, including site visits. The auditor, the grantee, and the Regional Director communicate regularly to resolve potential audit findings and recommendations before the auditor prepares the draft audit report.

C. Draft Audit Report

Following the field audit, the auditor prepares a draft audit report for review by the Chief, Division of Federal Aid (Washington Office) and the Regional Director. This review may result in revisions or requests for further audit work before the draft audit report is provided to the grantee.

D. Audit Exit Conference

After the auditor releases the draft audit report, he/she schedules an audit exit conference with the Regional Director and the grantee. This conference provides an opportunity for the grantee and Service representatives to ask for or provide further clarification as well as to address any other concerns. The conclusion of the conference marks the completion of the field audit.

E. Auditor Issues Draft Audit Report to OIG

The auditor includes both the grantee's response and the auditor's rejoinder in the draft audit report, and submits the report to the OIG for review and approval.

F. OIG's Final Audit Report

If the OIG accepts the auditor's draft audit report, the OIG assigns an OIG number to the audit report and issues the report to the Regional Director.

*3.4 What Is An Audit Entrance Conference?*

The auditor schedules this conference in consultation with the grantee and the Regional Director to mark the official beginning of the field audit. Participants include the auditor and representatives from the grantee and the Region. The auditor will explain the audit objectives and process, address logistical needs, establish a tentative schedule, and answer questions.

*3.5 Who Provides Technical Guidance to the Auditor on Interpretation and Application of Federal Aid Program Rules and Regulations?*

The Regional Director provides guidance and interprets laws, rules, regulations, and policies for the auditor during the conduct of the audit. The Assistant Director—Migratory Birds and State Programs ensures consistent interpretation and application of rules, regulations, and laws nationwide.

*3.6 Will the Auditor Issue Status Reports?*

Yes. During the field audit, the auditor provides monthly status reports to the Regional Director and the Chief, Division of Federal Aid (Washington Office). The status report contains a brief description of preliminary findings and how the audit is progressing.

*3.7 How Does the Service Process Monthly Status Reports?*

The Regional Director forwards a copy of the status report to the grantee and maintains a copy in the audit file. If the Regional Director or the Chief, Division of Federal Aid (Washington Office), has a concern about potential findings by the auditor, he/she contacts the Assistant Director, the auditor, or the grantee to deal with the issue(s) as soon as practicable. If the Regional Director or the Chief believe that an issue is of national concern, he/she notifies the Assistant Director—Migratory Birds and State Programs. The Assistant Director determines the appropriate action for national application and issue resolution and issues written guidance to the Regional Directors where the issue is relevant.

*3.8 Is the Service Required To Share Monthly Status Reports?*

No. The auditor's monthly status reports are proprietary, and we will share these reports with the grantee only.

*3.9 Will the Auditor Consult With the Service on Potential Findings While the Audit is in Progress?*

Yes. The auditor must report all potential findings to the Regional Director as soon as possible or at least monthly in the status reports. However, in the case of illegal activity or suspected fraud, the auditor must immediately report such findings to the OIG.—Division of Investigations without notice to the Service.

*3.10 Can Audit Findings Be Resolved While the Field Audit is Still in Progress?*

Yes. When practical and feasible, we work with grantees to resolve audit findings while the auditor is still onsite so that he/she can verify and document the resolution in audit work papers, and report the resolution in the final audit report. The auditor must document all reportable conditions, including those resolved during the audit, to meet Government Auditing Standards.

*3.11 Will the Service Have An Opportunity To Review Audit Findings Before the Draft Audit Report is Available to the Grantee?*

Yes. Following the field audit, the auditor prepares a draft audit report for review by the Assistant Director—Migratory Birds and State Programs and the Regional Director. We have 30 calendar days from receipt of the draft audit report to complete this review. This review may result in revisions or request for further audit work. After the

review is complete, the Regional Director will provide the draft audit report to the grantee at least 30 calendar days prior to the audit exit conference.

*3.12 Who Schedules the Audit Exit Conference and When Does It Occur?*

The auditor schedules the audit exit conference with the Service and the grantee, to occur on a mutually agreeable date. This conference is a formal opportunity for the grantee and the Service to request or provide further clarification on the potential findings and to address any other concerns relating to the conduct of the audit and the draft audit report. Participants include the auditor and representatives of the Service and the grantee.

*3.13 Can Audit Findings Change as a Result of the Exit Conference?*

Yes. The auditor takes information received during the exit conference under advisement. The auditor may modify the findings or recommendations before submitting the draft audit report to the OIG.

*3.14 Will the Grantee Have An Opportunity To Review and Respond to Audit Findings and Recommendations Before the Auditor Submits the Draft Audit Report to the Office of Inspector General for Approval?*

Yes.

A. After the exit conference, the grantee has 30 calendar days to:

(1) Concur with the audit findings and recommendations, or

(2) Disagree with audit findings or recommendations, and provide additional information, if appropriate, to support the grantee's position on specific audit findings.

B. The auditor will summarize the grantee's response in the final report and include the complete text of the grantee's response as an attachment. The grantee may ask the Regional Director for additional review time. This written request must include supporting justification. The Regional Director responds to the grantee's request and instructs the auditor and the grantee accordingly, in writing.

*3.15 Will the Auditor Respond to the Grantee's Written Comments on Draft Audit Findings and Recommendations?*

Yes. The auditor answers the grantee in the draft audit report in the auditor's rejoinder.

*3.16 When Is the Auditor's Report Submitted to the OIG?*

After the grantee's response and the auditor's rejoinder are incorporated, the auditor submits the draft audit report to the OIG.

*3.17 Who Issues the Final Audit Report and To Whom Is It Issued?*

After reviewing the auditor's draft audit report, the OIG issues the final audit report to the Regional Director via a transmittal memorandum. The auditor sends copies of the report to the Chief, Division of Federal Aid (Washington Office), the Service Audit Liaison Officer, and all other Regional Directors.

*3.18 Who Provides the Final Audit Report to the Grantee?*

The Regional Director transmits a copy of the final audit report to the grantee within 10 working days of receipt of the report from the OIG.

*3.19 Who Can Distribute the Final Audit Report to the Public?*

The OIG originates the final audit report and is responsible for distribution. The Regional Director may, with permission from the OIG, distribute this report to the public, but only after the grantee has received the report. The grantee may release the report at its discretion.

*3.20 Will You Post the Final Audit Report on the Internet?*

The Chief, Division of Federal Aid (Washington Office) will coordinate with the Chief, Division of Policy and Directives Management, and the OIG to determine if posting a specifically requested document on the Internet is appropriate.

**Chapter 4, Audit Resolution, Part 417 Fish and Wildlife Service Manual (417 FW 4)**

*4.1 What Is the Purpose of this Chapter?*

This chapter establishes policy and procedures for tracking and resolving findings and implementing recommendations from audits of Federal Aid Program grantees. See 417 FW 1 for authorities, responsibilities, and definitions. Other chapters in this Part establish policy and procedures for audit scoping, planning, conducting and reporting, and appeals.

*4.2 When Does Audit Resolution Begin?*

The formal audit resolution process begins on the date the OIG issues the final audit report. However, the Regional Director will work with the grantee while the audit is in progress to resolve issues that the auditor identifies. Exhibit 1 provides the maximum time frames for each phase of the audit resolution process.

*4.3 What Is the Purpose of the OIG's Transmittal Memorandum?*

The OIG's transmittal memorandum transmits the final audit report to the Service and is the document of record for identifying the audit findings that we must address specifically in the CAP and report to the OIG.

*4.4 Who Prepares the CAP?*

The Regional Director and the grantee negotiate the terms of the CAP through written and oral discussions of the auditor's findings and recommendations, the grantee's response, the auditor's rejoinder, and the Service's determination. The Regional Chief, Division of Federal Aid, in coordination with the grantee and the Washington Office Division of Federal Aid, prepares the CAP for the Regional Director's signature.

*4.5 How Much Time Does the Service Have To Prepare a CAP?*

The Service has 90 calendar days from the date the OIG issues the final audit report to resolve all audit findings with the grantee and to prepare the CAP.

*4.6 Can the Service Request Additional Time To Prepare the CAP?*

Either we or a grantee may need additional time to gather information necessary to develop the CAP. Requests are made as follows:

A. If the grantee needs an extension, he/she must notify the Regional Director in writing at least 15 calendar days prior to the 90 calendar day deadline and provide a justification for the extension.

B. We can make one request to the OIG for 30 additional calendar days to prepare the CAP. If the Regional Director requests additional time, he/she will explain why the additional time is necessary and provide a copy of the request to the grantee.

*4.7 What Are the Content and Format for a CAP?*

A. Include a cover page that clearly identifies the grantee audited, the years audited, and the report number. Obtain this information from the title of the OIG's final audit report.

B. The CAP contains two parts. The first part addresses all audit findings and recommendations that the OIG identifies in the transmittal memorandum. The second part, called the addendum, addresses any other findings in the final audit report. Each part contains:

(1) Auditor's Findings and Recommendations. The OIG reports these for resolution. The OIG's transmittal memorandum identifies questioned costs or procedures and the auditor's recommendations that we must address in the CAP. It assigns titles and numbers to the auditor's

recommendations for tracking in the CAP.

(2) Service Determination. The Service sustains (accepts) or does not sustain (rejects) the auditor's finding and recommendation. Sustained recommendations from the final audit report must result in planned corrective actions. If the Regional Director does not sustain an audit finding, he or she explains the basis, including legal citations, for that determination. The CAP addresses both sustained and nonsustained findings.

(3) Corrective Action. This component identifies specific corrective action(s) to resolve the finding consistent with the Service Determination. It specifies necessary actions, target dates, and the person responsible for carrying out each action. It also specifies how the grantee should implement the corrective actions to resolve the issues.

(4) Resolution. This component describes documentation that we require of the grantee to verify implementation of the corrective action(s) and target dates.

*4.8 Who Must Review and Concur With the CAP?*

The Assistant Director—Migratory Birds and State Programs will review the draft CAP and decide whether to concur or not concur within 30 calendar days from the date the Region forwards the CAP to the Washington Office.

*4.9 What Happens if the Assistant Director Does Not Concur With the Region's Draft CAP?*

The Assistant Director will work with the Regional Director to resolve any disagreements with the CAP. If they cannot resolve their differences, the Director will make the final decision. The Assistant Director may request a 30 calendar day extension from the OIG if needed and if we have not requested a previous extension.

*4.10 Who Reviews and Concurs With the CAP at the Department Level?*

The Assistant Secretary for Policy, Management and Budget is the audit followup official for the Department of the Interior and makes final determination on audit resolution. The Office of Financial Management (PFM) is the Departmental office delegated authority by the Assistant Secretary to deal with audit resolution. The PFM notifies the Director whether or not it concurs with the Service's determination.

*4.11 Are All Audit Recommendations Tracked by the Department?*

No.

A. The OIG identifies the recommendations that we must resolve and describes them in the final audit report transmittal memorandum. If we have not resolved the identified recommendations within the 90 calendar days specified in the memorandum (or 120 calendar days if an extension has been granted), the OIG will refer them to PFM for tracking. The PFM reports back to the OIG when those recommendations are resolved.

B. Nontracked audit recommendations are all other recommendations in the final audit report. We do not report resolution of nontracked recommendations to the OIG. However, the Regional Director is responsible for resolving all audit recommendations-both tracked and nontracked.

*4.12 How Are Nontracked Audit Recommendations Resolved?*

The Regional Director negotiates and documents resolution of nontracked recommendations in the CAP addendum. The addendum follows the same format as part 1 of the CAP. The Regional Director retains the addendum and tracks corrective actions outlined therein. Resolution and issue closure documentation must meet the same standards as those described for part 1. These records are retained in Regional Federal Aid audit files. A grantee may appeal the actions contained in the CAP addendum by initiating the process described in 417 FW 5.

*4.13 How Much Time Does the Grantee Have To Implement the CAP?*

The corrective action for each finding has a specific deadline as negotiated during development of the CAP. A grantee may request additional time from the Regional Director. The request must be in writing and justify the time requested. The Regional Director responds in writing within 10 working days and copies the Chief, Division of Federal Aid (Washington Office). The Chief notifies the Audit Liaison Officer of the change.

*4.14 Who Monitors Implementation of the CAP?*

The Regional Director monitors, tracks, and documents implementation of the CAP and keeps the Director, through the Chief, Division of Policy and Directives Management, informed of implementation progress.

*4.15 Who Forwards the CAP to the OIG?*

Within 2 weeks of the Washington Office decision, the Regional Director signs and forwards the CAP,

A. Excluding the addendum, to the OIG, and

B. Including the addendum, to the grantee for implementation, and provides a copy to the Chief, Division of Federal Aid (Washington Office).

*4.16 Who Can Distribute the CAP to the Public?*

The Regional Director originates the CAP and makes it available to the public upon request, but only after the grantee has received a copy. A grantee may release a copy of the CAP at his or her discretion.

*4.17 Will You Publish a Copy of the CAP on the Internet?*

The Chief, Division of Federal Aid (Washington Office) will coordinate with the Chief, Division of Policy and Directives Management, and the OIG to determine if posting a specifically requested document on the Internet is appropriate.

*4.18 How Can a Final CAP Be Modified?*

The final CAP may only be modified by the Director of the Service or the Secretary, Department of the Interior as the result of an appeal completed in accordance with Part 417 FW 5 or 50 CFR 80.7 except that deadlines for implementation of corrective actions may be changed upon written approval by the Regional Director in accordance with paragraph 4.13 and after consultation with the Chief, Division of Federal Aid (Washington Office).

*4.19 Can a Grantee Appeal a Service Determination or Corrective Action in the Final CAP?*

Yes. A grantee may appeal a Service determination, corrective action, or resolution contained in the final CAP by the appeals process described in 417 FW 5.

*4.20 Are Status Reports Required During Implementation of the CAP?*

If the PFM requires us to submit status reports on specific corrective actions, we will request status reports from the grantee.

*4.21 How Is an Audit Closed?*

The Regional Director sends a memorandum to the Director documenting that final action is complete (all corrective actions have been implemented) and requesting the audit be closed. The memorandum is routed through the Chief, Division of Federal Aid (Washington Office) and the Chief, Division of Policy and Directives Management for review and concurrence. When all concerns are

satisfied, the Service Audit Liaison Officer forwards the memorandum to PFM. If PFM concurs that all action has been implemented, PFM notifies the Service Audit Liaison Officer that the audit is closed. The Service Audit Liaison Officer notifies the Chief, Division of Federal Aid (Washington Office) who conveys the message of acceptance and audit closure to the appropriate Regional Director. The Regional Director notifies the grantee after the PFM concurs that the audit findings are resolved and closed.

**Time Frames**

*Audit Resolution Process for Federal Aid Grant Audits*

**Note:** The OIG allows 90 calendar days for bureaus to prepare a corrective action plan. The number of days indicated below is the established maximum time period for each resolution phase.

| Calendar day | Responsible organization | Action/comments |
|---|---|---|
| 1 | OIG | OIG issues final audit report. (Resolution time tracking process starts.) |
| 2–45 | RO/State/ WO (FA) | RO prepares draft CAP in coordination with State and WO Division of Federal Aid. Submits the draft CAP to the AD–MBSP, attention: FA. (RO must complete action with 45 calendar days from OIG issuance of final report.) |
| 46—75 | WO (FA/AD–MBSP) | FA reviews the draft CAP and submits to the AD–MBSP for concurrence and return to the RO. (WO must complete action within 30 calendar days of date that RO forwards report to WO.) |
| 76—90 | AD–MBSP/D OIG | If disagreement exists between the RO and WO, the AD–MBSP forwards the draft CAP to the Director for decision and formally requests a 30-day extension from the OIG. (WO must complete action prior to 90-day resolution time frame.) |
| 76—120 | RO | RO prepares final CAP for Regional Director signature. RO transmits original to OIG with copies to the WO and the State within 2 weeks of WO decision. (RO must complete action within 2 weeks of WO decision.)* |
| 90–120 | OIG | OIG reviews the final CAP and notifies PFM that either:<br>—Recommendations are placed in tracking with PFM, or<br>—FWS has failed to resolve the audit. |
| 120+ | PFM/FWS | PFM works with FWS to track audit until all resolution actions are complete. |

*Appeal Process: If the Region cannot resolve the audit, the State may appeal to the Director, Fish and Wildlife Service (see 417 FW 6).

Legend:

AD–MBSP—Assistant Director—Migratory Birds and State Programs
D—Director
FA—Division of Federal Aid, WO
FWS—Fish and Wildlife Service
OIG—Office of the Inspector General
PFM—Office of Financial Management (Department)
RD—Regional Director
RO—Regional Office
State—State fish and game agency
WO—Washington Office

**Chapter 5, Audit Appeals, Part 417 Fish and Wildlife Service Manual (417 FW 5)**

*5.1 What Is the Purpose of This Chapter?*

This chapter establishes policy and procedures for appealing audit findings or corrective actions for Federal Aid Program grantee audits. See 417 FW 1 for authorities, responsibilities, and definitions. Other chapters in this Part establish policy and procedures for audit scoping, planning, conducting and reporting, and resolution.

*5.2 Who May Appeal?*

A grantee impacted by a CAP may appeal Service determinations, corrective actions, or resolutions in the CAP.

*5.3 How Much Time Does the Grantee Have To Appeal?*

A grantee must file a written appeal to the Director within 21 calendar days from the date the Regional Director approved the CAP.

*5.4 What Does the Appeal Contain?*

The appeal must:

A. Specify which Service determinations, corrective actions, or resolutions they are appealing.

B. Provide information as to why an appeal is being made and include justification and citations supporting their position. This justification supplements information that the grantee provided in the original response to the audit findings.

C. Include a brief summary of prior discussions or negotiations with the Service on the action being appealed.

*5.5 Who Makes the Final Decision on an Appeal to the Service?*

The Director makes the final decision on each appeal after consultation with technical experts. The Director will work with the grantee(s), appropriate Service Region(s), Washington Office staff, and others as needed to resolve the appeal within 30 calendar days after receipt of all pertinent documents.

*5.6 Can a Grantee Appeal the Service Director's Decision?*

Yes. A grantee may appeal the Service Director's decision within 30 days of the date of mailing of the adverse decision. It must be directed to the Department of the Interior, Director, Office of Hearings and Appeals. The Director, Office of Hearings and Appeals, an Ad Hoc Appeals Board appointed by that Director, or an Administrative Law Judge of that office, will review the record, hold a hearing on all or part of the record, or listen to oral arguments, and make disposition of the appeal. Such an appeal should be made pursuant to 43 CFR 4.700—4.704.

**Chapter 6, Single Audit Act Report Resolution, Part 417 Fish and Wildlife Service Manual (417 FW 6)**

*6.1 What Is the Purpose of This Chapter?*

This chapter establishes Service policy for resolving findings and implementing recommendations from audits of Federal Aid Program grantees under the Single Audit Act. See 417 FW 1 for authorities, responsibilities, and definitions.

*6.2 To what Program Does This Chapter Apply?*

This chapter applies to Single Audit Act audits of grantees that receive funds through the Federal Aid Program. These audits are separate from the Federal Aid Program specific audits.

*6.3 Is the Service Responsible for Resolving All Audit Findings?*

No. We are only responsible for resolving findings, recommendations, and questioned costs that directly relate to funds that we provide to the grantee.

*6.4 Does the OIG Notify the Service When Audits Are Completed?*

The OIG will provide excerpts from the Single Audit Report to the Director or Regional Director if there are issues that we must address. The OIG's transmittal memorandum will identify the specific findings and questioned costs that we must resolve. The OIG does not notify us if the Single Audit Report contains no findings directly related to funds that we provide to the grantee.

*6.5 What happens When the Service Receives a Single Audit Report?*

A. OIG Provides Report to Washington Office

The Service Audit Liaison Officer:

(1) Notifies the Chief, Division of Federal Aid (Washington Office) and other Service offices, as needed, that we have received a Single Audit report that contains findings that we must resolve.

(2) Forwards the documents to the Chief, Division of Federal Aid (Washington Office) for review and transmittal to the appropriate Regional Director for action.

B. OIG Forwards Reports to the Regional Office

The Chief, Division of Federal Aid (Regional Office) will notify and provide a copy to the Chief, Division of Federal Aid (Washington Office) and the Service Audit Liaison Officer. The Service Audit Liaison Officer will coordinate with other affected offices, as necessary.

*6.6 How Much Time Does the Service Have To Respond to the Single Audit Report?*

The OIG establishes a deadline in the transmittal memorandum submitted with the Single Audit Report. The Regional Director may, with concurrence of the Assistant Director—Migratory Birds and State Programs, request that the OIG provide additional time for response. The request will include a justification for the extension.

*6.7 How Are Findings Resolved?*

The Regional Director is responsible for overseeing and monitoring the Service response to Single Audit Reports in accordance with procedures in 417 FW 4.

*6.8 Who Maintains Single Audit Report Resolution Files?*

The Regional Director will maintain all files related to resolution of Single Audit Act audit findings. These files will include, but not be limited to:

A. Copies of all relevant correspondence.

B. Single Audit Report and OIG transmittal memorandum.

C. Service response to OIG's transmittal memorandum.

D. CAP and revised corrective actions, when appropriate.

E. Documentation that the grantee has resolved the audit findings and questioned costs in accordance with approved corrective actions.

*6.9 Can the Grantee Appeal a Corrective Action?*

Yes. Grantees may appeal using the procedures outlined in 417 FW 5.

Dated: November 2, 2001.

**Joseph E. Doddridge,**

*Assistant Secretary for Fish and Wildlife and Parks.*

[FR Doc. 01–30905 Filed 12–13–01; 8:45 am]

BILLING CODE 4310–55–P

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## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

### Electric Utility Power Rate and Service Fee Adjustment, Mission Valley Power

**AGENCY:** Bureau of Indian Affairs, Interior.

**ACTION:** Notice of proposed rate adjustment.

**SUMMARY:** The Bureau of Indian Affairs (BIA) proposes to adjust the electric power rates for operation and maintenance assessed to customers of the Mission Valley Power Utility. We request your comments on the proposed rate adjustment.

**DATES:** Interested parties may submit comments on the proposed rate adjustment. Comments must be submitted on or before February 12, 2002.

**ADDRESSES:** All comments on the proposed rate adjustment must be in writing and addressed to: Terrance Virden, Director, Office of Trust Responsibilities, Attn.: Irrigation and Power, MS–3061–MIB, Code 210, 1849 C Street, NW, Washington, DC 20240, Telephone (202) 208–5480.

**FOR FURTHER INFORMATION CONTACT:** Stanley Speaks, Regional Director, Bureau of Indian Affairs, Northwest Region Office, 911 NE 11th Avenue, Portland, Oregon 97232–4169, Telephone (503) 231–6702.

**SUPPLEMENTARY INFORMATION:**

**What Is Mission Valley Power (MVP)?**

MVP is a tribal enterprise of the Confederated Salish and Kootenai Tribes (CSKT) operating and maintaining the federally-owned power utility on the Flathead Indian Reservation under the authority of a Public Law 93–638 contract (25 U.S.C. 450f).

**Where Can Information on the Regulatory and Legal Citations in This Notice Be Obtained?**

You can contact the Northwest Regional Director's office at the location stated above or you can use the Internet site for the Government Printing Office at *http://www.gpo.gov.*

**What Is the Purpose of This Notice?**

This notice is to notify you that we propose to adjust the power rates and service fees for one of our power utilities. We are publishing this notice in accordance with the BIA's regulations governing its power rates and service fees of power utilities, specifically, 25 CFR 175.10–175.12. These sections provide for the fixing and announcing of power rates and related information for BIA Indian Electric Power Utilities.

**What Authorizes Us To Issue This Notice?**

Our authority to issue this notice is vested in the Secretary of the Interior by 5 U.S.C. 301, and the Act of August 7, 1946 (60 Stat. 895; 25 U.S.C. 385). The Secretary has delegated this authority to the Assistant Secretary—Indian Affairs under Part 209, Chapter 8.1A, of the Department of the Interior's Departmental Manual, and by memorandum dated January 25, 1994, from the Chief of Staff, Department of the Interior, to Assistant Secretaries, and Heads of Bureaus and Offices.

**When Will the Rate Adjustment Be Effective?**

The rate adjustment will be in effect starting on, and retroactive to, November 1, 2001.

**How Do We Calculate Our Rates?**

We calculate rates in accordance with 25 CFR 175.10 by estimating the cost of normal operation and maintenance at our power utility for which you receive

service. Normal operation and maintenance mean the expenses we incur to provide direct support or benefit for the power utility's activities for administration, operation, maintenance, and rehabilitation. These costs are then applied as stated in the rate table in this notice.

**What Kinds of Expenses Are Included in Determining Our Estimated Cost of Normal Operation and Maintenance?**

We include the following expenses as prescribed in 25 CFR 175.10:

(a) Personnel salary and benefits for the utility engineer/manager and utility employees under their management control;

(b) Materials and supplies;

(c) Major and minor vehicle and equipment repairs;

(d) Equipment, including transportation, fuel, oil, grease, lease and replacement;

(e) Capitalization expenses;

(f) Acquisition expenses;

(g) Maintenance of a reserve fund available for contingencies or emergency expenses for, and insuring, reliable operation of the power system; and

(h) Other expenses we determine necessary to properly perform the activities and functions characteristic of a power utility.

**When Should You Pay Your Power Bill?**

We will mail you a bill for your power service and energy consumption. You should pay your bill no later than the due date stated on the bill. The due date is normally based on locally established payment requirements at each of our projects.

**What Information Must We Collect for Billing Purposes and Why Are We Collecting It?**

We must collect certain information from you to ensure we can properly process, bill for, and collect monies owed to the United States. We are required to collect the taxpayer identification number or social security number under the authority of, and as prescribed, in the Debt Collection Improvement Act of 1996. At a minimum, this information is:

(a) Full legal name of person or entity responsible for paying the bill;

(b) Adequate and correct address for mailing or hand delivering our bill; and

(c) The taxpayer identification number or social security number of the person or entity responsible for paying the bill.

**What Can Happen If You Do Not Provide the Information We Require for Billing Purposes?**

We can refuse to provide you service as prescribed in 25 CFR 175.21, 175.22.

**What Can Happen if You Don't Pay Your Bill by the Due Date and Could This Affect Your Power Service?**

If you do not pay your bill by the due date, you will receive a past due notice no less than 30 days after the due date. We have the right to refuse power service to your facility where the bill is past due for that facility. We can continue to refuse power service to that facility until you pay the past due bill or make payment arrangements that we agree to. When you receive your bill, it will have additional information concerning your rights. Our authority to demand payment of your past due bill is 31 CFR 901.2, ''Demand for payment.''

**Are There any Additional Charges if you Are Late Paying Your Bill?**

Yes. We will use the value of funds to the United States as established by the Secretary of the Treasury to calculate the interest you will be assessed. You will not be assessed this charge until your bill becomes past due which occurs on the 31st day after the due date indicated on your bill. However, interest will accrue from the due date on your bill and you will be charged an administrative fee of $12.50 for each time we try to collect your past due bill. Should your bill become over 90 days past due, you will be assessed a penalty charge of 6 percent per annum and it will accrue from the date your bill initially became past due. Our authority to assess interest, penalties, and administration fees on past due bills is prescribed in 31 CFR 901.9, ''Interest, penalties, and administration costs''.

**What Else Can Happen to Your Past Due Bill?**

If you do not pay your bill or make payment arrangements that we agree to, we are required to send your past due bill to the United States Treasury (Treasury) for further action. We must forward your bill to Treasury no later than 180 days after the original due date of your power bill. Our authority to send your bill to Treasury is prescribed in 31 CFR 901.1, ''Aggressive agency collection activity''.

**What Power Rates and Service Fees Are Proposed for Adjustment by This Notice?**

The following table shows the proposed rate adjustment. Not all rates were adjusted. The rates that are proposed for adjustment are noted.

| Rate class (• denotes proposed rate or fee adjustment) | Present rate | Proposed rate |
|---|---|---|
| Residential: | | |
| Basic charge per month | $5.00 | $5.00 |
| Energy charge per kilowatt-hour | 0.04739 | 0.04739 |
| • Minimum monthly charge (May 1–October 31) | 10.00 | (1) |
| • Minimum monthly charge (November 1–April 30) | 20.00 | (1) |
| • Minimum Monthly Charge (year round) | (1) | 10.00 |
| Small commercial without demand: | | |
| Basic charge per month | $5.00 | $5.00 |
| • Energy Rate per kilowatt-hour | 0.05495 | 0.05495 |
| Small commercial service with demand charge, rename to General Service with demand charge: | | |
| Single phase service basic charge per month | 20.00 | 20.00 |
| Three phase service basic charges per month | 40.00 | 40.00 |
| • Demand charge per kilowatt of billing demand | 4.50 | 4.10 |
| • Energy charge per kilowatt-hour | 0.04064 | 0.03735 |
| Large commercial service: | | |
| Basic charge per month | 125.00 | 125.00 |
| Demand charge per kilowatt of billing demand | 5.00 | 5.00 |
| Energy charge per kilowatt-hour | 0.03115 | 0.03115 |
| Irrigation pump service: | | |
| Seasonal charge (whichever is greater): | | |

| Rate class (• denotes proposed rate or fee adjustment) | Present rate | Proposed rate |
|---|---|---|
| Minimum charge, or | 132.00 | 132.00 |
| Charge per horsepower | 6.00 | 6.00 |
| Monthly charge per rated horsepower of pump | 11.05 | 11.05 |
| Energy charge per kilowatt-hour | 0.03586 | 0.03586 |
| Area lighting rate class, monthly charge: | | |
| Install on existing pole or structure: | 6.87 | 7.20 |
| • 7,000 lumen, mercury vapor unit (existing only) | 9.82 | 10.30 |
| • 20,000 lumen, mercury vapor unit (existing only) | 6.36 | 6.70 |
| • 9,000 lumen, high-pressure sodium unit | 8.60 | 9.00 |
| • 22,000 lumen, high-pressure sodium unit. | | |
| Install with new pole: | 8.62 | 9.05 |
| • 7,000 lumen, mercury vapor unit (existing only) | 11.28 | 11.85 |
| • 20,000 lumen, mercury vapor unit (existing only) | 8.12 | 8.50 |
| • 9,000 lumen, high-pressure sodium unit | 10.32 | 10.85 |
| • 22,000 lumen, high-pressure sodium unit. | | |
| Street lighting service: | | |
| Metered Service (not including street light fixtures): | | |
| Basic monthly charge | 5.00 | 5.00 |
| Energy charge | 0.05495 | 0.05495 |
| Unmetered Service: | | |
| This rate class is available only to municipalities or communities for ten or more lighting units in a group. The charges for this service are subject to a negotiated contract with MVP. | (2) | (2) |
| Unmetered service charge per month: | | |
| • Charges for an unmetered service under the present rate structure are determined on an individual basis. The rate proposed for this service is a flat monthly charge (unmetered street light service is not part of this rate class). | (2) | 15.00 |

[1] Not used.
[2] Negotiated.

**Consultation and Coordination With Tribal Governments (Executive Order 13175)**

The CSKT operates the utility under a Public Law 93–638 contract. As part of the contractual relationship, there are continuing consultations between the CSKT and the BIA. These consultations meet the spirit and intent of the Executive Order.

**Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use (Executive Order 13211)**

This is a notice for a proposed rate adjustment at a BIA owned electric power utility. These rate adjustments will have no adverse effects on energy supply, distribution, or use (including a shortfall in supply, price increases, and increased use of foreign supplies) should the proposed rate adjustment be implemented.

**Regulatory Planning and Review (Executive Order 12866)**

This rate adjustment is not a significant regulatory action and does not need to be reviewed by the Office of Management and Budget under Executive Order 12866.

**Regulatory Flexibility Act**

This rate adjustment is not a rule for the purposes of the Regulatory Flexibility Act because it is ''a rule of particular applicability relating to rates''. 5 U.S.C. 601(2)(1996).

**Unfunded Mandates Act of 1995**

This rate adjustment imposes no unfunded mandates on any governmental or private entity and is in compliance with the provisions of the Unfunded Mandates Act of 1995.

**Takings (Executive Order 12630)**

The Department has determined that this rate adjustment does not have significant ''takings'' implications. The rate adjustment does not deprive the public, state, or local governments of rights or property.

**Federalism (Executive Order 13132)**

The Department has determined that this rate adjustment does not have significant Federalism effects because it pertains solely to Federal-tribal relations and will not interfere with the roles, rights, and responsibilities of states.

**Civil Justice Reform (Executive Order 12988)**

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.

**Paperwork Reduction Act of 1995**

This rate adjustment does not affect the collections of information which have been approved by the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), under the Paperwork Reduction Act of 1995. The OMB control number is 1076–0141 and expires November 30, 2002.

**National Environmental Policy Act**

The Department has determined that this rate adjustment does not constitute a major Federal action significantly affecting the quality of the human environment and that no detailed statement is required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321) *et. seq.* (1996).

Dated: December 3, 2001.

**Neal A. McCaleb,**

*Assistant Secretary—Indian Affairs.*

[FR Doc. 01–30882 Filed 12–13–01; 8:45 am]

BILLING CODE 4310–02–P

## DEPARTMENT OF THE INTERIOR

## Bureau of Indian Affairs

## Indian Gaming

**AGENCY:** Bureau of Indian Affairs, Interior.

**ACTION:** Notice of approved Tribal-State Compact.

**SUMMARY:** Pursuant to section 11 of the Indian Gaming Regulatory Act of 1988 (IGRA), Public Law 100–497, 25 U.S.C. 2710, the Secretary of the Interior shall publish, in the **Federal Register**, notice

of approved Tribal-State Compacts for the purpose of engaging in Class III gaming activities on Indian lands. The Assistant Secretary—Indian Affairs, Department of the Interior, through his delegated authority, has approved the Class III Gaming Agreement between the Confederated Salish and Kootenai Tribes of the Flathead Nation and the State of Montana, which was executed on October 12, 2001.

**DATES:** This action is effective December 14, 2001.

**FOR FURTHER INFORMATION CONTACT:** George T. Skibine, Director, Office of Indian Gaming Management, Bureau of Indian Affairs, Washington, DC 20240; (202) 219–4066.

Dated: November 30, 2001.

**Neal A. McCaleb,**

*Assistant Secretary—Indian Affairs.*

[FR Doc. 01–30906 Filed 12–13–01; 8:45 am]

**BILLING CODE 4310–02–M**

## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

### Indian Gaming

**AGENCY:** Bureau of Indian Affairs, Interior.

**ACTION:** Notice of approved Tribal-State Compacts.

**SUMMARY:** Pursuant to section 11 of the Indian Gaming Regulatory Act of 1988 (IGRA), Public Law 100–497, 25 U.S.C. 2710, the Secretary of the Interior shall publish, in the **Federal Register**, notice of approved Tribal-State Compacts for the purpose of engaging in Class III gaming activities on Indian lands. The Assistant Secretary—Indian Affairs, Department of the Interior, through his delegated authority, has approved the Tribal-State Compacts between the Pueblos of Isleta, Laguna, Sandia, San Juan, Santa Ana, Santa Clara and Acoma and the State of New Mexico, which were executed on or about October 3, 2001.

**DATES:** This action is effective December 14, 2001.

**FOR FURTHER INFORMATION CONTACT:** George T. Skibine, Director, Office of Indian Gaming Management, Bureau of Indian Affairs, Washington, DC 20240; (202) 219–4066.

Dated: November 30, 2001.

**Neal A. McCaleb,**

*Assistant Secretary—Indian Affairs.*

[FR Doc. 01–30908 Filed 12–13–01; 8:45 am]

**BILLING CODE 4310–02–M**

## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

### Indian Gaming

**AGENCY:** Bureau of Indian Affairs, Interior.

**ACTION:** Notice of approved Tribal-State Compacts.

**SUMMARY:** Pursuant to section 11 of the Indian Gaming Regulatory Act of 1988 (IGRA), Public Law 100–497, 25 U.S.C. 2710, the Secretary of the Interior shall publish, in the **Federal Register**, notice of approved Tribal-State Compacts for the purpose of engaging in Class III gaming activities on Indian lands. The Assistant Secretary—Indian Affairs, Department of the Interior, through his delegated authority, has approved the Tribal-State Compacts between the Pueblos of Tesuque and San Felipe and the State of New Mexico, which were executed on October 12, 2001.

**DATES:** This action is effective December 14, 2001.

**FOR FURTHER INFORMATION CONTACT:** George T. Skibine, Director, Office of Indian Gaming Management, Bureau of Indian Affairs, Washington, DC 20240; (202) 219–4066.

Dated: November 30, 2001.

**Neal A. McCaleb,**

*Assistant Secretary—Indian Affairs.*

[FR Doc. 01–30907 Filed 12–13–01; 8:45 am]

**BILLING CODE 4310–02–M**

## INTERNATIONAL TRADE COMMISSION

**[Investigation No. 337–TA–448]**

### In the Matter of Certain Oscillating Sprinklers, Sprinkler Components, and Nozzles; Request for Written Submissions on Remedy, the Public Interest, and Bonding

**AGENCY:** International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission is requesting briefing on remedy, the public interest, and bonding in the above-captioned investigation. The Commission previously found the only remaining respondent in the investigation to be in default.

**FOR FURTHER INFORMATION CONTACT:** Laurent de Winter, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone 202–708–5452. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS–ON–Line) at *http://dockets.usitc.gov/eol.public.* Hearing-impaired persons are advised that information on the matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810. Copies of all nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone 202–205–2000.

**SUPPLEMENTARY INFORMATION:** The Commission instituted this investigation, which concerns allegations of unfair acts in violation of section 337 of the Tariff Act of 1930 in the importation and sale of certain oscillating sprinklers, sprinkler components, and nozzles, on February 9, 2001. 66 FR 9721.

On June 12, 2001, the Commission determined not to review the presiding administrative law judge's (''ALJ'') initial determination (''ID'') (Order No. 7) finding respondent Watex International Co. Ltd., (''Watex'') to be in default for claims pending against it relating to U.S. Letters Patent 5,645,218, (''the '218 patent'') and U.S. Letters Patent 5,511,727 (''the '727 patent''). On October 1, 2001, complainant L.R. Nelson Corp. (''Nelson'') filed a declaration seeking, pursuant to section 337(g)(1) and rule 210.16(c)(1), entry of a limited exclusion order against Watex barring importation into the United States of Watex sprinklers infringing the claims in issue of the '218 and '727 patents. In its declaration, Nelson did not seek issuance of a cease and desist order against Watex.

On September 13, 2001, Nelson moved to withdraw all allegations related to U.S. Letters Patent 6,036,117 (''the '117 patent'') from the investigation. On September 25, 2001, the ALJ issued an ID (Order No. 26) granting the motion to withdraw the allegations relating to the '117 patent, and on October 26, 2001, the Commission determined not to review that ID. This withdrawal terminated the investigation with respect to all respondents except Watex, which still has claims relating to the '218 and '727 patents pending against it.

Section 337(g)(1), 19 U.S.C. (g)(1), authorizes the Commission to order

limited relief against a respondent found in default unless, after consideration of public interest factors, it finds that such relief should not issue. If the Commission decides to issue a limited exclusion order, it must consider what the amount of the bond should be during the Presidential review period.

In connection with the final disposition of this investigation, the only potential remedy is a limited exclusion order that would result in the exclusion of sprinklers manufactured by Watex from entry into the United States. Accordingly, the Commission is interested in receiving written submissions that address the scope of such an order. If a party seeks exclusion of an article from entry into the United States for purposes other than entry for consumption, it should so indicate and provide information establishing that activities involving other types of entry either are adversely affecting it or likely to do so. For background, see In the Matter of Certain Devices for Connecting Computers via Telephone Lines, Inv. No. 337–TA–360, USITC Pub. No. 2843 (December 1994) (Commission Opinion).

If the Commission contemplates a remedy, it must consider the effects of that remedy upon the public interest. The factors the Commission will consider in this investigation include the effect that a limited exclusion order would have on (1) the public health and welfare, (2) competitive conditions in the U.S. economy, (3) U.S. production of articles that are like or directly competitive with those that are subject to investigation, and (4) U.S. consumers. The Commission is therefore interested in receiving written submissions that address the aforementioned public interest factors in the context of this investigation.

If the Commission issues a limited exclusion order, the President has 60 days to approve or disapprove the Commission's action. During this period, the subject articles would be entitled to enter the United States under a bond, in an amount determined by the Commission and prescribed by the Secretary of the Treasury. The Commission is therefore interested in receiving submissions concerning the amount of the bond that should be imposed.

**Written Submissions**

The parties to the investigation, interested government agencies, and any other interested parties are encouraged to file written submissions on remedy, the public interest, and bonding. Complainant and the Commission investigative attorney are also requested to submit proposed limited exclusion orders for the Commission's consideration. The written submissions and proposed remedial orders must be filed no later than close of business on January 11, 2002. Reply submissions, if any, must be filed no later than the close of business on January 18, 2002. No further submissions on these issues will be permitted unless otherwise ordered by the Commission.

Persons filing written submissions must file with the Office of the Secretary the original document and 14 true copies thereof on or before the deadlines stated above. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment unless the information has already been granted such treatment during the proceedings. All such requests should be directed to the Secretary of the Commission and must include a full statement of the reasons why the Commission should grant such treatment. See § 201.6 of the Commission's rules of practice and procedure, 19 CFR 201.6. Documents for which confidential treatment by the Commission is sought will be treated accordingly. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary.

This action is taken under the authority of section 337 of the Tariff Act of 1930, 19 U.S.C. 1337, and § 210.16 of the Commission's rules of practice and procedure, 19 CFR 210.16.

Issued: December 11, 2001.

By order of the Commission.

**Donna R. Koehnke,**

*Secretary.*

[FR Doc. 01–30924 Filed 12–13–01; 8:45 am]

BILLING CODE 7020–02–P

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## DEPARTMENT OF LABOR

### Office of Disability Employment Policy; Agency Information Collection Activities; Proposed collection; Comment request; Employer Assistance Referral Network (EARN)

**AGENCY:** Office of Disability Employment Policy, Department of Labor.

**ACTION:** Notice of proposed collection.

**SUMMARY:** The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearence consultation process 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 process helps ensure that requested data can be provided in the desired format, reporting burdens are minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently the Office of Disability Employment Policy (ODEP) is soliciting comments concerning the proposed data collection for the following Employer Assistance Referral Network (EARN) forms: EARN Provider Enrollment Form; EARN Employer Enrollment Form; EARN Employer and Provider Surveys. A copy of the proposed information collection request (ICR) can be obtained by contacting the office listed below in the address section of this notice.

**DATES:** Written comments must be submitted to the office shown in the address section below on or before February 12, 2002.

**ADDRESSES:** Catherine Breitenbach, U.s. Department of Labor, Office of Disability Employment Policy, 1331 F Street, NW, Third Floor, Washington, DC 20004. Telephone: (202) 376–6200. This is not a toll-free number.

**FOR FURTHER INFORMATION CONTACT:** Catherine Breitenbach, telephone: (202) 376–6200, e-mail: *Breitenbach-catherine@dol.gov.*

**SUPPLEMENTARY INFORMATION:**

**I. Background**

The Employer Assistance Referral Network (EARN) is a new nationwide service designed to provide employers with a technical, educational, and informational resource to simplify and encourage the hiring of qualified workers. Historically, disability programs required employers to do much of the work in the finding and hiring of people with disabilities. The Office of Disability Employment Policy (ODEP) of the Department of Labor has designed EARN to alleviate these barriers and do much of the work for the employer.

EARN is a new service from the Office of Disability Employment Policy (ODEP) of the Department of Labor. This referral service links employers with providers who refer appropriate candidates with disabilities. The service is provided by means of a nationwide toll-free Call Center.

EARN is a service of the Office of Disability Employment Policy which was established pursuant to section 1(a)(1) of the Consolidated Appropriations Act, 2001 (Pub. L. 106–554) (enacting

H.R. 5656, see Title I, ''Departmental Management'') 29 U.S.C. 551 *et seq.*; 5 U.S.C. 301; and Executive Order 13187, ''The President's Disability Employment Partnership Board (PDEPB) (January 10, 2001).

This service, and the data collection component is authorized pursuant to Pub. L. 106–554 which direct the Office of Disability Policy to provides initiatives such as EARN to ''further the objective of eliminating employment barriers to the training and employment of people with disabilities''.

**II. Desired Focus of Comments**

The Department 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 Action**

*This proposed ICR covers four forms:* EARN Provider Enrollment Form, EARN Employer Enrollment Form, EARN Employer Survey and EARN Provider Survey. The enrollment forms (Employer Enrollment and Provider Enrollment) will be used to enroll provider and employers who wish to participate and use this service. The surveys (Employer Survey and Provider Survey) will collect quantitative data on participants' levels of satisfaction with individual service elements and their satisfaction with the service as a whole. The surveys will also solicit free-text comments from participants regarding the service.

*Agency:* U.S. Department of Labor, Office of Disability Employment Policy.

*Titles:* EARN Provider Enrollment Form, EARN Employer Enrollment Form, EARN Employer Survey, EARN Provider Survey.

*OMB Number:*

*Frequency:* Once.

*Affected Public:* Participating Employer and Service Providers.

*Number of Respondents:* EARN Provider Enrollment Form—6,000, EARN Employer Enrollment Form—7,500, EARN Employer Survey—300, EARN Provider Survey—300.

*Estimated Time Per Respondent:* EARN Provider Enrollment Form—20 minutes, EARN Employer Enrollment Form—20 minutes, EARN Employer Survey—20 minutes, EARN Provider Survey—20 minutes.

*Total Burden Hours:*

EARN Provider Enrollment Form—1,980 hours, EARN Employer Enrollment Form—2,475 hours, EARN Employer Survey—100 hours, EARN Provider Survey—100 hours.

*Total Burden Cost (capital/startup):* 0 for all.

*Total Burden Cost (operating/maintaining):* 0 for all.

*Description:* These surveys are designed to collect data from service providers and employers. For each provider, we will collect Point of Contact (POC) information and information about the types of clients the provider serves. We also request information about the size of the provider organization, whether a fee is charged for placement services, and employer references. For each employer, we will collect information about the number of employees, geographic location, industry, specific jobs offered, and Point of Contact (POC) information. The Employer Survey and Provider Survey will collect quantitative data on participants' levels of satisfaction with individual service elements and their satisfaction with the service as a whole. The surveys will also solicit free-text comments from participants regarding the service. We will present survey data in the aggregate for all Employers and Providers. We will combine survey data with system-generated data reports containing demographic data for the sample groups as well as performance data for the Call Center.

Signed at Washington, DC this 9th day of November, 2001.

**William J. Mea,**

*Deputy Assistant Secretary.*

[FR Doc. 01–30854 Filed 12–13–01; 8:45 am]

BILLING CODE 4510–23–P

## DEPARTMENT OF LABOR

### Office of the Secretary

### Submission for OMB Review; Comment Request

December 6, 2001.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of each individual ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation contact Marlene Howze at (202) 693–4158 or E-mail *Howze-Marlene@dol.gov.*

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for BLS, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395–7316), within 30 days from the date of this publication in the **Federal Register**.

*The OMB is particularly interested in comments which:*

* Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
* Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
* Enhance the quality, utility, and clarity of the information to be collected; and minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

*Type of Review:* Revision of a currently approved collection.

*Agency:* Bureau of Labor Statistics (BLS).

*Title:* BLS/OSHS Federal/State Cooperative Agreement (Application Package).

*OMB Number:* 1220–0149.

*Affected Public:* State, Local or Tribal Government.

*Number of Respondents:* 57.

*Number of Annual Responses:* 285.

*Estimated Time Per Response and Total Burden Hours:*

| Form | Annual responses | Average burden (in hrs.) | |
|---|---|---|---|
| | | Per response | Annually |
| Work Statements | 1 | 2 | 2 |
| BLS–OSHS2 ..... | 4 | 1 | 4 |
| Totals ..... | 5 | ..... | 6 |

*Total Annualized Capital/Startup Costs:* $0.

*Total Annual Costs (operating/maintaining systems or purchasing services):* $0.

*Description:* The Bureau of Labor Statistics signs cooperative agreements with states, and political subdivisions thereof, to assist them in developing and administering programs that deal with Occupational safety and Health Statistics (OSHS) and to arrange through these agreements for research to further the objectives of the Occupational Safety and Health Act. The OSHS Cooperative Agreement (CA) is the vehicle through which State Agencies are awarded funds.

Federal regional and national office staffs use information collected under the CA in order to carry out their fiduciary responsibilities to negotiate the CA funding levels with the State Agencies, to monitor their financial and programmatic performance, and to monitor their adherence to administrative requirements, which are imposed by 29 CFR part 967 and other grants-management-related regulations.

**Ira L. Mills,**

*DOL Clearance Officer.*

[FR Doc. 01–30856 Filed 12–13–01; 8:45 am]

**BILLING CODE 4510–24–M**

## DEPARTMENT OF LABOR

### Employment and Training Administration

**[SGA No. DFA 02–102]**

### H–1B Technical Skills Training Grants

**AGENCY:** Employment and Training Administration (ETA), Labor.

**ACTION:** Notice of availability of funds and solicitation for grant applications (SGA). This notice contains all of the necessary information and forms needed to apply for grant funding.

**SUMMARY:** The Employment and Training Administration (ETA), U.S. Department of Labor (DOL), announces the availability of grant funds for skills training programs for unemployed and employed workers. These grants are financed by a user fee paid by employers to bring foreign workers into the U.S. under a new H–1B nonimmigrant visa or at visa renewal. As part of the H–1B nonimmigrant visa program, this skills training program was authorized under the American Competitiveness and Workforce Improvement Act of 1998 (ACWIA), as amended. The grants are intended to be a long-term solution to domestic skill shortages in high skill and high technology occupations. Grant awards will be made only to the extent that funds are available. Section 414(c) of ACWIA as amended, (Pub. L. 106–313; 114 Stat. 1257, 29 USC 2916a(2)(A)(ii)) specifies that the Secretary of Labor shall award 25 percent of the grants under these provisions for demonstration projects or programs under section 171 of the Workforce Investment Act (Pub. L. 105–220, 29 USC 2916) to partnerships that shall consist of at least two businesses or a business-related nonprofit organization that represents more than one business, and that may include any educational, labor, community organization, or workforce investment board, except that such grant funds may be used only to carry out a strategy that would otherwise not be eligible for funds provided through workforce investment boards under H–1b technical Skills Training Grants announced in the **Federal Register** on April 13, 2001 (66 FR 19209), due to barriers in meeting those partnership eligibility criteria, on a national, multi-state, regional, or rural area (such as rural telework programs) basis. Community organizations may include faith-based organizations. Grants will be distributed fairly across rural and urban areas and across geographic regions.

This solicitation describes the application submission requirements, the process that eligible entities must use to apply for funds covered by this solicitation, and how grantees will be selected. This solicitation is the first in a series to fund grants to business partnerships or business-related non-profits.

Approximately $20 million will be available for funding projects under in this solicitation, with six to 16 projects to be selected for funding. The maximum award of each grant will not exceed $3 million. It is anticipated that an additional $16 million will be available for funding projects covered in the 25% of this year's funding through the competitive process for a total $36 million committed to this effort.

**DATES:** Applications for grant awards will be accepted commencing immediately. The closing date for receipt of applications shall be February 12, 2002, at 4:00 p.m. (Eastern Time) at the address below.

**ADDRESSES:** Applications will be mailed to the U.S. Department of Labor, Employment and Training Administration, Division of Federal Assistance, Attention: Ella Freeman, SGA/DFA 02–102, 200 Constitution Avenue, NW., Room S–4203, Washington, DC 20210.

**FOR FURTHER INFORMATION CONTACT:** Questions should be faxed to Ella Freeman, Grants Management Specialist, Division of Federal Assistance, Fax (202) 693–2879. This is not a toll free number. All inquiries should include the SGA number (DFA 02–102) and a contact name, fax and phone number. This solicitation will also be published on the Internet on the Employment and Training Administration's Homepage at *http://www.doleta.gov.* Award notifications will also be published on this Homepage.

**SUPPLEMENTARY INFORMATION:** The Employment and Training Administration (ETA), U.S. Department of Labor (DOL), announces the availability of grant funds for skill training programs for unemployed and employed workers. These grants are financed by a user fee paid by employers to bring foreign workers into the U.S. under a new H–1B nonimmigrant visa or at visa renewal. As part of the H–1B nonimmigrant visa program, this skills training program was authorized under the American Competitiveness and Workforce Improvement Act of 1998 (''the Act''), as amended. The grants are intended to be a long-term solution to domestic skill shortages in high skill and high technology occupations.

The Act creates two separate grant programs. Seventy-five (75%) percent of the available grant funds will be awarded to Local Workforce Investment Boards (Local Boards) established under section 117 of the Workforce Investment Act (WIA) (Pub. L. 105–220, 29 USC 2832), or regional consortia of Local Boards. Regional consortia of boards may be interstate. Each Local Board or consortium of boards receiving grant funds must represent a local or regional public-private partnership that is comprised of at least: (i) One Local Board; (ii) one business or business-related non-profit organization such as a trade association; and (iii) one community-based organization or higher education institution or labor union. Community organizations may include faith-based organizations that will carry out such programs or projects through the One-Stop delivery systems

established under section 121 of WIA (29 USC 2841). These funds were made available under H–1B Technical Skills Training Grants announced in the **Federal Register** on April 13, 2001 (66 FR 19209).

This SGA concerns the remaining 25 percent of the available funds that will be awarded to business partnerships that consist of at least two businesses or a business-related nonprofit organization that represents more than one business. The partnership may also include any educational, labor, community organization, or Local Board. Community organizations may include faith-based organizations. These grant funds may be used only to carryout a strategy that would otherwise not be eligible for the 75 percent funds discussed above. Applicants for the 25 percent funds must explain the barriers they faced in meeting the partnership eligibility criteria for the 75 percent funds—for example, the business partnerships may be on a national, multi-state, regional or rural area basis (such as rural telework programs).

ACWIA 2000 provides resources for skill training in high skill and high technology occupations that are in demand by U.S. business. One key measure of this demand is determined by the number of employer H–1B applications for foreign workers. For example, industries that appear to generate the most current H–1B demand are information technology (IT) and health care. Some examples of specific occupations that can be trained for through this initiative include: registered nurses with four-year degrees, physical therapists, and laboratory technicians. Appendix B to this solicitation provides information on the kinds of occupations certified under the H–1B program by the Department of Labor for the first five months of Fiscal Year 2000 (October 1, 1999 through February 29, 2000) and the number of job openings certified in each occupation.

This initiative will build on similar ETA initiatives that deal with the issue of skill shortages including the June 1998 dislocated worker technology demonstration, the new dislocated worker technology demonstration, the regional skills consortium building awards announced in March 2000, the individual training account demonstration grant awards announced in February 2000 and the skills strategies, partnership training/system building demonstration awards which were announced in June 2000. These efforts were intended to strengthen linkages between employers experiencing skill shortages in specific occupations and the publicly-funded workforce system. In June 1998, $7.5 million in JTPA Title III dislocated worker funds were awarded to 11 organizations throughout the country to train workers in skills related to the information technology industry. In June 1999, over $9.57 million was awarded to 10 grantees to train dislocated workers in the skills necessary to obtain work requiring advanced skills in occupations in manufacturing industry settings, including computers and electronics manufacturing, machinery and motor vehicles, chemicals and petroleum, specialized instruments and devices, and biomedics. On March 2, 2000, 23 awards totaling $15.2 million were announced for the regional skills consortium competition. Finally, this solicitation is taking into account the experience gained from the first, second and third rounds of the H–1B competition for which 9 awards totaling $12.4 million were announced on February 10, 2000, 12 awards totaling $29.2 million were announced on July 19, 2000, and 22 awards totaling $54.0 million were announced on October 20, 2000.

In this round, ETA is soliciting proposals on a competitive basis for the conduct of demonstration projects to provide technical skills training for workers, including both employed and unemployed workers.

This announcement consists of three parts:

- Part I—Application Process.
- Part II—Statement of Work/Reporting Requirements.
- Part III—Review Process/Rating Criteria.

## Part I—Application Process

### *A. Eligible Applicants*

ACWIA, as amended, specifies that grant funds may be used only to carry out a strategy that would otherwise not be eligible for funds provided under provisions establishing the Local Board-based grant, due to barriers in meeting those partnership eligibility criteria, on a national, multi-state, regional, or rural area (such as rural telework programs) basis. Such barriers might include the nationwide, regional or multi-state nature of the applicant firms' business or training needs or labor-management partnerships; a dispersed client base such as rural or other special populations; the use of a geographically dispersed network of education providers or innovative dispersed training methodologies (such as rural telework).

The applicant's proposal is expected to provide a detailed discussion of participating organizations' respective responsibilities. As required by ACWIA, ETA will give consideration in awarding grants to any proposal that demonstrates a significant ability to expand a training program or project through such means as training more workers or offering more courses, and training programs or projects resulting from collaborations, especially with more than one small business (which ACWIA defines as 100 employees or less) or with a labor-management training program or project. The need for training shall be justified through reliable regional, state or local data.

The application must clearly identify the applicant (or the fiscal agent), the grant recipient (and/or fiscal agent), and describe its capacity to administer this project. The fiscal agent may be one of the partner businesses, a business-related nonprofit organization, an educational institution, labor union, community-based organization (which may be faith-based), Local Board or related unit of state or local government.

Part III of this announcement enumerates and defines in depth a series of criteria that will be utilized to rate applicant submissions. Briefly, these criteria are:

I. Statement of Need
II. Service Delivery Strategy
III. Target Population
IV. Sustainability
V. Linkages with Key Partners
VI. Outcomes
VII. Cost Effectiveness

### *B. Submission of Proposals*

Applicants must submit one original and two copies of their proposal. The proposal must consist of two (2) separate and distinct parts, Parts I and II.

*Part I* of the proposal must contain the Standard Form (SF) 424, ''Application for Federal Assistance'' (Appendix C) and the Budget Information Form (Appendix D). Upon confirmation of an award, the individual signing the SF 424 on behalf of the applicant shall represent the responsible financial and administrative entity.

In preparing the Budget Information form, the applicant must provide a concise narrative explanation to support the request. The statutory language of ACWIA, is specific in stating that grant resources are to be expended for programs or projects to provide technical skills training. The administrative costs are limited to no more than 10 percent of the request and must clearly support the goals of the project. An illustrative, but not

exclusive, list of allowable and allocable types of administrative costs are provided in the WIA regulations at 20 CFR 667.200. Equipment purchases shall be limited to no more than the amount allocated for start-up costs. The budget narrative should discuss precisely how the administrative costs support the project goals.

ACWIA, limits the amount of start-up costs of partnerships or new training projects which may be charged to these grants (29 U.S.C. 2916a(3)). Except for partnerships of small businesses (100 employees or less), the limit is five percent of any single grant or costs not to exceed $75,000, whichever is less. For partnerships consisting primarily of small businesses (100 employees or less), the limit is ten percent of any single grant or a maximum of $150,000, whichever is less.

*Part II* must contain a technical proposal that demonstrates the Applicant's capabilities in accordance with the Statement of Work. A technical proposal of the grant application is limited to 25 double-spaced, single-sided, 8.5 inch x 11 inch pages with 1-inch margins. Text type shall be 11 point or larger. The Applicant may provide resumes, a staffing pattern, statistical information and related material in attachments which may not exceed 15 pages. Although not required, letters of commitment from partners or from those providing matching resources may be submitted as attachments. Such letters will count against the allowable maximum page total. The applicant must briefly itemize those participating entities in the text of the proposal. Applications that do not meet these requirements will not be considered. Each application must include a Time Line outlining project activities *and* an Executive Summary that is not to exceed two pages. The Time Line and the Executive Summary do not count against the 25 page limit. No cost data or reference to prices should be included in the technical proposal.

Grantee organizations will be subject to: ACWIA, these guidelines; the terms and the conditions of the grant and any subsequent modifications; applicable Federal laws (including provisions in appropriations law); all applicable requirements under H–1B Technical Skills Training Grants announced in the **Federal Register** on April 13, 2001 (66 FR 19209).

In addition, the grantee must ensure that each individual participating in this program has not violated section 3 of the Military Selective Service Act (50 U.S.C. App. 453) by not presenting and submitting to registration as required pursuant to such section.

Under section 18 of the Lobbying Disclosure Act of 1995 (2 U.S.C. 1611), an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 that engages in lobbying activities will not be eligible for the receipt of federal funds constituting an award, grant, or loan.

**Note:** Except as specifically provided in this solicitation, DOL/ETA's acceptance of a proposal and an award of federal funds to sponsor any program(s) does not provide a waiver of any grant requirements and/or procedures. For example, applicable OMB Circulars require, and applicant and subapplicant procurement procedure(s) must require, that all procurement transactions are conducted, as much as practical, to provide open and free competition. If a proposal identifies a specific entity to provide services, the DOL/ETA's award does not provide the justification or basis to sole-source the procurement, i.e., it does not authorize the applicant to avoid competition when procuring these services.

*C. Hand Delivered Proposals*

If proposals are hand delivered, they must be received at the address identified above by February 12, 2002, at 4 p.m., Eastern Time. All overnight mail will be considered to be hand delivered and must be received at the designated place by 2:00 p.m., on the specified closing date. Telegraphed and/or faxed proposals will not be accepted. Failure to adhere to the above instructions will be a basis for a determination of nonresponsiveness.

*D. Late Proposals*

A proposal received at the designated office after the exact time specified for receipt will not be considered unless it is received before award is made and it:

1. Was sent by registered or certified mail not later than the fifth calendar day before the date specified for receipt of applications (*e.g.*, a proposal submitted in response to a solicitation requiring receipt of applications by the 19th of the month must be mailed by the 14th);

2. Was sent by U.S. Postal Service Express Mail Next Day Service, Post Office to addressee, not later than 5 p.m. at the place of mailing two working days prior to the date specified for proposals. The term ''working days'' excludes weekends and U.S. Federal holidays.

The only acceptable evidence that an application was sent in accordance with these requirements is a printed, stamped, or otherwise placed impression (exclusive of a postage meter machine impression) that is readily identifiable without further action as having been supplied or affixed on the date of mailing by employees of the U.S. Postal Service.

*E. Period of Performance*

The initial period of performance will be 24 months from the date of execution of the grant documents. It is anticipated that about $20 million will be disbursed under this announcement. U.S. Department of Labor may extend these grants for an additional period not to exceed 12 months, with or without additional funding, based on the availability of funds and successful program operation.

*F. Definitions for Purposes of This Solicitation*

*Technical skills training* may be generally defined as the Atraining services' described in section 134(d)(4)(D) of WIA (29 U.S.C. 2864(d)(4)(D)). The H–1B Technical Skills Training Grant emphasizes training in high-demand, high-level skills to individuals where there is a shortage of qualified workers. Training may include a combination of academic and work-place learning, including on-the-job training, and instruction, as well as customized training to meet the needs of individual participants and/or the needs of individual employers. Customized training that is developed in partnership with an employer (or group of employers) must be accompanied by an employer=s commitment to hire those trainees upon successful completion of the training. Training may be provided to American citizens and nationals and immigrants authorized by the Attorney General to work in the United States, which includes lawfully admitted permanent resident aliens, refugees, asylees, and parolees, and other immigrants authorized by the Attorney General to work in the United States. Note that workers admitted under non-immigrant visas, such as the H–1B program and related programs, are not eligible for training with these grant funds.

*Region* may be defined as an area which exhibits a commonality of economic interest. A region may be comprised of more than one labor market area or be one large labor market, one labor market area joined together with adjacent rural districts, special purpose districts, and contiguous and non-contiguous Local Boards. A region may be either intrastate or interstate, and may be identical to the boundry of a single Local Board.

*Career Ladders* may generally be defined as a system of career options which encourage opportunities for professional growth and upward mobility.

*Older Workers* are those who meet the age standard prescribed in the Older Americans Act (42 USC 3056)—fifty five years or older—who are seeking full-time employment.

*G. Matching Funds*

Applicants must demonstrate the ability to obtain resources equivalent to at least 100 percent of the grant award amount as a match. Additionally, at least 50 percent of the match must be from the businesses or business related non-profit involved. This statutory match may be provided in cash or in-kind contributions. Federal resources may not be counted against the matching requirement. The provision of essential capital equipment, such as computers and furniture, is allowed as part of the match. The match may also include supportive services not paid for with federal funds. The amount and nature of the match must be clearly described in the application.

The 100 percent matching requirement is designed to assist grantees in initiating sustainability for the proposed project. The Department is particularly interested that the applicants demonstrate clear evidence that matching resources will sustain training activities after the expiration of the grant. Although matches may be one-time occurrences, applicants are encouraged to seek partnerships that reflect a commitment, financially and non-financially, to the future success of the proposed program.

**Part II—Statement of Work/Reporting Requirements**

*A. Principles*

Five basic key principles underlie this effort:

*Partnership Sustainability:* The primary focus of these awards is technical skills training. The statutory 100 percent non-Federal matching requirement is an integral part of ensuring sustainability because the matching resources are expected to help extend the skills shortages training effort beyond the term of the grant. The requirement that at least one-half of the matching funds must come from the business sector partners is designed to ensure the direct and active participation of employers whose labor needs can be filled by this program. This partnership sustainability concept relates to two rating criteria: Links with Key Partners and Sustainability (the resources each partner offers and the role of external resources in building the foundation for a permanent partnership).

*Current Skills Gap:* Access to training to fill current local or regional skills shortages is the immediate focus of this initiative. Training investments should be targeted in occupational areas that have been identified on the basis of H–1B occupations as skills shortage areas. This key principle relates to two criteria: Statement of Need and Service Delivery Strategy (the innovative manner in which skills training will meet the skill needs of the region.)

*Innovative and Effective Tools:* The grantees will use innovative or proven tools and approaches, that may include on-the-job training, to close particular skills gaps and provide strategies for training that promote regional development. This principle relates to two criteria: Service Delivery Strategy in which innovation is encouraged, and Cost Effectiveness. Innovative training programs may result in better employment outcomes and higher levels of skill achieved by those participants for the same cost.

*Target Population:* Technical skills training under ACWIA, as amended, is geared towards employed and unemployed workers who can be trained and placed directly in highly skilled H–1B occupations (See Attachment B for examples of these occupations). Training may be provided to American citizens and nationals and immigrants authorized by the Attorney General to work in the United States, which includes lawfully admitted permanent resident aliens, refugees, asylees, and parolees, and other immigrants authorized by the Attorney General. Note that workers admitted under non-immigrant visas, such as the H–1B program and related programs, are not eligible for training with grant funds. Up to 5 additional points will be awarded for special efforts to include outreach to target women, minorities, persons with disabilities, older workers, and workers in rural areas. This key principle is related to the Target Population rating criterion.

*Career Ladders:* Employees at the H–1B skills level are generally characterized as having a Bachelor=s degree or comparable work experience. H–1B technical skills training is targeted to but not limited to skills levels commensurate with a 4-year degree. The training may prepare workers for a broad range of positions along a career ladder. ACareer ladder'' may generally be defined as a system of career options which encourage opportunities for professional growth and upward mobility. The technical skills training can include a broad range of positions along a career ladder that eventually lead to a high skills level job. Thus, potential trainees are not required to enter training with a 4-year degree. Additionally, trainees are not expected to acquire a 4-year degree to be successful. Career ladders create opportunities for individuals who may vary in experience and education levels (such as vocational training and Associates= degrees) to advance along a career ladder and qualify for H–1B related occupations.

*B. Skills Shortages*

Section 414(c) of ACWIA, as amended (29 USC 2916a0, mandates that the grants awarded under this authority be used for technical skills training to employed and unemployed workers. The basis of the funding for the grants is a user fee paid with the H–1B visa application by an employer seeking highly-skilled personnel to fill high-skill shortages in American industries. Training must focus on occupations that are experiencing skills shortage in the domestic job market. The long-term goal of the program is to train American workers in the necessary/appropriate skills to fill shortages in highly skilled industries.

*C. Skills Standards*

Skills standards represent a benchmark by which an individual's achieved competence can be measured. Work in this area has been performed by private industry and trade associations, registered apprenticeship training systems, and public and private partnerships (including the Job Corps). Well-defined skills standards can be useful tools in matching training goals to targeted occupational areas. Applicants are encouraged to survey the progress to date in developing occupational skills standards in their communities, such as establishing a clearly defined set of expectations for the requisite capabilities of workers.

As noted earlier, the definition of the minimum proficiency level required to be considered an H–1B occupation, contained in section 214(i), of the Immigration and Naturalization Act (INA) (USC 1184(i)), speaks to a very high skills level for these ''specialty occupations.'' These are occupations that require ''theoretical and practical application of a body of highly specialized knowledge,'' and full state licensure to practice in the occupation (if it is required). These occupations also must require either completion of at least a bachelor's degree or experience in the specialty equivalent to the completion of such degree and recognition of expertise in the specialty through progressively responsible positions relating to the specialty.

*D. Regional Planning*

As applicable, applicants must describe the local area or region that will be served with particular emphasis on its skills shortages. The proposal also must identify the governmental jurisdictions to be included and provide an enumeration of the specific local areas that are served under WIA. Although comprehensive occupational vacancy data are unavailable, current H–1B applicant data should be utilized to the extent feasible to describe occupational shortages. Attachment B to this solicitation is a listing by occupations for which H–1B visas are being sought as shown by the most current H–1B applicant data. Requests for H–1B visas for the applicant's region may reflect a skills shortage of those occupations, as well.

Applicants are encouraged to utilize all available state and local data, including that provided by area businesses and business associations, in making determinations of regional shortages. Applicants are encouraged to analyze data made available by their state labor market information (LMI) organization, the Bureau of Labor Statistics (BLS), and through the local One-Stop delivery system, *www.servicelocator.org.*

*E. Service Delivery and Supportive Services*

Applicants should carefully describe the skills training that will be provided under the grant in the context of the goals that are to be achieved by participants. ACWIA, states that consideration will be given to applicants who commit to provide at least one of three target outcomes for participants who complete training. These outcomes are the hiring or effecuate the hiring of unemployed trainees, increased wages or salaries of employed workers, and receipt of skill certificates documenting skills acquisition or a link to industry accepted occupational skill standards, certificates, or licensing requirements (29 U.S.C. 2916a(4)(A)).

ACWIA, requires that at least 80 percent of grants be awarded to projects which target occupations in high technology, information technology and biotechnology. For example, this includes skills needed in software and communications services, telecommunications, systems installation and integration, computers and communications hardware, advanced manufacturing, health care technology, biotechnology and biomedical research and manufacturing, and innovation services. Not more than 20 percent of the available funds may be awarded for training in any single specialty occupation, as defined by section 214(i) of the Immigration and Nationalization Act (8 U.S.C. 1184(i)). A response to the Statement of Work criterion should provide a detailed discussion of the kinds of training to be provided and the mechanisms to be used to provide it. Applicants must include in their work statement a discussion of the types of skills training being provided, the targeted skills levels, how the skills will be measured, and how skills shortages in the local area or region will be met through this training.

Grant funds may not be used to provide supportive services. However, applicants may need to make a range of supportive services available to enhance the quality and effectiveness of the skill training provided under the grant. Appropriately focused services, as defined by section 101(46) of WIA (29 U.S.C. 2801(46))—such as transportation or childcare—are considered as important enhancements to the technical skills training package. In order to provide a full range of supportive services, applicants may build linkages to the One-Stop Career Center network. Successful applicants are encouraged to leverage such Federal resources as part of making the technical skills training project more effective. Applicants are also encouraged to use their own non-federal funds to provide supportive services as part of the matching requirement or leveraged Federal resources from other sources. Additional federal resources cannot be counted toward the matching requirement.

Where possible, applicants are encouraged to form partnerships with local Workforce Investment Boards (''Local Boards''). WIA requires Local Boards to prepare a strategic workforce investment plan for the areas that they embrace. Local Boards also designate One-Stop service center operators (Local Boards don't select eligible training providers). In short, Local Boards already are engaged in much of the necessary work that could provide a solid foundation for the training activities to be undertaken under ACWIA, as amended.

*F. Reporting Requirements*

The grantee is required to provide the reports and documents listed below:

- *Quarterly Financial Reports.* The grantee must submit to the Grant Officer's Technical Representative (GOTR) within the 30 days following each quarter, two copies of a quarterly Financial Status Report (Standard Form 269) until such time as all funds have been expended or the period of availability has expired.
- *Progress Reports.* The grantee must submit a narrative with the quarterly reports to the GOTR within the 30 days following each quarter. Two copies are to be submitted providing a detailed account of activities undertaken during that quarter including:

1. A discussion of the occupational areas for which skills training is being provided;
2. The number of individuals currently in training, the number who have successfully completed training and the number who are unsuccessful or who have dropped out of training;
3. Job placements in skills shortage occupations of unemployed workers;
4. Wage increases in skills shortage occupations of employed workers;

a. Number of skill certifications received or training completions to industry accepted occupational skill standards, certifications or licensing requirements; and

b. An indication of any current problems which may affect performance and proposed corrective action.

- *Final Report.* A draft final report which summarizes project activities and employment outcomes and related results of the demonstration must be submitted no later than the expiration date of the grant. One original and two copies of the final report must be submitted no later than 60 days after the grant expiration date.

*G. Evaluation*

As required by ACWIA, as amended, applications must include an agreement that the program or project shall be subject to evaluation (or evaluations) by the Secretary of Labor to measure their effectiveness. To learn from these skill training grants, ETA will arrange for or conduct an independent evaluation of the outcomes, impacts, and benefits of the demonstration projects. Evaluation findings will help ETA identify promising practices and approaches that will be disseminated throughout the publicly-funded workforce system. Grantees must agree to make records on participants, employers and funding available and to provide access to program operating personnel and to participants, as specified by the evaluator(s) under the direction of ETA, including after the period of operation.

**Part III—Review Process & Rating Criteria**

A careful evaluation of applications will be made by a technical review panel who will evaluate the applications against the criteria listed

below. The panel results are advisory in nature and not binding on the Grant Officer. The Government may elect to award the grant with or without discussions with the offeror. In situations without discussions, an award will be based on the offeror's signature on the (SF) 424, which constitutes a binding offer. In making her determination, the Grant Officer may consider any relevant information that comes to her attention. The Grant Officer will make final award decisions based upon what is most advantageous to the Federal Government in terms of geographical mix, technical quality and other factors.

*1. Statement of Need (15 points)*

ACWIA, as amended, is a response to skills shortages around the country in specific occupations. The most recent H–1B application data are provided as Attachment B to this solicitation. Applicants should clearly describe the local area or region for which services are to be provided and the skills shortages prevalent in the region.

ACWIA, as amended, specifies that grant funds may be used only to carry out a strategy that would otherwise not be eligible for funds provided under the Local Workforce Investment Board based grant, due to barriers in meeting those partnership eligibility criteria, on a national, multi-state, regional, or rural area (such as rural telework programs) basis. These barriers must be specified here. The applicant must provide sufficient detail on such barriers to justify why application is not made on a local basis through a Local Board. Failure to adequately fulfill this criterion will result in disqualification of the application.

The applicant is encouraged to utilize all available data resources to assure that its description of need is relevant to local labor market shortages, as applicable to the business partnership or business-related nonprofit. Establishing viable partnerships are essential. In responding to this criterion, applicants can make use of information that can include, but is not limited to, state labor market information, H–1B applications, census data, newspaper want ads, expressed employer hiring demands, and information from the One-Stop system. Descriptive items about the local area or region, such as whether it is rural or urban, should be included. (What high technology needs and opportunities exist in the region? What are the particular characteristics of the local political, economic and administrative jurisdictions—Local Boards, labor market areas, or special district authorities—that led them to associate for the purpose of this application?)

A general description of the local area or region should include socioeconomic data, with a particular focus on the general education and skills level prevalent in the area. Applicants are encouraged to include information such as transportation patterns, and statistical and demographic information (e.g., age and income data). Other germane information that will provide greater depth of description include:

- What is the general business environment.
- What industries and occupations are growing and declining.
- What types of skills are being sought in the local area or region by the major employers in general, and the partnership member companies, in particular.

*2. Service Delivery Strategy (25 points)*

Applicants must lay out a comprehensive strategy for providing the technical skills training that is mandated as the core activity of these grant awards. A brief discussion of the impact of skills training in response to the identified skills shortages of the region should be included. Specific issues that must be addressed as part of this section include:

- The range of potential training providers, the types of skills training that will be offered, how the training will meet the local area or regional skills needs, and how the training will be provided.
- What steps will be taken to reach out to potential community(ies) to provide information about the project and planned training activities.
- How will the types of training planned for project participants be determined.

We encourage applicants to be innovative in the training services they provide. Innovation in the context of service delivery can represent a wide variety of items. Innovation may be implemented in the manner in which training services are provided—e.g., new partnerships to provide or participate in training, use of technology (such as distance learning to provide instruction, interactive video self-instructional materials), and flexible class scheduling (sections of the same class scheduled at different times of the day to accommodate workers whose schedules fluctuate). Creativity in developing the service strategy also is encouraged.

*3. Target Population (10 points, 5 bonus points)*

The eligibility criteria for skills training enumerated in ACWIA 2000 are extremely broad and include employed and unemployed workers. Training may be provided to American citizens and nationals and to immigrants authorized by the Attorney General to work in the United States, which includes lawfully admitted permanent resident aliens, refugees, asylees, and parolees, and other immigrants authorized by the Attorney General. Note that workers admitted under non-immigrant visas, such as H–1B and related programs, are not eligible for training with these grant funds. This section should clearly identify the targeted workers, including their characteristics, and explain why they are targeted. A discussion of what assessment procedures are to be used is critical. The applicant should address some specific issues relating to the target employed worker population such as:

- How many employed workers will be targeted for services and why.
- The technical skills training needs of those workers to fulfill skills shortage occupations.
- The selection process for workers, both employed and unemployed, should be carefully described to make it clear how those individuals will be determined to possess the capacity after the completion of training to accept jobs that previously were filled via the H–1B visa process. In the case of unemployed workers, an extensive discussion of the criteria to be used to assess and enroll individuals should be included.
- The applicant should describe the outreach methods to target minorities, women, individuals with disabilities, older workers, and individuals in rural areas. Applicants who effectively target such workers will be awarded up to 5 additional points.

*4. Sustainability (10 points)*

Applicants must demonstrate a statutory 100 percent match to the resources for proposed projects. At least one-half of these funds must come from the business partners or business-related nonprofit organizations involved. Matches may either be in cash or in-kind contributions. Federal resources may not be counted against the matching requirement. Applicants must describe to what extent the partners are providing matching funds or services and how this contribution assists in building the foundation for a permanent partnership, *i.e.*, sustainability. Partnerships and matching resources are considered an integral element of the

project, as they support and strengthen the quality of the technical skills training provided and contribute materially toward sustainability.

We encourage applicants to give preference for identifying other resources both Federal and non-Federal, because they can contribute materially toward quality outcomes and sustainability. (Note that although Federal resources may not be counted as match, they may be counted to demonstrate the project sustainability.) Applicants are also encouraged to establish relationships with State and Local Workforce Investment Boards and relevant state agencies, as they may provide valuable assistance and resources that can contribute to the success and sustainability of a proposed project. Applicants should enumerate these resources in this section to support their discussion of sustainability and also describe any specific existing contractual commitments. The sustainability issue can be addressed by providing concrete evidence that activities supported by the proposal will be continued after the expiration date of the grant by using other public or private resources.

*5. Linkages With Key Partners (15 points)*

The applicant should identify the partners and how they will interact together, *i.e.,* what role each will play and what resources each partner will offer. In particular, this section should identify partnerships with the private and public sectors, including ties with small and medium-sized businesses and small business federations. The Service Delivery Strategy section of the Statement of Work describes the role of each of the actors in delivering the proposed services, while this section is intended to look at the linkages from a more structural perspective with particular emphasis on the employers in the consortium that are experiencing skills shortages and how the proposal will train participants to meet employers' needs.

ETA also is interested in the extent of the involvement of small businesses in the partnership. Consideration will be given to any partnership that involves and directly benefits more than one small business (each consisting of 100 employees or less).

*6. Outcomes (15 points)*

Applicants must describe the predicted outcomes resulting from this training. It is estimated that the projected results will be somewhat varied given the broad range of people who will probably be served. For example, employed workers are more likely to be trained to achieve a higher skills level than most unemployed workers. Participant success can be determined through placements in H–1B skills shortage occupations, increased wages, or skills attainment in H–1B occupations, or in training for or placement in positions on a career ladder toward such skills attainment.

There are, however, unemployed workers, including dislocated workers who have been laid off permanently from their jobs through no fault of their own, who may well already possess a very high skills level. They could receive additional technical skills training to enhance their skills.

The outcomes for this group may be projected in terms of gaining new employment and skills attainment.

Outcomes for employed workers may be at a somewhat higher level than for those unemployed workers who do not possess similar skills at the outset. Because of the differing skill levels and backgrounds of participants in an H–1B training program, the outcomes section should discuss proposed gains attained for individual participants in context of their backgrounds and skill levels when they entered. Therefore, the focus of the discussion in this section should emphasize very specifically the benefits that occur because of the training. For example, an applicant might state that a certain skills level is projected for a given group and indicate what change in skills that represents and how that might translate into an increase in earnings.

The application must identify the occupations participants will be trained in. Please identify each occupation in terms of skills in high technology, information technology and biotechnology, including skills needed for software and communication services, telecommunications, systems installation and integration, computers and communications hardware, advanced manufacturing, health care technology, bio-technology and biomedical research and manufacturing and innovation services, or in terms of other high skilled specialty occupations.

Consideration in the award of grants will be given to applicants which commit to achieving one or more of the following outcome goals upon successful completion of a training program:

(1) The hiring of or effecuate the hiring of unemployed trainees (if applicable);

(2) Increases in the wages or salaries of already employed trainees (if applicable); and

(3) Awards of skills certifications to trainees or linking the training to industry-accepted occupational skill standards, certificates or licensing requirements.

*7. Cost Effectiveness (10 points)*

Applicants will provide a detailed cost proposal, including a discussion of the expected cost effectiveness of their proposal in terms of the expected cost per participant compared to the expected benefits for these participants. Applicants should address the employment outcomes, increased salary, promotion or retention and the levels of skills to be achieved (such as attaining state licensing in an occupation) relative to the amount of training that the individual needed to receive to achieve those outcomes. Benefits can be described both qualitatively in terms of skills attained and quantitatively in terms of wage gains.

Cost effectiveness may be demonstrated in part by cost per participant and cost per activity in relation to services provided and outcomes to be attained. This section MUST contain a detailed discussion of the size, nature, and quality of the non-Federal match. Proposals not presenting a detailed discussion of the non-Federal match or not meeting the statutory 100 percent match requirement, or not demonstrating that businesses or business-related nonprofit organizations involved provide at least half the match will be considered non-responsive and will not be considered.

The application must specify a management entity, the resumes of major staff members and detailed descriptions of the roles of various entities participating in the partnership. Each application MUST designate an individual who will serve as project director and who will devote a substantial portion of his/her time to the project, which may be defined as at least 40 percent. A short portion of this discussion should describe the organizational capacity and track record in high skill training and related activities of the primary actors in the partnership.

Signed in Washington, DC, this 11th day of December, 2001.

**James W. Stockton,**

*Grant Officer.*

Appendix A: Legislative Mandate

Appendix B: Selected H–1B Professional, Technical and Managerial Occupations, and Fashion Models: Number of Job Openings Certified by the U.S. Department of Labor, Fiscal Year 2000 (Oct. 1, 1999–Feb. 29, 2000)

Appendix C: (SF) 424–Application Form

Appendix D: Budget Information Form

## Appendix A. Legislative Mandate

The relevant portions of ACWIA 2000, and the Immigration and Nationality Act dealing with the establishment of a fund for implementing a program of H–1B skill training grants state:

Immigration and Nationality Act, Section 286(s), (8 U.S.C. 1356(s))—H–1B NONIMMIGRANT PETITIONER ACCOUNT

(1) IN GENERAL—There is established in the general fund of the Treasury a separate account, which shall be known as the ''H–1B Nonimmigrant Petitioner Account.''

Notwithstanding any other section of this title, there shall be deposited as offsetting receipts into the account all fees collected under section 214(c)(9) of the Immigration and Nationality Act (8 U.S.C. 1184 (c)(9)).

(2) USE OF FEE FOR JOB TRAINING—55 percent of amounts deposited into the H–1B Nonimmigrant Petitioner Account shall remain available to the Secretary of Labor until expended for demonstration programs and projects described in section 414(c) of the American Competitiveness and Workforce Improvement Act of 1998 (29 U.S.C. 2916a).

SEC. 414(c) OF ACWIA (29 U.S.C. 2916a) DEMONSTRATION PROGRAMS AND PROJECTS TO PROVIDE TECHNICAL SKILLS TRAINING FOR WORKERS.—

(1) IN GENERAL.—(A) FUNDING.—The Secretary of Labor shall use funds available under section 286(s)(2) of the Immigration and Nationality Act (8 U.S.C. 1356(s)(2)) to establish demonstration programs or projects to provide technical skills training for workers, including both employed and unemployed workers.

(B) TRAINING PROVIDED.—Training funded by a program or project described in subparagraph (A) shall be for persons who are currently employed and who wish to obtain and upgrade skills as well as for persons who are unemployed. Such training is not limited to skill levels commensurate with a four-year undergraduate degree, but should include the preparation of workers for a broad range of positions along a career ladder. Consideration shall be given to the use of grant funds to demonstrate a significant ability to expand a training program or project through such means as training more workers or offering more courses, and training programs or projects resulting from collaborations, especially with more than one small business or with a labor-management training program or project. The need for the training shall be justified through reliable regional, State, or local data.

(2) GRANTS.—(A) ELIGIBILITY.—To carry out the programs and projects described in paragraph (1)(A), the Secretary of Labor shall, in consultation with the Secretary of Commerce, subject to the availability of funds in the HB1B Nonimmigrant Petitioner Account, award—

(i) 75 percent of the grants to a local workforce investment board established under section 116(b) or section 117 of the Workforce Investment Act of 1998 (29 U.S.C. 2831(b), 2832) or consortia of such boards in a region. Each workforce investment board or consortia of boards receiving grant funds shall represent a local or regional public-private partnership consisting of at least—

(I) One workforce investment board;

(II) One community-based organization or higher education institution or labor union; and

(III) One business or business-related non-profit organization such as a trade association: Provided, That the activities of such local or regional public-private partnership described in this subsection shall be conducted in coordination with the activities of the relevant local workforce investment board or boards established under the Workforce Investment Act of 1998 (29 U.S.C. 2832); and

(ii) *25 percent of the grants under the Secretary of Labor's authority to award grants for demonstration projects or programs under section 171 of the Workforce Investment Act (29 U.S.C. 2916) to partnerships that shall consist of at least 2 businesses or a business-related nonprofit organization that represents more than one business, and that may include any educational, labor, community organization, or workforce investment board, except that such grant funds may be used only to carry out a strategy that would otherwise not be eligible for funds provided under clause (i), due to barriers in meeting those partnership eligibility criteria, on a national, multistate, regional, or rural area (such as rural telework programs) basis.* (emphasis added)

(B) DESIGNATION OF RESPONSIBLE FISCAL AGENTS.—Each partnership formed under subparagraph (A) shall designate a responsible fiscal agent to receive and disburse grant funds under this subsection.

(C) PARTNERSHIP CONSIDERATIONS.—Consideration in the awarding of grants shall be given to any partnership that involves and directly benefits more than one small business (each consisting of 100 employees or less).

(D) ALLOCATION OF GRANTS.—In making grants under this paragraph, the Secretary shall make every effort to fairly distribute grants across rural and urban areas, and across the different geographic regions of the United States. The total amount of grants awarded to carry out programs and projects described in paragraph (1)(A) shall be allocated as follows:

(i) At least 80 percent of the grants shall be awarded to programs and projects that train employed and unemployed workers in skills in high technology, information technology, and biotechnology, including skills needed for software and communications services, telecommunications, systems installation and integration, computers and communications hardware, advanced manufacturing, health care technology, biotechnology and biomedical research and manufacturing, and innovation services.

(ii) No more than 20 percent of the grants shall be available to programs and projects that train employed and unemployed workers for skills related to any single specialty occupation, as defined in section 214(i) of the Immigration and Nationality Act (8 U.S.C. 1184(i)).

(3) START-UP FUNDS.—(A) IN GENERAL.—Except as provided in subparagraph (B), not more than 5 percent of any single grant, or not to exceed $75,000, whichever is less, may be used toward the start-up costs of partnerships or new training programs and projects.

(B) EXCEPTION.—In the case of partnerships consisting primarily of small businesses, not more than 10 percent of any single grant, or $150,000, whichever is less, may be used toward the start-up costs of partnerships or new training programs and projects.

(C) DURATION OF START-UP PERIOD.—For purposes of this subsection, a start-up period consists of a period of not more than 2 months after the grant period begins, at which time training shall immediately begin and no further Federal funds may be used for start-up purposes.

(4) TRAINING OUTCOMES.—(A) CONSIDERATION FOR CERTAIN PROGRAMS AND PROJECTS.—Consideration in the awarding of grants shall be given to applicants that provide a specific, measurable commitment upon successful completion of a training course, to—

(i) Hire or effectuate the hiring of unemployed trainees (where applicable);

(ii) Increase the wages or salary of incumbent workers (where applicable); and

(iii) Provide skill certifications to trainees or link the training to industry-accepted occupational skill standards, certificates, or licensing requirements.

(B) REQUIREMENTS FOR GRANT APPLICATIONS.—Applications for grants shall—

(i) Articulate the level of skills that workers will be trained for and the manner by which attainment of those skills will be measured;

(ii) Include an agreement that the program or project shall be subject to evaluation by the Secretary of Labor to measure its effectiveness; and

(iii) In the case of an application for a grant under subsection (c)(2)(A)(ii), explain what barriers prevent the strategy from being implemented through a grant made under subsection (c)(2)(A)(i).

(5) MATCHING FUNDS.—Each application for a grant to carry out a program or project described in paragraph (1)(A) shall state the manner by which the partnership will provide non-Federal matching resources (cash, or in-kind contributions, or both) equal to at least 50 percent of the total grant amount awarded under paragraph (2)(A)(i), and at least 100 percent of the total grant amount awarded under paragraph (2)(A)(ii). At least one-half of the non-Federal matching funds shall be from the business or businesses or business-related nonprofit organizations involved. Consideration in the award of grants shall be given to applicants that provide a specific commitment or commitments of resources from other public or private sources, or both, so as to demonstrate the long-term sustainability of the training program or project after the grant expires.

(6) ADMINISTRATIVE COSTS.—An entity that receives a grant to carry out a program or project described in paragraph (1)(A) may not use more than 10 percent of the amount of the grant to pay for administrative costs associated with the program or project.'' The Immigration and Nationality Act (INA)(section 101(a)(15)( H)(i)(b), 8 U.S.C.

11011(a)(15)(H)(i)(b)) defines the H–1B alien as one who is coming temporarily to the United States to perform services in a specialty occupation or as a fashion model.

The IMMIGRATION AND NATIONALIZATION ACT (Section 214(i)) 8 U.S.C. 1184(i) defines the term ''specialty occupation'' as:

(1)(A) Theoretical and practical application of a body of highly specialized knowledge and,

(B) Attainment of a bachelor's or higher degree in the specific specialty (or its equivalent) as a minimum for entry into the occupation in the United States

(2) For purposes of section 101(a)(15)(H)(i)(b)), the requirements of this paragraph with respect to a specialty occupation are—

(A) Full state licensure to practice in the occupation, if such licensure is required to practice in the occupation.

(B) Completion of the degree described in paragraph (1)(B) for the occupation, or

(C)(i) Experience in the specialty equivalent to the completion of such degree, and (ii) recognition of expertise in the specialty through progressively responsible positions relating to the specialty.

The WORKFORCE INVESTMENT ACT defines training services (Sec 134(d)(4)(D), 29 U.S.C. 2864(d)(4)(D)

(D) TRAINING SERVICES —Training services may include—

(i) Occupational skills training, including training for nontraditional employment;

(ii) On-the-job training;

(iii) Programs that combine workplace training with related instruction, which may include cooperative education programs;

(iv) Training programs operated by the private sector;

(v) Skill upgrading and retraining;

(vi) Entrepreneurial training;

(vii) Job readiness training;

(viii) Adult education and literacy activities provided in combination with services described in any of clauses (i) through (vii); and

(ix) Customized training conducted with a commitment by an employer or group of employers to employ an individual upon successful completion of the training.

WIA prohibits discrimination against certain non-citizens in the provision of services, including the demonstration grant program under which this program is conducted. (Sec 188(a)(5), 29 U.S.C. 2938(a)(5):

Participation in programs and activities or receiving funds under this title shall be available to citizens and nationals of the United States, lawfully admitted permanent resident aliens, refugees, asylees, and parolees, and other immigrants authorized by the Attorney General to work in the United States.

WIA also specifies that participants comply with the Military Selective Service Act. (Sec. 189, (h), 29 U.S.C. 2939):

The Secretary shall ensure that each individual participating in any program or activity established under this title (Title I of the Workforce Investment Act), or receiving any assistance or benefit under this title, has not violated section 3 of the Military Selective Service Act (50 U.S.C. App. 453) by not presenting and submitting to registration as required pursuant to such section. The Director of the Selective Service System shall cooperate with the Secretary to enable the Secretary to carry out this subsection.

## Appendix B

H–1B PROGRAM—SUMMARY DATA FY '92–FY '00

| | Number of LCA's [1] certified | Number of job openings certified [2] |
|---|---|---|
| FY '92 | 43,808 | 120,776 |
| FY '93 | 62,285 | 127,652 |
| | (+42.2%) | (+5.7%) |
| FY '94 | 84,898 | 270,014 |
| | (+36.3%) | (+111.5%) |
| FY '95 | 97,040 | 312,563 |
| | (+14.3%) | (+15.8%) |
| FY '96 | 120,512 | 246,725 |
| | (+24.2%) | (−21.1%) |
| FY '97 | 162,363 | 398,324 |
| | (+34.7%) | (+61.4%) |
| FY '98 | 208,156 | 591,635 |
| | (+28.2%) | (+48.5%) |
| FY '99 | 275,244 | 1,207,874 |
| | (+32.2%) | (+104.2%) |
| FY '00 | 332,545 | 1,187,053 |
| | (+10.1%) | (−1.7%) |

[1] Labor Certified Applicants.

[2] Note that while there is generally a 195,000 limit on the number of visas which may be issued each fiscal year, there is no corresponding limit on the number of job openings which may be certified by the Department.

TOP 10 OCCUPATIONAL CLASSIFICATIONS IN FY '00

| | Number of openings certified | Percent of total |
|---|---|---|
| 1. Computer-related [3] | 852,657 | 71.8 |
| 2. Accountants/Auditors | 46,375 | 3.9 |
| 3. Electrical/Electron Eng. | 41,071 | 3.5 |
| 4. Other Architecture, Engineering & Surveying | 26,634 | 2.2 |
| 5. College/University Faculty | 18,164 | 1.5 |

TOP 10 OCCUPATIONAL CLASSIFICATIONS IN FY '00—Continued

| | Number of openings certified | Percent of total |
|---|---|---|
| 6. Miscellaneous Managers | 16,990 | 1.4 |
| 7. Budget & Management System Analyst | 15,117 | 1.3 |
| 8. Physicians & Surgeons | 13,700 | 1.2 |
| 9. Mis. Professional, Tech. & Manag. Occ. | 13,426 | 1.1 |

TOP 10 OCCUPATIONAL CLASSIFICATIONS IN FY '00—Continued

| | Number of openings certified | Percent of total |
|---|---|---|
| 10. Economists | 13,171 | 1.1 |
| Total Top 10 | 1,057,305 | 89.1 |
| Other Occupations | 129,748 | 10.9 |

[3] Occupations in: Systems Analysis/Programming; Computer Systems Technical Support, Data Communications and Networks; Computer System User Support; and other Computer-related.

TOP 10 OCCUPATIONAL CLASSIFICATIONS IN FY '99

| | Number of openings certified | Percent of total |
|---|---|---|
| 1. Computer-related .. | 579,631 | 48.0 |
| 2. Therapists ..... | 311,411 | 25.8 |
| 3. Accountants/Auditors ..... | 58,831 | 4.9 |
| 4. Other Administrative ..... | 38,320 | 3.2 |
| 5. Electrical/Electron Eng. ..... | 26,947 | 2.2 |
| 6. Other Architecture, Engineering & Surveying ..... | 19,404 | 1.6 |
| 7. Physicians & Surgeons ..... | 16,695 | 1.4 |
| 8. College/University Faculty ..... | 14,962 | 1.2 |
| 9. Mis. Managers and Officials ..... | 13,048 | 1.1 |
| 10. Mis. Professional, Tech. & Mana. Occ. ..... | 11,636 | 1.0 |
| Total Top 10 ..... | 1,090,885 | 90.3 |
| Other Occupations .... | 116,989 | 9.7 |

TOP 10 OCCUPATIONAL CLASSIFICATIONS IN FY '98

| | Number of openings certified | Percent of Total |
|---|---|---|
| 1. Computer-related .. | 340,231 | 57.5 |
| 2. Therapists ..... | 80,605 | 13.6 |
| 3. Accountants/Auditors ..... | 42,713 | 7.2 |
| 4. Electrical/Electron Eng. ..... | 16,640 | 2.8 |
| 5. Other Architecture, Engineering & Surveying ..... | 8,605 | 1.5 |
| 6. Physicians/Surgeons ..... | 7,941 | 1.3 |
| 7. Mis. Professional, Tech. & Mana. Occ. ..... | 7,827 | 1.3 |
| 8. College/University Faculty ..... | 7,721 | 1.3 |

TOP 10 OCCUPATIONAL CLASSIFICATIONS IN FY '98—Continued

| | Number of openings certified | Percent of Total |
|---|---|---|
| 9. Mechanical Engineers ..... | 5,994 | 1.0 |
| 10. Economist ..... | 5,343 | 0.9 |
| Total Top 10 ..... | 523,620 | 88.5 |
| Other Occupations .... | 68,015 | 11.5 |

TOP 10 OCCUPATIONAL CLASSIFICATIONS IN FY '97

| | Number of openings certified | Percent of Total |
|---|---|---|
| 1. Computer related ..... | 177,034 | 44.4 |
| 2. Therapists ..... | 103,097 | 25.9 |
| 3. Electrical/Electron Eng. ..... | 12,366 | 3.1 |
| 4. Accountants/Auditors .. | 9,865 | 2.5 |
| 5. University Faculty ..... | 8,052 | 2.0 |
| 6. Physicians/Surgeons .. | 7,360 | 1.8 |
| 7. Other Architecture, Engineering & Surveying | 6,488 | 1.6 |
| 8. Mechanical Engineers | 5,585 | 1.4 |
| 9. Miscellaneous Occup. | 5,427 | 1.4 |
| 10. Economists ..... | 4,677 | 1.1 |
| Total Top 10 ..... | 335,057 | 84.1 |
| Other Occupations ..... | 63,267 | 15.9 |

TOP 10 OCCUPATIONAL CLASSIFICATIONS IN FY '96

| | Number of openings certified | Percent of Total |
|---|---|---|
| 1. Computer-related .. | 102,422 | 41.5 |
| 2. Therapists ..... | 48,154 | 19.5 |
| 3. Other Medicine/Health ..... | 12,010 | 4.9 |
| 4. College/University Faculty ..... | 7,070 | 2.9 |
| 5. Registered Nurses | 6,117 | 2.5 |

TOP 10 OCCUPATIONAL CLASSIFICATIONS IN FY '96—Continued

| | Number of openings certified | Percent of Total |
|---|---|---|
| 6. Accountants/Auditors ..... | 6,040 | 2.4 |
| 7. Physicians/Surgeons ..... | 5,796 | 2.3 |
| 8. Miscellaneous Occup. ..... | 4,389 | 1.8 |
| 9. Mechanical Engineering ..... | 4,112 | 1.7 |
| Other Architecture, Engineering & Surveying ..... | 3,774 | 1.5 |
| Total Top 10 ..... | 199,884 | 81.0 |
| Other Occupations .... | 46,841 | 19.0 |

TOP 10 OCCUPATIONAL CLASSIFICATIONS IN FY '95

| | Number of openings Certified | Percent of Total |
|---|---|---|
| 1. Therapists ..... | 167,209 | 53.5 |
| 2. Computer-related .. | 79,921 | 25.6 |
| 3. College/University Faculty ..... | 6,478 | 2.1 |
| 4. Physicians/Surgeons ..... | 5,629 | 1.8 |
| 5. Accountants/Auditors ..... | 4,757 | 1.5 |
| 6. Miscellaneous Occup. ..... | 3,703 | 1.2 |
| 7. Other Medicine/Health ..... | 3,345 | 1.1 |
| 8. Other Architecture, Engineering & Surveying ..... | 3,318 | 1.1 |
| 9. Mechanical Engineering ..... | 3,149 | 1.0 |
| 10. Biological Sciences ..... | 2,710 | .9 |
| Total Top 10 ..... | 280,219 | 89.7 |
| Other Occupations .... | 32,344 | 10.3 |

BILLING CODE 4510–30–P

APPENDIX C

# APPLICATION FOR FEDERAL ASSISTANCE

OMB Approval No. 0348-0043

| 2. DATE SUBMITTED | Applicant Identifier |
|---|---|

| 1. TYPE OF SUBMISSION: Application ☐ Construction ☐ Non-Construction | Preapplication ☐ Construction ☐ Non-Construction | 3. DATE RECEIVED BY STATE | State Application Identifier |
|---|---|---|---|
| | | 4. DATE RECEIVED BY FEDERAL AGENCY | Federal Identifier |

5. APPLICANT INFORMATION

| Legal Name: | Organizational Unit: |
|---|---|
| Address (give city, county, State and zip code): | Name and telephone number of the person to be contacted on matters involving this application (give area code): |

6. EMPLOYER IDENTIFICATION NUMBER (EIN):

☐☐-☐☐☐☐☐☐☐

7. TYPE OF APPLICANT: (enter appropriate letter in box) ☐

A. State
B. County
C. Municipal
D. Township
E. Interstate
F. Intermunicipal
G. Special District
H Independent School Dist.
I State Controlled Institution of Higher Learning
J . Private University
K Indian Tribe
L. Individual
M. Profit Organization
N. Other (Specify): _____

8. TYPE OF APPLICATION:
☐ New ☐ Continuation ☐ Revision

If Revision, enter appropriate letter(s) in box(es): ☐ ☐

A. Increase Award B. Decrease Award C. Increase Duration
D. Decrease Duration Other (specify):
_____

9. NAME OF FEDERAL AGENCY:

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER:

☐☐-☐☐☐

TITLE:

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:

12. AREAS AFFECTED BY PROJECT (cities, counties, States, etc.):

| 13. PROPOSED PROJECT: | | 14. CONGRESSIONAL DISTRICTS OF: | |
|---|---|---|---|
| Start Date | Ending Date | a. Applicant | b. Project |

| 15. ESTIMATED FUNDING: | |
|---|---|
| a. Federal | $ .00 |
| b. Applicant | $ .00 |
| c. State | $ .00 |
| d. Local | $ .00 |
| e. Other | $ .00 |
| f. Program Income | $ .00 |
| g. TOTAL | $ .00 |

16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?

a. YES. THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON DATE _____

b. NO. ☐ PROGRAM IS NOT COVERED BY E.O. 12372
☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?
☐ Yes If "Yes," attach an explanation. ☐ No

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION 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. Telephone number |
|---|---|---|
| d. Signature of Authorized Representative | | e. Date Signed |

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Authorized for Local Reproduction

Standard Form 424 (REV 4-88)
Prescribed by OMB Circular A-102

## INSTRUCTIONS FOR THE SF 424

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which ave established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

| Item: | Entry: |
|---|---|
| 1. | Self-explanatory. |
| 2. | Date application submitted to Federal agency (or State if applicable) & applicant's control number (if applicable). |
| 3. | State use only (if applicable) |
| 4. | If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank. |
| 5. | Legal name of applicant, name of primary organizational unit which will undertake this assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application. |
| 6. | Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service. |
| 7. | Enter the appropriate letter in the space provided. |
| 8. | Check appropriate box and enter appropriate letter(s) in the space(s) provided.<br>- "New" means a new assistance award.<br>- "Continuation" means an extension for an additional funding/budget period for a project with a projected completion date.<br>- "Revision" means any change in the Federal Government's financial obligation or contingent liability from an existing obligation. |
| 9. | Name of Federal agency from which assistance is being requested with this application. |
| 10. | Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is required. |
| 11. | 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 the project. |
| 12. | List only the largest political entities affected (e.g., State, counties, cities. |
| 13. | Self-explanatory. |
| 14. | List the applicant's Congressional District and any District(s) affected by the program or project. |
| 15. | 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 15. |
| 16. | 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. |
| 17. | This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes. |
| 18. | 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. (Certain Federal agencies may require that this authorization be submitted as part of the application.) |

*APPENDIX D*

## *PART II - BUDGET INFORMATION*

*SECTION A - Budget Summary by Categories*

| | (A) | (B) | (C) |
|---|---|---|---|
| *1. Personnel* | | | |
| *2. Fringe Benefits (Rate % )* | | | |
| *3. Travel* | | | |
| *4. Equipment* | | | |
| *5. Supplies* | | | |
| *6. Contractual* | | | |
| *7. Other* | | | |
| *8. Total, Direct Cost (Lines 1 through 7)* | | | |
| *9. Indirect Cost (Rate %)* | | | |
| *10. Training Cost/Stipends* | | | |
| *11. TOTAL Funds Requested (Lines 8 through 10)* | | | |

*SECTION B - Cost Sharing/ Match Summary (if appropriate)*

| | (A) | (B) | (C) |
|---|---|---|---|
| *1. Cash Contribution* | | | |
| *2. In-Kind Contribution* | | | |
| *3. TOTAL Cost Sharing / Match (Rate %)* | | | |

*NOTE:* *Use Column A to record funds requested for the initial period of performance (i.e. 12 months, 18 months, etc.); Column B to record changes to Column A (i.e. requests for additional funds or line item changes; and Column C to record the totals (A plus B).*

# INSTRUCTIONS FOR PART II - BUDGET INFORMATION

## SECTION A - Budget Summary by Categories

1. *Personnel: Show salaries to be paid for project personnel which you are required to provide with W2 forms.*

2. *Fringe Benefits: Indicate the rate and amount of fringe benefits.*

3. *Travel: Indicate the amount requested for staff travel. Include funds to cover at least one trip to Washington, DC for project director or designee.*

4. *Equipment: Indicate the cost of non-expendable personal property that has a useful life of more than one year with a per unit cost of $5,000 or more. Also include a detailed description of equipment to be purchased including price information.*

5. *Supplies: Include the cost of consumable supplies and materials to be used during the project period.*

6. *Contractual: Show the amount to be used for (1) procurement contracts (except those which belong on other lines such as supplies and equipment); and (2) sub-contracts/grants.*

7. *Other: Indicate all direct costs not clearly covered by lines 1 through 6 above, including consultants.*

8. *Total, Direct Costs: Add lines 1 through 7.*

9. *Indirect Costs: Indicate the rate and amount of indirect costs. Please include a copy of your negotiated Indirect Cost Agreement.*

10. *Training /Stipend Cost: (If allowable)*

11. *Total Federal funds Requested: Show total of lines 8 through 10.*

## SECTION B - Cost Sharing/Matching Summary

*Indicate the actual rate and amount of cost sharing/matching when there is a cost sharing/matching requirement. Also include percentage of total project cost and indicate source of cost sharing/matching funds, i.e. other Federal source or other Non-Federal source.*

**NOTE: PLEASE INCLUDE A DETAILED COST ANALYSIS OF EACH LINE ITEM.**

BILLING CODE 4510–30–C
[FR Doc. 01–30922 Filed 12–13–01; 8:45 am]
BILLING CODE 4510–30–P

## DEPARTMENT OF LABOR

### Employment and Training Administration

**[SGA No. DFA 02–101]**

### Work Incentive Grants

**AGENCY:** Employment and Training Administration (ETA), DOL.

**ACTION:** Notice of availability of funds; Solicitation for Grant Applications (SGA).

This Notice Contains All of the Necessary Information and Forms Needed to Apply for Grant Funding.

**SUMMARY:** The U.S. Department of Labor (DOL), Employment and Training Administration (ETA), announces the availability of approximately $20 million to award competitive grants designed to enhance the employability, employment and career advancement of people with disabilities through enhanced service delivery in the new One-Stop delivery system established under the Workforce Investment Act of 1998 (WIA). The Work Incentive Grant program will provide grant funds to consortia and/or partnerships of public and private non-profit entities working in coordination with the One-Stop delivery system to augment the existing programs and services and ensure programmatic access and streamlined, seamless service delivery for people with disabilities.

**DATES:** Applications will be accepted commencing on the date of publication of this solicitation. The closing date for receipt of applications under this announcement is January 28, 2002. Applications must be received by 4 p.m. (EST) at the address below. No exceptions to the mailing and hand-delivery conditions set forth in this notice will be granted. Applications that do not meet the conditions set forth in this notice will not be honored.

**ADDRESSES:** Applications shall be mailed to: U.S. Department of Labor, Employment and Training Administration, Division of Federal Assistance, Attention: Ms. Yvonne Harrell, SGA/DFA 02–101, 200 Constitution Avenue, NW., Room S–4203, Washington, DC 20210.

**FOR FURTHER INFORMATION, CONTACT:** Questions should be faxed to Ms. Yvonne Harrell, Grants Management Specialist, Division of Federal Assistance, Fax (202) 693–2879 (this is not a toll-free number). All inquiries should include the SGA number (DFA 02–101) and a contact name, fax and phone numbers. This announcement will also be published on the Internet on the ETA's disAbility online Home Page at: *http://wdsc.doleta.gov/disability/*, and the ETA homepage at *http://doleta.gov*. Award notifications will also be published on the ETA homepage.

### Delivery of Applications

1. *Late Applications.* Any application received after the exact date and time specified for receipt at the office designated in this notice will not be considered, unless it is received before awards are made and it (a) was sent by U.S. Postal Service registered or certified mail not later than the fifth calendar day before the date specified for receipt of applications (e.g., an application submitted in response to a solicitation requiring receipt of applications by the 20th of the month must have been post marked by the 15th of that month); or (b) was sent by the U.S. Postal Service Express Mail Next Day Service to addressee not later than 5 p.m. at the place of mailing two working days prior to the date specified for receipt of applications. The term ''working days'' excludes weekends and Federal holidays. ''Post marked'' means a printed, stamped or otherwise placed impression (exclusive of a postage meter machine impression) that is readily identifiable, without further action, as having been supplied or affixed on the date of mailing by an employee of the U.S. Postal Service.

2. *Withdrawal of Applications.* Applications may be withdrawn by written notice or telegram (including mail gram) received at any time before an award is made. Applications may be withdrawn in person by the applicant or by an authorized representative thereof, if the representative's identity is made known and the representative signs a receipt of the proposal.

3. *Hand-Delivered Proposals.* It is preferred that applications be mailed at least five days prior to the closing date. To be considered for funding, hand-delivered applications must be received by 4 p.m., EST, at the specified address. Failure to adhere to the above instructions will be basis for a determination of non-responsiveness. Overnight express mail from carriers other than the U.S. Postal Service will be considered hand-delivered applications and MUST BE RECEIVED by the above specified date and time.

**SUPPLEMENTARY INFORMATION:**

### Part I. Authority

Provisions relating to the One-Stop delivery system are at sections #121, 134(c), 189(c) of the Workforce Investment Act (29 U.S.C. 2841, 2864(c), 2939(c); Wagner-Peyser Act (29 U.S.C. 49f(e)) and Department of Labor Appropriations Act for 2001 (Pub. L.106–554). Regulations governing the Workforce Investment Act are at 20 CFR parts 652, 660 '' 671, #(65 FR 49294 (August 11, 2000)).

### Part II. Background

The Workforce Investment Act of 1998 (WIA) establishes comprehensive reform of existing Federal job training programs with amendments impacting service delivery under the Wagner-Peyser Act, Adult Education and Literacy Act, and the Rehabilitation Act. WIA also repeals and supersedes the Job Training Partnership Act. A number of other Federal programs are also identified as required partners in the One-Stop delivery system in order to provide comprehensive services for all Americans to access the information and resources available to assist them in the development and implementation of their career goals. The intention of the One-Stop system is to establish programs and providers in co-located and integrated settings that are accessible for individuals and businesses alike in approximately 600 workforce investment areas established throughout the nation.

WIA establishes State and Local Workforce Investment Boards focused on strategic planning, policy development, and oversight of the workforce system with significant authority for the Governor and chief elected officials in local areas to build on existing reforms in order to implement innovative and comprehensive workforce investment systems. Recognizing that many One-Stop delivery systems may not currently have the capacity to provide comprehensive services to people with disabilities, the Work Incentive Grant is designed to provide seed monies to support the development of the One-Stop infrastructure with an objective of achieving model, seamless and comprehensive services for people with disabilities.

Many people with disabilities are looking to the new workforce investment system to address their employment and training needs in a progressive, enlightened environment with cutting-edge technologies. They also expect the One-Stop delivery system to provide comprehensive services to meet multiple barriers, which frequently limit their access to a productive, economically rewarding work life. These services may include, but are not limited to, the availability of basic skill development; vocational skill training or advanced educational opportunities; apprenticeship and entrepreneurial training; transportation

assistance to reach training or employment sites; housing assistance or advice on retaining existing housing upon employment; and access to medical health coverage upon employment. Twenty-three Work Incentive Grants were awarded at the end of Fiscal Year 2000 as the first round of this grant program. If you would like more information on last year's Work Incentive Grant awards, please go to *http://wdsc.doleta.gov/disability/*.

This Solicitation for Grant Applications (SGA) is for grant awards under the Work Incentive Grant program with funds made available July 1, 2001, under the Fiscal Year 2001 appropriation. The Work Incentive Grant program is consistent with the objectives of the President's New Freedom Initiative. This year's Work Incentive Grant announcement places a greater emphasis on addressing infrastructure inadequacies and programmatic access of the One-Stop system for people with disabilities and includes making a larger proportion of grant funds available for procuring assistive technology and establishing adequate employment counseling capacity than did previous work incentive grants.

The Department of Labor's Office of Disability Employment Policy (ODEP) also has several grant initiatives underway. These include a Customized Employment Grant, Innovative Demonstration Programs for WIA-assisted Youth, High-School/High Tech Start-up and Realignment Grants, and WIA Disability Technical Assistance Consortia. The Customized Employment Grants are distinct from ETA's Work Incentive Grants in that the ODEP grants will be awarded to Local Workforce Investment Boards to develop comprehensive, strategic and cutting-edge models of service delivery for individuals with disabilities who have never been employed, whose experience is limited to subsidized employment, or may be considered unable to be employed. The Customized Employment grants will involve cutting edge approaches such as use of customized employment strategies and the active involvement of programs of both required and non-required partners of the workforce system. If you would like more information on the ODEP grants and other programs administered by ODEP, please go to: *http://www.dol.gov/dol/odep/*.

## Part III. Funding Availability and Period of Performance

The Department of Labor anticipates awarding approximately 20–40 grants ranging from $500,000 to $1 million. The period of performance will be approximately 30 months from the date of execution by the Department. The grant funds would be available for expenditure until June 30, 2004, when the authority for these funds will expire. The Department may elect to extend these grants based on the availability of funds and satisfactory performance.

## Part IV. Eligible Applicants

Eligible applicants are State or Local Workforce Investment Boards (''State Boards'' or ''Local Boards''), established under the Workforce Investment Act of 1998 (WIA) working in partnership with other state and/or local, public and/or private non-profit, disability-related organizations. We encourage State or Local Board to be the lead applicant. However, if the State or Local Board is not the lead it must be a partner in the consortium. Eligible applicants partnered with State or Local Broads may be:

- State/local public agencies such as Vocational Rehabilitation, Mental Health, Mental Retardation/Developmental Disability, or Temporary Assistance for Needy Families (TANF); and/or
- Private non-profit organizations such as Centers for Independent Living (CIL's), disability advocacy, provider organizations, federally-funded disability grant entities, and other non-profit organizations, including faith-based entities, which provide services and/or advocacy for people with disabilities.

The lead administrative and fiscal agent applying for the grant must be identified in the application.

Applications can be statewide in scope. Statewide applications must propose strategies for enhancing and improving services to people with disabilities involving all local workforce investment areas in the State. State-wide grant projects should obtain and provide letters of commitment from Local Boards to the extent possible. However, a statewide project must include the State Board as a consortium partner, with applicable letters of commitment provided in the application.

Applications that are not state-wide projects but which involve one or more local workforce investment areas should also include letters of commitment from each Local Board covered under the grant, or one letter of commitment signed by all Local Boards in the local area (if all commitments cannot be obtained, explanation must be provided). Current Work Incentive grantees may apply under this solicitation, but must cover an increased number of workforce investment areas; identify significant need; address outstanding deficiencies or a significant improvement to the local workforce investment system.

Indian and Native American Tribal entities, or consortia of Tribes, may apply for Work Incentive Grants. These grants would involve coordination of services and enhancements to an One-Stop system approach for people with disabilities in a specific Indian community or covering multiple Tribal entities which may cut across multiple States and/or workforce investment areas. In such cases, letters of commitment from Local Boards may not be applicable. Grants to Indian and Native American tribal grantees are treated differently because of sovereignty and self-governance established under the Indian Self-Determination and Education Assistance Act allowing for the government-to-government relationship between the Federal and Tribal Governments.

**Note:** Except as specifically provided, DOL/ETA acceptance of a proposal and an award of federal funds to sponsor any program(s) does not provide a waiver of any grant requirement and/or procedures. For example, the OMB circulars require that an entity's procurement procedures must require that *all procurement transactions* must be conducted, as practical, to provide open and free competition. If a proposal identifies a specific entity to provide the services, the DOL/ETA's award *does not* provide the justification or basis to sole-source the procurement, i.e., avoid competition.

## Part V. Format Requirements for Grant Application

*General Requirements*—Applicants must submit one (1) copy with an original signature and 2 additional copies of their proposal. The Application Narrative must be double-spaced, and on single-sided, numbered pages with the exception of format requirements for the Executive Summary. The Executive Summary must be limited to no more than two single-spaced, single-sided pages. A font size of at least twelve (12) pitch is required throughout.

There are three required sections of the application. Requirements for each section are provided in this application package. Applications that fail to meet the requirements will not be considered.

*Section I—Project Financial Plan*

*Section II—Executive Summary—Project Synopsis*

*Section III—Project Narrative (Including Appendices, Not To Exceed 40 Pages)*

*Section I. Project Financial Plan*—Section I of the application must include the following two required elements: (1) Standard Form (SF) 424, Application for Federal Assistance, and (2) Budget Information Form and budget narrative. The application must include one SF 424 with the original signatures of the legal entity applying for grant funding and 2 additional copies. Applicants shall indicate on the SF 424 the organization's IRS Status, if applicable. Under the Lobbying Disclosure Act of 1995, section 18 (29 U.S.C. 1611), an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 which engages in lobbying activities shall not be eligible for the receipt of federal funds constituting an award, grant, or loan. The Catalog of Federal Domestic Assistance (CFDA) number is 17.207.

The Project Financial Plan will not count against the application page limits. The financial plan must describe all costs associated with implementing the project that are to be covered with grant funds. All costs should be necessary and reasonable according to the Federal guidelines set forth in the ''Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments,'' (also known as the ''Common Rule'') codified at 29 CFR part 97, and ''Grants and Agreements with Institutes of Higher Education, Hospitals, and Other Non-Profit Organizations (also known as OMB Circular A–110), codified at 29 CFR part 95, and must comply with the applicable OMB cost principles circulars, as identified in 29 CFR 95.27 and 29 CFR 97.22(b).

The financial plan must contain the following parts:

- Completed ''SF 424—Application for Federal Assistance'' (See Appendix A of this SGA for required form).
- Completed ''Budget Information Form'' by line item for all costs required to implement the project design effectively. (See Appendix B of this SGA for required forms.)
- Budget narrative/justification, which provides sufficient information to support the reasonableness of the costs, included in the budget in relation to the service strategy and planned outcomes.

**Please Note:** Work Incentive Grant project designs may incorporate procurement or implementation of software or hardware to assure assistive and accessible technologies in the One-Stop setting, which may equal up to 40% of the grant award.

*Section II. Executive Summary—Project Synopsis* [Format requirements for the Executive Summary are limited to no more than two single-spaced, single-sided pages]

Each application shall include a project synopsis, which identifies the following:

- The applicant;
- The type of organization the applicant represents;
- Identification of consortium partners and the type of organizations they represent;
- The project service area;
- Whether the service area is an entire local workforce investment area, more than one local area, or all local areas in a State;
- The specific areas of focus in the announcement which are addressed by the project;
- The amount of funds requested;
- The planned period of performance;
- The comprehensive strategy proposed for providing seamless service delivery, for addressing the multi-faceted barriers to training and employment which affect people with disabilities, and for improving access for people with disabilities in the generic workforce system;
- The ways in which the proposal is coordinated with other disability related grant initiatives from DOL, Department of Education (ED), Department of Health & Human Services (HHS), Social Security Administration (SSA), Department of Housing & Urban Development (HUD) or other Federal partners
- How counseling and other support needs will be addressed in the One-Stop Center system;
- The actions already taken by the State or Local Workforce Investment Board to address the needs of people with disabilities in the One-Stop delivery system;
- The extent to which the One-Stop facilities and satellite site(s) incorporate physical access for people with disabilities;
- The extent to which Vocational Rehabilitation is integrated or coordinated with the One-Stop delivery system;
- Data on the extent to which people with disabilities have been served under the Wagner-Peyser Act and previously, under the Job Training Partnership Act, and WIA;
- The level of commitment the applicant and consortium members have to serving people with disabilities; and
- The extent and manner in which the needs of individuals with disabilities from diverse cultural and/or ethnic groups will be addressed.

*Section III. Project Narrative* [Format requirements limited to no more than forty (40) double-spaced, single-sided, numbered pages. **Note:** The Executive Summary is not included in this forty (40)-page limit].

Section III of the application, the project narrative, the Government Requirements/Statement of Work section, as described below in the ''Required Content for Work Incentive Grant Applications—Program Year 2001.'' The forty (40)-pages limit includes any Attachments, which are provided by the applicant. Letters of general support or recommendation for a proposal should NOT be submitted and will count against the page limits. However, letters of commitment or a commitment signatory page are required from partner/consortia organizations, including State and/or Local Workforce Investment Board(s) clearly stating their intent to provide services and resources to the grant. As noted in Part IV of this solicitation, (Eligible Applicants), should also include letters of commitment from each Local Board covered under the grant, or one letter of commitment signed by all Local Boards in the local area (if all commitments cannot be obtained, explanation must be provided).

## Part VI. Monitoring and Reporting

*Monitoring*

The Department shall be responsible for ensuring the effective implementation of each competitive grant project in accordance with the provisions of this announcement and the negotiated grant agreement. Applicants should assume that Department staff, or their designees would conduct on-site project reviews, periodically. Reviews will focus on timely project implementation, performance in meeting the grant's programmatic goals and objectives, expenditure of grant funds on allowable activities, integration and coordination with other resources and service providers in the local area, and project management and administration in achieving project objectives. Work Incentive Grants may be subject to other additional reviews at the discretion of the Department.

*Reporting*

Grantees will be required to submit quarterly financial and narrative progress reports under the Work Incentive Grant program covering the workforce area(s) included in the grant project design. DOL will analyze data of workforce investment area(s) reports submitted annually under the

Workforce Investment Standardized Record Data (WIASARD) for workforce areas covered under the grant. [**Note:** Information on the WIASRD can be found under performance accountability at *http://workforce.org*].

• Financial reporting will be required quarterly using the Standard Form 269—Financial Status Report (FSR).

• A narrative progress report will be required quarterly.

• The Department of Labor plans to establish a process report on a semi-annual basis which includes summary information pertaining to WIA implementation and the numbers of people with disabilities registered, receiving training services, and employed through the One-Stop system. [**Note:** DOL will seek OMB review for the collection of this data].

The Department will establish performance goals with successful applicants that are consistent with the Department's Government Performance and Results Act (GPRA) goals.

**Part VII. Rating Criteria**

The Project Narrative, or Section III, of the grant application should provide complete information on how the applicant will address the Department of Labor's priorities for the Fiscal Year (FY) 2001 Work Incentive Grant program to achieve enhancements to the basic infrastructure and service delivery of the One-Stop system, in particular Wagner-Peyser and WIA-funded programs. These are:

• Developing comprehensive One-Stop Centers which are welcoming and are valued providers of choice by customers with disabilities seeking workforce assistance by assuring the availability of staff trained on disability issues, personalized employment counseling, coordinated planning support related to employment barriers and incentives, and availability of accommodations and assistive technologies for diverse disability needs.

• Implement strategies, which significantly increase opportunities for skill training, employment and workforce inclusion of people with disabilities resulting in self-sustaining employment and career advancement through participation in the One-Stop system.

The applicant should address government requirements and statement of work provisions outlined here as these address the applicant's needs and project design to achieve the Department's priorities. Therefore, all four criteria must be addressed but each item under the criteria does not necessarily have to be incorporated in the applicant's proposal design. At the same time, it is important to provide full information on the status of the workforce environment as it impacts people with disabilities.

*1. Statement of Need [25 points]*

• Identify the number of workforce areas in the State and the geographic jurisdiction of each local workforce investment area(s) in the State.

• Identify which local areas(s) in the State will be covered by the project and whether the project is Statewide, involves multiple local areas or is for a single local area.

• Identify whether a Work Incentive Grant award was received in the FY 2000 competition covering the identified workforce investment areas in this application and the reasons for application under this Solicitation for Grant Application.

• Identify consortium members if any, their primary mission irrespective of participation in the grant proposal, and what political and geographic jurisdictions (e.g., cities, counties, subsections of cities/counties) they cover.

• Describe how the project will address a primary objective of the Work Incentive Grant program to assure the integration of people with disabilities into the workforce investment system, including the availability of Wagner-Peyser and WIA Title I programs and services.

• Identify the percentage of people with disabilities in the State and/or local area, including the percentage of people who are beneficiaries of Social Security Disability Insurance (SSDI) and/or Social Security Income Program (SSI).

• Identify the most recent unemployment rate(s) in the workforce investment area(s) covering the project.

• Describe any significant deficiencies in the State or local workforce investment system that represent barriers to employment for people with disabilities and what will be accomplished under this grant to address them.

• Identify additional State and/or local funds and resources that will be used to support the overall objectives of the grant and which will assist in addressing the identified issues the grant project is addressing.

• For proposals targeted to a specific Indian community or covering multiple Tribal entities which may cut across multiple States and/or local areas, describe the overall approach of the project, and identify the inadequacies and deficiencies of the service delivery to the applicable community, and how the project expects to address these.

• Recognizing that the One-Stop delivery system may not have extensive knowledge or skills in working with people with disabilities, describe the level of expertise of the One-Stop system in the local area(s) addressed in the grant and the projects plans for addressing inadequacies.

• Describe the overall status and actions taken to-date by the One-Stop delivery system to address services to people with disabilities. This should include actions to ensure that, State and/or local facilities are physically and programmatically accessible; training is provided to staff; that the number and percent of people with disabilities receiving services under Job Training Partnership Act (JTPA), WIA and Employment Service programs during the previous three years compared with that of people without disabilities; plans to increase services to people with disabilities, if applicable.

• Describe coordination and linkage with regional Disability Business and Technical Assistance Centers (DBTAC's) and State Governors Committees on Employment of People with Disabilities. For example, Have DBTAC's provided training to the One-Stop delivery system on the Americans with Disabilities Act (ADA), section 504 of the Rehabilitation Act, or other disability-related training? If not, are plans to do so incorporated into the applicant project?

• Identify public and private non-profit provider entities participating under Job Training Partnership Act (JTPA), WIA and Employment Service grant program, and which barriers to employment their programs and services that are contributing to the overall applicant proposal may address. Specifically, describe State or local area provisions regarding Medicaid and/or Medicare coverage; current transportation infrastructure; how individuals with all types of disabilities will access training, employment, housing, food stamps and other supportive services.

*2. Comprehensive Service Strategy [25 points]*

• Identify how you will ensure that trained staff are available to provide counseling or employment planning support who have adequate knowledge of diverse disabilities and information on the following:

• Education and training program options and opportunities available under a broad array of programs such as Adult Education, Individuals with Disability Education Act for those under 22 without a high school degree,

Vocational Education, Vocational Rehabilitation and School-to-Work programs for adults and youth with disabilities;

• Services and resources for a wide range of disabilities, which may include both documented and undocumented physical, sensory, developmental/cognitive (e.g., mental retardation and learning disabilities, among others), mental and other health related functional disabilities;

• Tax benefits and incentives to employers of people with disabilities that provide financial support for workplace modifications and accommodations;

• Entrepreneurial, job carving and other employment options for people with disabilities;

• Impact of employment on individual benefits such as SSDI, SSI, TANF, Medicaid, Medicare, subsidized housing, and food stamps;

• Availability of Social Security work incentive programs and Ticket to Work options available to SSDI and SSI recipients; and

• Other resources available to assure successful employment and job retention such as transportation and housing options.

• Describe changes to be achieved under the grant to create seamless service delivery for One-Stop customers with disabilities.

• Describe the process that will be used to maintain and expand the service structure for individuals with disabilities accessing the workforce investment system.

• Describe how people with disabilities who are not eligible for Vocational Rehabilitation services or do not fall under the State's Order of Selection will be served through Wagner-Peyser services or WIA services through the Adult, Dislocated Worker, Youth or National Programs, including programs and services under the Older Americans Act.

• Identify the provisions of Memoranda of Understanding or other agreements between the partners, State Vocational Rehabilitation (VR) Agency, the State Rehabilitation Council, and the State or Local Boards in terms of the provision of services to people with disabilities; the plans for cost sharing; the arrangements for referral of people with disabilities between WIA Title I programs and VR as appropriate; the extent of integration and co-location of VR in One-Stop Centers, including sharing of Management Information Systems (MIS) or participation in case management data base technologies; the extent to which there is joint funding of participant services or leveraging of funds to expand access to services; and use of Individual Training Accounts (ITA's) for people with disabilities.

• Describe linkages with the State and local Independent Living Center (CIL) systems; Mental Health Departments, Mental Retardation/Developmental Disability Agencies, State Councils on Developmental Disabilities, State Vocational Rehabilitation, and Councils on Employment and other local provider or advocate organizations serving individuals with developmental and/or psychiatric disabilities, including how these agencies fit in a comprehensive service delivery strategy.

• Describe coordination and linkages with Learning Disabilities and Training Dissemination hub centers established under grants from the U.S. Department of Education's Office of Vocational and Adult Education and how these may be used to provide services to people with learning and other disabilities.

• Identify how State TANF programs and Welfare to Work (WtW) competitive grant projects will be linked or leveraged with objectives of the applicant's project.

• Identify plans and strategies to develop the capacity of the comprehensive One-Stop Center to function as an Employment Network under the Ticket to Work & Work Incentive Improvement Act (TWWIIA). Project plans in this regard should involve building the capacity of the WIA Title I programs and One-Stop system so that more in-depth services and information will be readily available to individuals with disabilities at the comprehensive One-Stop Center. The description of increased capacity must be an adjunct to the State Vocational Rehabilitation Agency, which is an automatic Employment Network provider under the TWWIIA.

• Describe how the project will be coordinated with grant programs, which are funded under the SSA Benefits Planning, Assistance and Outreach Cooperative Agreement and HHS Medicaid Infrastructure Grant programs, if applicable.

*3. Innovation and Model Services [25 points]*

• Describe your strategy for substantially increasing the number and percent of people with disabilities served, trained and entered into unsubsidized employment through the One-Stop Center system, particularly in WIA Title I programs. This should be related to, or refer back to, service delivery history under JTPA and the first year of WIA identified under the Statement of Need.

• Describe the status of accessible technologies within the Comprehensive One-Stop and plans to procure and implement accessible technologies, including video interpreting services for clients who are deaf or electronic door openers for wheelchair users, and how they address current system deficiencies.

• Identify the scope of technology implementations, if applicable, and the extent to which implementation is comprehensive and across the workforce area(s) and/or statewide.

• Identify whether assessment tools are used to identify individuals with learning disabilities in the One-Stop delivery system, including plans and processes to identify applicable assessment tools, train staff and incorporate such assessments as part of the service delivery structure.

• Describe how public supports needed by people with disabilities may be affected by their employment or training and State or local conditions, and actions to sustain benefits and services following successful job placement. For example, does the State or local area have provisions to continue supported or Section 8A housing (The Housing Act of 1992, Title IV), where applicable, for individuals who enter unsubsidized employment?

• Has the State adopted Medicaid ''buy-in'' options, or are there Medicaid waivers that extend health care coverage for individuals who enter employment?

• Describe plans for outreach and marketing to the disability community and organizations which represent or work with people with disabilities; and plans for training disability-related organizations on the resources and programs available to them in the One-Stop system.

• Identify individualized strategies that establish client control of training funds, VR funds, ITA's, or other funding sources to which these individuals may have access, and co-mingle funds in a seamless, customer friendly manner, including plans for obtaining waivers to the extent program requirements necessitate this.

• Identify plans or strategies to deploy Ticket to Work voucher provisions for beneficiaries of SSDI and recipients of SSI.

• Describe strategies to foster entrepreneurial and self-employment options using ITA's, Plans for Achieving Self-Support (PASS) and other SSA work incentives, and Medicaid coverage for individuals with disabilities who start or return to work.

• Describe specific approaches for developing relationships with and support of area employers that establish

employment opportunities for individuals with disabilities accessing the One-Stop delivery system, including any commitments by employers to hire these individuals.

• Describe how opportunities for competitive employment for individuals with disabilities will be provided or developed within the local workforce investment area and how this is unique or different than what is normally performed by the applicant(s).

• Identify available Federal and State tax incentives available to employers when hiring an individual with a disability; how this information will be marketed and disseminated to employers, the individual and workforce staff; and how employers may use such tax credits to address structural and technological accommodation needs.

• Describe opportunities for increasing integrated, competitive employment through use of strategies such as individualized job development for individuals with the most significant disabilities currently working in segregated facilities or waiting for employment services.

*4. Demonstrated Capability [25 points]*

• Identify whether the State or Local Boards will be the lead for the grant project and how they will include the disability community in plans.

• Identify the critical activities, time frames and responsibilities for effectively implementing the project, including the management and evaluation process for assuring successful implementation of grant objectives.

• Include a project organizational chart, which identifies the staff with key management responsibilities, including a matrix of organizational responsibilities of key entities and participating consortium organizations, where applicable.

• Describe the specific experience of the applicant(s) in serving people with disabilities, in providing workforce services, in addressing specific barriers to employment, in achieving expected outcomes in the delivery of such services/programs, and in implementing and administering specific project plans of the grant project. For example, such information might include the local Department of Transportation as a key partner agency addressing transportation barriers and how this entity has participated in similar efforts in the past and the success of these past efforts, and potential success of coordination on the applicant(s) grant project.

**Part VIII. Review Process and Evaluation Criteria**

A careful evaluation of applications will be made by a technical review panel, which will evaluate the applications against the criteria listed in this SGA. The panel results are advisory in nature and not binding on the Grant Officer. The Department may elect to award grants either with or without discussion with the offeror. In situations without discussions, an award will be based on the offeror's signature on the SF 424, which constitutes a binding offer. The Grant Officer may consider any information that is available and will make final award decisions based on what is most advantageous to the Government, considering factors such as:

• Panel findings;

• Geographic distribution of the competitive applications;

• The availability of funds.

Signed at Washington, DC, this 11th day of December, 2001.

**James W. Stockton,**

*Grant Officer.*

**Appendix "A"—Application for Federal Assistance (SF–424) (with instructions)**

**Appendix "B"—Budget Information Form (with budget narrative instructions)**

**Appendix "C"—Application Cover Sheet**

BILLING CODE 4510–30–P

APPENDIX "A"

## APPLICATION FOR FEDERAL ASSISTANCE

OMB Approval No. 0348-0043

| | | | |
|---|---|---|---|
| | | 2. DATE SUBMITTED | Applicant Identifier |
| 1. TYPE OF SUBMISSION: Application ☐ Construction ☐ Non-Construction | Preapplication ☐ Construction ☐ Non-Construction | 3. DATE RECEIVED BY STATE | State Application Identifier |
| | | 4. DATE RECEIVED BY FEDERAL AGENCY | Federal Identifier |

5. APPLICANT INFORMATION

| | |
|---|---|
| Legal Name: | Organizational Unit: |
| Address (give city, county, State and zip code): | Name and telephone number of the person to be contacted on matters involving this application (give area code): |

6. EMPLOYER IDENTIFICATION NUMBER (EIN):

☐☐-☐☐☐☐☐☐☐

7. TYPE OF APPLICANT: (enter appropriate letter in box) ☐

A. State
B. County
C. Municipal
D. Township
E. Interstate
F. Intermunicipal
G. Special District
H Independent School Dist.
I State Controlled Institution of Higher Learning
J . Private University
K Indian Tribe
L. Individual
M. Profit Organization
N. Other (Specify): _____

8. TYPE OF APPLICATION:
☐ New ☐ Continuation ☐ Revision

If Revision, enter appropriate letter(s) in box(es): ☐ ☐

A. Increase Award B. Decrease Award C. Increase Duration
D. Decrease Duration Other (specify):
_____

9. NAME OF FEDERAL AGENCY:

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER:

☐☐-☐☐☐

TITLE:

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:

12. AREAS AFFECTED BY PROJECT (cities, counties, States, etc.):

| 13. PROPOSED PROJECT: | | 14. CONGRESSIONAL DISTRICTS OF: | |
|---|---|---|---|
| Start Date | Ending Date | a. Applicant | b. Project |

| 15. ESTIMATED FUNDING: | | |
|---|---|---|
| a. Federal | $ | .00 |
| b. Applicant | $ | .00 |
| c. State | $ | .00 |
| d. Local | $ | .00 |
| e. Other | $ | .00 |
| f. Program Income | $ | .00 |
| g. TOTAL | $ | .00 |

16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?

a. YES. THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON DATE _____

b. NO. ☐ PROGRAM IS NOT COVERED BY E.O. 12372
☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?
☐ Yes If "Yes," attach an explanation. ☐ No

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION 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. Telephone number |
| d. Signature of Authorized Representative | | e. Date Signed |

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Standard Form 424 (REV 4-88)
Prescribed by OMB Circular A-102

INSTRUCTIONS FOR THE SF 424

This is a standard form used by applicants as a required face sheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

| Item: | Entry: |
|---|---|
| 1. | Self-explanatory. |
| 2. | Date application submitted to Federal agency (or State if applicable) & applicant's control number (if applicable). |
| 3. | State use only (if applicable) |
| 4. | If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank. |
| 5. | Legal name of applicant, name of primary organizational unit which will undertake this assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application. |
| 6. | Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service. |
| 7. | Enter the appropriate letter in the space provided. |
| 8. | Check appropriate box and enter appropriate letter(s) in the space(s) provided.<br>- "New" means a new assistance award.<br>- "Continuation" means an extension for an additional funding/budget period for a project with a projected completion date.<br>- "Revision" means any change in the Federal Government's financial obligation or contingent liability from an existing obligation. |
| 9. | Name of Federal agency from which assistance is being requested with this application. |
| 10. | Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is required. |
| 11. | 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 the project. |

| Item: | Entry: |
|---|---|
| 12. | List only the largest political entities affected (e.g., State, counties, cities. |
| 13. | Self-explanatory. |
| 14. | List the applicant's Congressional District and any District(s) affected by the program or project. |
| 15. | 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 15. |
| 16. | 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. |
| 17. | This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes. |
| 18. | 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. (Certain Federal agencies may require that this authorization be submitted as part of the application.) |

*APPENDIX "B"* *PART II - BUDGET INFORMATION*

*SECTION A - Budget Summary by Categories*

| | (A) | (B) | (C) |
|---|---|---|---|
| 1. Personnel | | | |
| 2. Fringe Benefits (Rate %) | | | |
| 3. Travel | | | |
| 4. Equipment | | | |
| 5. Supplies | | | |
| 6. Contractual | | | |
| 7. Other | | | |
| 8. Total, Direct Cost (Lines 1 through 7) | | | |
| 9. Indirect Cost (Rate %) | | | |
| 10. Training Cost/Stipends | | | |
| 11. TOTAL Funds Requested (Lines 8 through 10) | | | |

*SECTION B - Cost Sharing/ Match Summary (if appropriate)*

| | (A) | (B) | (C) |
|---|---|---|---|
| 1. Cash Contribution | | | |
| 2. In-Kind Contribution | | | |
| 3. TOTAL Cost Sharing / Match (Rate %) | | | |

*NOTE:* *Use Column A to record funds requested for the initial period of performance (i.e. 12 months, 18 months, etc.); Column B to record changes to Column A (i.e. requests for additional funds or line item changes; and Column C to record the totals (A plus B).*

## *INSTRUCTIONS FOR PART II - BUDGET INFORMATION*

### *SECTION A - Budget Summary by Categories*

1. ***Personnel:*** *Show salaries to be paid for project personnel.*

2. ***Fringe Benefits:*** *Indicate the rate and amount of fringe benefits.*

3. ***Travel:*** *Indicate the amount requested for staff travel. Include funds to cover at least one trip to Washington, DC for project director or designee.*

4. ***Equipment:*** *Indicate the cost of non-expendable personal property that has a useful life of more than one year with a per unit cost of $5,000 or more.*

5. ***Supplies:*** *Include the cost of consumable supplies and materials to be used during the project period.*

6. ***Contractual:*** *Show the amount to be used for (1) procurement contracts (except those which belong on other lines such as supplies and equipment); and (2) sub-contracts/grants.*

7. ***Other:*** *Indicate all direct costs not clearly covered by lines 1 through 6 above, including consultants.*

8. ***Total, Direct Costs:*** *Add lines 1 through 7.*

9. ***Indirect Costs:*** *Indicate the rate and amount of indirect costs. Please include a copy of your negotiated Indirect Cost Agreement.*

10. ***Training /Stipend Cost:*** *(If allowable)*

11. ***Total Federal funds Requested:*** *Show total of lines 8 through 10.*

### *SECTION B - Cost Sharing/Matching Summary*

***Indicate the actual rate and amount of cost sharing/matching when there is a cost sharing/matching requirement. Also include percentage of total project cost and indicate source of cost sharing/matching funds, i.e. other Federal source or other Non-Federal source.***

***NOTE:***

***PLEASE INCLUDE A DETAILED COST ANALYSIS OF EACH LINE ITEM.***

SGA COVER SHEET

DFA-SGA-01-111

APPENDIX "C"

WORK INCENTIVE GRANT PROGRAM

WORK INCENTIVE GRANT PROGRAM

# APPLICANT(S) NAME:

_____

Please check box if applicable:

- ☐ Partnership
- ☐ Public Non-profit
- ☐ Private Non-profit
- ☐ Disability Related Organization
- ☐ State
- ☐ Local WIB(s)

[FR Doc. 01–30923 Filed 12–13–01; 8:45 am]

BILLING CODE 4510–30–C

## DEPARTMENT OF LABOR

### Employment Standards Administration, Wage and Hour Division

### Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedes decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register** or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under the Davis-Bacon And Related Acts,'' shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department.

Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., Room S–3014, Washington, DC 20210.

### New General Wage Determination Decision

The number of the decisions added to the Government Printing Office document entitled ''General Wage determinations Issued Under the Davis-Bacon and related Acts'' are listed by Volume and States:

*Volume V*

New Mexico
NM010011 (Dec. 14, 2001)

### Modification to General Wage Determination Decisions

The number of the decisions listed to the Government Printing Office document entitled ''General Wage Determinations Issued Under the Davis-Bacon and related Acts'' being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

*Volume I*

New Hampshire
NH010001 (Mar. 2, 2001)
NH010005 (Mar. 2, 2001)
NH010007 (Mar. 2, 2001)
NH010008 (Mar. 2, 2001)

New Jersey
NJ010001 (Mar. 2, 2001)
NJ010002 (Mar. 2, 2001)
NJ010003 (Mar. 2, 2001)

*Volume II*

Delaware
DE010002 (Mar. 2, 2001)
DE010005 (Mar. 2, 2001)

Pennsylvania
PA010001 (Mar. 2, 2001)
PA010002 (Mar. 2, 2001)
PA010004 (Mar. 2, 2001)
PA010005 (Mar. 2, 2001)
PA010012 (Mar. 2, 2001)
PA010014 (Mar. 2, 2001)
PA010015 (Mar. 2, 2001)
PA010017 (Mar. 2, 2001)
PA010018 (Mar. 2, 2001)
PA010019 (Mar. 2, 2001)
PA010020 (Mar. 2, 2001)
PA010025 (Mar. 2, 2001)
PA010030 (Mar. 2, 2001)
PA010040 (Mar. 2, 2001)
PA010042 (Mar. 2, 2001)
PA010050 (Mar. 2, 2001)
PA010054 (Mar. 2, 2001)
PA010060 (Mar. 2, 2001)
PA010065 (Mar. 2, 2001)

*Volume III*

Kentucky
KY010004 (Mar. 2, 2001)
KY010029 (Mar. 2, 2001)

*Volume IV*

Illinois
IL010001 (Mar. 2, 2001)
IL010002 (Mar. 2, 2001)
IL010004 (Mar. 2, 2001)
IL010006 (Mar. 2, 2001)
IL010008 (Mar. 2, 2001)
IL010018 (Mar. 2, 2001)
IL010028 (Mar. 2, 2001)
IL010034 (Mar. 2, 2001)
IL010044 (Mar. 2, 2001)
IL010047 (Mar. 2, 2001)
IL010049 (Mar. 2, 2001)
IL010060 (Mar. 2, 2001)
IL010063 (Mar. 2, 2001)

Minnesota
MN010001 (Mar. 2, 2001)
MN010003 (Mar. 2, 2001)
MN010005 (Mar. 2, 2001)
MN010012 (Mar. 2, 2001)
MN010039 (Mar. 2, 2001)
MN010043 (Mar. 2, 2001)
MN010049 (Mar. 2, 2001)
MN010057 (Mar. 2, 2001)

*Volume V*

Iowa
IA010031 (Mar. 2, 2001)

Louisiana
LA010005 (Mar. 2, 2001)
LA010009 (Mar. 2, 2001)
LA010018 (Mar. 2, 2001)
LA010031 (Mar. 2, 2001)

Nebraska
NE010001 (Mar. 2, 2001)
NE010003 (Mar. 2, 2001)
NE010009 (Mar. 2, 2001)
NE010011 (Mar. 2, 2001)
NE010019 (Mar. 2, 2001)

New Mexico
NM010001 (Mar. 2, 2001)
NM010005 (Mar. 2, 2001)

*Volume VI*

Idaho
ID010001 (Mar. 2, 2001)
ID010003 (Mar. 2, 2001)
North Dakota
ND010002 (Mar. 2, 2001)
Oregon
OR010001 (Mar. 2, 2001)
OR010017 (Mar. 2, 2001)
Washington
WA010001 (Mar. 2, 2001)
WA010002 (Mar. 2, 2001)
WA010003 (Mar. 2, 2001)
WA010004 (Mar. 2, 2001)
WA010005 (Mar. 2, 2001)
WA010007 (Mar. 2, 2001)
WA010008 (Mar. 2, 2001)
WA010011 (Mar. 2, 2001)
WA010023 (Mar. 2, 2001)

*Volume VII*

California
CA010001 (Mar. 2, 2001)
CA010002 (Mar. 2, 2001)
CA010028 (Mar. 2, 2001)
CA010030 (Mar. 2, 2001)
Nevada
NV010001 (Mar. 2, 2001)
NV010002 (Mar. 2, 2001)
NV010005 (Mar. 2, 2001)
NV010007 (Mar. 2, 2001)
NV010009 (Mar. 2, 2001)

**General Wage Determination Publication**

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under the Davis-Bacon And Related Acts''. This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country.

General wage determinations issued under the Davis-Bacon and related Acts are available electronically at no cost on the Government Printing Office site at *www/access.gpo.gov/davisbacon.* They are also available electronically by subscription to the Davis-Bacon Online Service (*http://davisbacon.fedworld.gov)* of the National Technical Information Service (NTIS) of the U.S. Department of Commerce at 1–800–363–2068. This subscription offers value-added features such as electronic delivery of modified wage decisions directly to the user's desktop, the ability to access prior wage decisions issued during the year, extensive Help desk Support, etc.

Hard-copy subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 512–1800.

When ordering hard-copy subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the six separate Volumes, arranged by State. Subscriptions include an annual edition (issued in January or February) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC, this 6th day of December 2001.

**Carl J. Poleskey,**

*Chief, Branch of Construction Wage Determinations.*

[FR Doc. 01–30728 Filed 12–13–01; 8:45 am]

BILLING CODE 4510–27–M

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## DEPARTMENT OF LABOR

### Bureau of Labor Statistics

### 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 pre-clearance 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. The Bureau of Labor Statistics (BLS) is soliciting comments concerning the proposed new collection of the American Time Use Survey (ATUS). A copy of the proposed information collection request (ICR) can be obtained by contacting the individual listed below in the **ADDRESSES** section of this notice.

**DATES:** Written comments must be submitted to the office listed in the Addresses section of this notice on or before February 12, 2002.

**ADDRESSES:** Send comments to Amy A. Hobby, BLS Clearance Officer, Division of Management Systems, Bureau of Labor Statistics, Room 3255, 2 Massachusetts Avenue, NE., Washington, DC 20212, telephone number 202–691–7628 (this is not a toll free number).

**FOR FURTHER INFORMATION CONTACT:** Amy A. Hobby, BLS Clearance Officer, telephone number 202–691–7628. (See **ADDRESSES** section.)

**SUPPLEMENTARY INFORMATION:**

**I. Background**

According to economist William Nordhaus, ''Inadequate data on time-use is the single most important gap in federal statistics' (1997). Approximately 50 other countries collect, or will soon collect, time-use data. Such data are considered important indicators of quality of life. They measure, for example, time spent with children, working, sleeping, or doing leisure activities. In the United States, several existing Federal surveys collect income and wage data for individuals and families, and analysts often use such measures of material prosperity as proxies for quality of life. Time-use data will substantially augment these quality-of-life measures. The data can also be used in conjunction with wage data to evaluate the contribution of non-market work to national economies. This enables comparisons of production between nations that have different mixes of market and non-market activities.

The ATUS will develop nationally representative estimates of how people spend their time. Respondents will also report who was with them during activities, where they were, how long each activity lasted, and if they were paid.

All of this information will have numerous practical applications for sociologists, economists, educators, government policy makers, businesspersons, lawyers, and others, potentially answering the following questions: Do the ways people use their time vary across demographic and labor force characteristics, such as age, sex, race, ethnicity, employment status, earnings, and education? How much time do parents spend in the company of their children, either actively providing care, occasionally checking on them, or being with them while socializing, relaxing, or doing other things? How are earnings related to leisure time'do those with higher earnings spend more or less time relaxing and socializing? Where do people work'at a workplace, in their homes, or someplace else? For application in personal injury or wrongful death cases: What is the approximate value of non-market work, such as household activities or childcare, in one's day? What are some non-economic effects of government policy decisions? Should lawmakers develop new or change existing policies to address the changing needs of our society? The ATUS data will be

collected on an ongoing, monthly basis, so time series data will eventually become available, allowing analysts to identify changes in how people spend their time.

**II. Desired Focus of Comments**

The Bureau of Labor Statistics is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

**III. Current Action**

Office of Management and Budget clearance is being sought for the new collection of the American Time Use Survey. This survey will collect information on how individuals in the United States use their time. Collection will be on a continuous, monthly basis. The survey sample will be drawn from households completing their final month of interviews for the Current Population Survey (CPS). Households will be selected to ensure a representative demographic sample, and one individual from each household will be selected to take part in one Computer Assisted Telephone Interview. The interview will ask respondents to report all of their activities for one pre-assigned 24-hour day, the day prior to the interview. A short series of summary questions and CPS updates follows the core time diary collection. After one full year of collection, annual national estimates of time use for an average weekday or weekend day will be available. Eventually, time series data will be available.

Because the ATUS sample will be a subset of households completing interviews for the CPS, the same demographic information collected from that survey will be available for the ATUS respondents. Comparisons of activity patterns across characteristics such as sex, race, age, and education of the respondent, as well as the presence of children and the number of adults living in the respondent's household will be possible.

*Type of Review:* New Collection.
*Agency:* Bureau of Labor Statistics
*Title:* American Time Use Survey.
*OMB Number:* 1220–NEW.
*Affected Public:* Individuals.
*Total Respondents:* 24,000.
*Frequency:* Monthly.
*Total Responses:* 24,000.
*Average Time Per Response:* 30 minutes.
*Estimated Total Burden Hours:* 12,000 hours.
*Total Burden Cost (capital/startup):* $0.
*Total Burden Cost (operating/maintenance):* $0.

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 also will become a matter of public record.

Signed at Washington, DC, this 7th day of December, 2001.

**Jesús Salinas,**

*Acting Chief, Division of Management Systems, Bureau of Labor Statistics.*

[FR Doc. 01–30855 Filed 12–13–01; 8:45 am]

BILLING CODE 4510–28–P

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## DEPARTMENT OF LABOR

## Bureau of Labor Statistics

## 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 pre-clearance 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. The Bureau of Labor Statistics (BLS) is soliciting comments concerning the proposed extension of the ''Producer Price Index Survey.'' A copy of the proposed information collection request (ICR) can be obtained by contacting the individual listed below in the Addresses section of this notice.

**DATES:** Written comments must be submitted to the office listed in the Addresses section of this notice on or before February 12, 2002.

**ADDRESSES:** Send comments to Amy A. Hobby, BLS Clearance Officer, Division of Management Systems, Bureau of Labor Statistics, Room 3255, 2 Massachusetts Avenue, NE., Washington, DC 20212, telephone number 202–691–7628 (this is not a toll free number).

**FOR FURTHER INFORMATION CONTACT:** Amy A. Hobby, BLS Clearance Officer, telephone number 202–691–7628. (See **ADDRESSES** section.)

**SUPPLEMENTARY INFORMATION:**

**I. Background**

The Producer Price Index (PPI), one of the Nation's leading economic indicators, is used as a measure of price movements, as an indicator of inflationary trends, for inventory valuation, and as a measure of purchasing power of the dollar at the primary-market level. It is also used for market and economic research and as a basis for escalation in long-term contracts and purchase agreements.

PPI data provide a description of the magnitude and composition of price change within the economy, and serve a wide range of governmental needs. These monthly indexes are closely followed and are viewed as sensitive indicators of the economic environment. Price data are vital in helping both the President and Congress set fiscal spending targets. Producer prices are monitored by the Federal Reserve Board Open Market Committee to help decide monetary policy. Federal policy-makers at the Department of Treasury and the Council of Economic Advisors use these statistics to help form and evaluate monetary and fiscal measures, and to help interpret the general business environment. Furthermore, dollar-denominated measures of economic performance, such the Gross Domestic Product, require accurate price data in order to convert nominal-dollar values to constant-dollar values. Inflation-free national income accounting figures are vital to fiscal and monetary policy-makers when setting objectives and targets. In addition, it is common to find one or more PPIs, alone or in combination with other measures, used to escalate the delivered price of goods for government purchases.

In addition to governmental uses, PPI data are used by the private sector.

Private industry uses PPI data for contract escalation. For one particular method of tax-related Last-In-First-Out (LIFO) inventory accounting, the Internal Revenue Service suggests that firms use PPI data for making calculations. Private businesses make extensive use of industrial-price data for planning and operating. Price trends are used to assess market conditions. Firms commonly compare the prices they pay for material inputs and the prices they receive for products that they make and sell with changes in similar PPIs.

Economic researchers and forecasters also use the PPI. Price indexes are widely used to probe and measure the interaction of market forces. Some examples of research topics that require extensive price data include: The identification of varying price elasticities and the degree of cost pass-through in the economy, the identification of potential lead and lag structures among price changes, and the identification of prices which exert major impacts throughout market structures. In the end, both policy and business planning are affected by the completeness of price trend descriptions.

**II. Desired Focus of Comments**

The Bureau of Labor Statistics is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

**III. Current Action**

Office of Management and Budget clearance is being sought for the Producer Price Index Survey.

A description of recent and projected improvements meant to improve data completeness, increase efficiency, and reduce overall respondent burden to the maximum degree possible follows.

A. *Disaggregation*—Recent modifications made to disaggregation (*i.e.,* item selection procedures) help to better define a publication structure that is: (1) Publishable in its entirety, (2) meets user needs, (3) continuous, and (4) permits meaningful classification of current production. In order to obtain and maintain publishability of an entire structure, data are now collected using a method where price-quotation selection is spread across predetermined product categories that correspond to the publication cells for a Standard Industrial Classification (SIC). The design of the revised disaggregation method nearly guarantees that the PPI will collect enough price quotations to populate more lightly weighted cells. More heavily weighted (and populated) cells will receive slightly fewer price quotations than would have been selected under the previous method. As a result, indexes constituting the PPI's publication objectives are much more likely to remain published over time. (For a complete description, see ''Change in PPI Publication Structures for Resampled Industries Introduced in January 1997,'' PPI Detailed Report, January 1997.)

B. *Sampling*—Recent modifications made to sampling procedures permit the PPI to update weights of industry indexes without initiating a new set of respondents. This process change is called ''recycling without resampling.'' The PPI has also made it operationally feasible to augment the sample of price quotations for a single product line within an SIC, rather than having to initiate an entirely new set of respondents when such needs arise. These capabilities are major breakthroughs, since they enable the PPI program to reduce both data-collection expenses and respondent burden, while permitting efficient reallocation of program resources. Volatile, technologically sophisticated, and never-before-sampled SICs may now be updated or introduced into the PPI in a timelier manner.

C. *Publication*—The PPI mission includes a mandate requiring the program work toward publication, wherever possible, of output price indexes for every four-digit industry defined by the SIC Manual. Historically, the PPI had been a family of indexes focusing on the mining, manufacturing, agriculture, and forestry sectors. This publication mandate has resulted in expansion of coverage into non-goods producing sectors of the economy. PPI sampling and data-collection methodology have permitted systematic retrieval of specific service-industry classifications, and have resulted in the publication of various four-digit SIC aggregate indexes, as well as service-line and detailed service-category price indexes. The PPI currently publishes about seventy-five industry-based indexes for service-sector activities. Over the preceding decade, the PPI has introduced indexes encompassing transportation, real estate, health, legal, accounting, and many other service-based industries. Industry expansion continues on a regular basis, as funding permits. Since 1999, the PPI has introduced price indexes for SIC 6311 (Life insurance carriers), SIC 54 (Food stores), SIC 59 (Retail trade), and SIC 6211 (Security brokers, dealers, and investment banking companies).

D. *NAICS Classification*—At present, sampling and data collection are conducted according to the SIC Manual system of organization. However, the PPI survey has begun to make modifications that will permit smooth conversion to the North American Industrial Classification System (NAICS).

E. *Electronic Data Collection*—The vast majority of data collected by the BLS is confidential respondent information. The BLS is currently developing electronic data collection procedures that will reduce respondent burden and increase efficiency. However, procedures must exist to safeguard respondent information. Transmission of data by e-mail presents at least two types of security risks: The data could be intercepted and/or altered by unauthorized persons; and the data are subject to inadvertent disclosure by the use of incorrect group names and accidental forwarding. Complete elimination of e-mail for data collection purposes likely would decrease response and is not a feasible option. The BLS is pursuing technological solutions to increase the security of e-mail transmission. In the interim, however, short-term restrictions in e-mail use are needed to reduce the risks of disclosing confidential data. Effective November 16, 2001, the BLS authorized the use of e-mail for collection of confidential data through a pilot test conducted by the BLS National Compensation Survey. Policies regarding: (1) Communication of confidential respondent information within the BLS, (2) BLS contacts with government agencies participating in BLS statistical surveys, and, (3) BLS contacts with respondents were also updated. These revised policies permit limited use of e-mail in communications pertaining to confidential respondent information outside the BLS pilot study being conducted by National Compensation Survey. E-mail

communication between the BLS and respondents containing confidential data can now occur if the following conditions are met: (1) It is necessary, as a last resort, to obtain a usable response, and the transmission contains the fewest data elements necessary. (2) Purely logistical information, although it could tend to disclose an individual respondent's identification, may be exchanged with individual respondents (or potential respondents) using regular Internet e-mail if doing so promotes the efficiency of survey collection and is acceptable to the respondent. (3) E-mail must only be used as a data collection mechanism if it is necessary to obtain cooperation from the respondent. (4) No group names are to be used when addressing an e-mail message containing confidential data. Whenever confidential communications occur, the BLS e-mail must include the ''BLS Statement to Respondent in the Use of Electronic Data transmission,'' which states the inherent risks to information confidentiality.

*Type of Review:* Extension of a currently approved collection.

*Agency:* Bureau of Labor Statistics.

*Title:* Producer Price Index Survey.

*OMB Number:* 1220–0008.

*Affected Public:* Business and other for-profit.

| Form | Total respondents | Frequency | Total responses | Average time per response (minutes) | Estimated total burden (hours) |
|---|---|---|---|---|---|
| BLS 1810A, A1, B, C, C1, and E | 1,585 | Once | 6,340 | 120 | 12,680 |
| BLS 473P | 26,250 | Monthly | 1,260,000 | 18 | 378,000 |
| Totals | 27,835 | | 1,266,340 | | 390,680 |

*Estimated Total Burden Hours:* 390,680 hours.

*Total Burden Cost (capital/startup):* $0.

*Total Burden Cost (operating/maintenance):* $0.

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 also will become a matter of public record.

Signed at Washington, DC, this 7th day of December, 2001.

**Jesús Salinas,**

*Acting Chief, Division of Management Systems, Bureau of Labor Statistics.*

[FR Doc. 01–30892 Filed 12–13–01; 8:45 am]

**BILLING CODE 4510–24–P**

## DEPARTMENT OF LABOR

### Pension and Welfare Benefits Administration

### Proposed Extension of Information Collection Request Submitted for Public Comment; Application for EFAST Electronic Signature and Codes for EFAST Transmitters and Software Developers

**ACTION:** Notice.

**SUMMARY:** The Department of Labor (the Department), as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and other federal agencies with an opportunity to comment on proposed and continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA 95) (44 U.S.C. 3506(c)(2)(A)). This program helps to ensure that requested data is 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.

By this notice, the Department is soliciting comments concerning the Application for EFAST Electronic Signature and Codes for EFAST Transmitters and Software Developers (Form EFAST–1). A copy of the proposed information collection request (ICR) can be obtained by contacting the office listed below in the addresses section of this notice. The proposed Form EFAST–1 is also available for viewing and downloading through the Department of Labor's Internet site (*http://www.efast.dol.gov*).

**DATES:** Written comments must be submitted to the office listed in the addresses section below on or before February 12, 2002.

**ADDRESSES:** Interested parties are invited to submit written comments regarding the collection of information. Send comments to Gerald B. Lindrew, Office of Policy and Research, U.S. Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue, NW, Room N–5647, Washington, DC 20210. Telephone: (202) 693–8414; Fax: (202) 219–4745. These are not toll-free numbers.

**SUPPLEMENTARY INFORMATION:**

### I. Background

Under part 1 of Title I of the Employee Retirement Income Security Act of 1974 (ERISA), Title IV of ERISA, and the Internal Revenue Code of 1986, as amended, administrators of pension and welfare benefit plans (collectively, employee benefit plans) subject to those provisions and employers sponsoring certain fringe benefit plans and other plans of deferred compensation are required to file returns/reports annually concerning the financial condition and operations of the plans. These reporting requirements are satisfied generally by filing the Form 5500 Series in accordance with its instructions and the related regulations.

Beginning with the 1999 plan year, the Agency announced the availability of computer scannable forms and the development of electronic filing technologies. The computer scannable formats were developed to facilitate the implementation of a computerized system designed to process the Form 5500 and the IRS Form 5500–EZ—the ERISA Filing and Acceptance System, or EFAST. The Form 5500 and Form 5500–EZ may also be filed electronically via modem, magnetic tape, floppy diskette, or CD–ROM.

In order to participate in the electronic filing program, applicants are required to submit an Application for EFAST Electronic Signature and Codes for EFAST Transmitters and Software Developers (Form EFAST–1), the subject of this ICR. Applicants who may file the Form EFAST–1 include: (1) Individuals applying for an electronic signature to sign a Form 5500 or 5500–EZ as, or on behalf of, plan administrators, employers/plan sponsors, or Direct Filing Entities (DFEs) using modem, magnetic tape, floppy diskette, or CD–ROM to file electronically; (2) transmitters (a company, trade, business, or other person) applying for codes to transmit Forms 5500 and/or

Forms 5500–EZ for electronic filing using modem, magnetic tape, floppy diskette, or CD–ROM; and, (3) software developers (a company, trade, business, or other person that creates, programs, or otherwise modifies computer software) applying for codes required to develop EFAST-compliant computer software for electronically preparing and filing the Form 5500 and/or Form 5500–EZ. Applicants provide some or all of the following information depending on applicant type: name and title of applicant, mailing address, Employer Identification Number (EIN), telephone number, facsimile number and e-mail address (optional), contact person if different than applicant, and a signed agreement concerning the terms and conditions of the electronic filing program. Applicants receive, depending on applicant type, some or all of the following codes: electronic signature; filer identification number; personal identification number; encryption key; electronic filing identification number; password; and software developer ID. Applicants use these codes, as applicable, in connection with electronic filing, electronic transmission, or the development of EFAST software for the Form 5500 and 5500–EZ.

The information provided by the applicants on EFAST–1, combined with the codes supplied to the applicants by the program, allow EFAST to verify a filer, transmitter, or software developer's standing as a qualified participant in the EFAST electronic filing program for the Form 5500 and 5500–EZ. EFAST–1 information also establishes a means of contact between the EFAST program and filers, transmitters, and software developers for information exchange.

*Type of Review:* Extension of a currently approved collection.

*Agency:* Department of Labor, Pension and Welfare Benefits Administration.

*Title:* Application for EFAST Electronic Signature and Codes for EFAST Transmitters and Software Developers.

*Agency Form:* EFAST–1.

*OMB Number:* 1210–0117.

*Frequency:* On occasion.

*Affected Public:* Individuals or households; business or other for-profit; Not-for-profit institutions.

*Total Respondents:* 10,800.

*Total Responses:* 10,800.

*Estimated Total Burden Hours:* 3,600.

*Estimated Total Burden Cost:* $4,100.

## II. Desired Focus of Comments

The Department is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agencies, including whether the information will have practical utility;
- Evaluate the accuracy of the agencies' 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;
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

## III. Current Actions

The Pension and Welfare Benefits Administration is requesting an extension of the currently approved ICR pertaining to the Application for EFAST Electronic Signature and Codes for EFAST Transmitters and Software Developers (Form EFAST–1). The Department is not proposing or implementing changes to the existing ICR at this time.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of the ICR; they will also become a matter of public record.

Dated: December 11, 2001.

**Gerald B. Lindrew,**

*Deputy Director, Office of Policy and Research, Pension and Welfare Benefits Administration.*

[FR Doc. 01–30891 Filed 12–13–01; 8:45 am]

BILLING CODE 4510–29–P

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# NATIONAL SCIENCE FOUNDATION

## Agency Information Collection Activities: Proposed Collection; Comment Request

**AGENCY:** National Science Foundation.

**ACTION:** Notice.

**SUMMARY:** The National Science Foundation (NSF) is announcing plans to request clearance of this collection. In accordance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, we are providing opportunity for public comment on this action. After obtaining and considering public comment, NSF will prepare the submission requesting OMB clearance of this collection for no longer than 3 years.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information shall have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information on respondents, including through the use of automated collection techniques or other forms of information technology; 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.

**DATES:** Written comments should be received by February 12, 2002, to be assured of consideration. Comments received after that date would be considered to the extent practicable.

**ADDRESSES:** Written comments regarding the information collection and requests for copies of the proposed information collection request should be addressed to Suzanne Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Blvd., Rm. 295, Arlington, VA 22230, or by E-mail to *splimpto@nsf.gov.*

**FOR FURTHER INFORMATION CONTACT:** Suzanne Plimpton on (703) 292–7556 or send E-mail to *splimpto@nsf.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

**SUPPLEMENTARY INFORMATION:**

*Title of Collection:* The Evaluation of NSF's Louis Stokes Alliance for Minority Participation (LSAMP) Program.

*OMB Control No.:* 3145–NEW.

*Expiration Date of Approval:* Not applicable.

## 1. Abstract

This document has been prepared to support the clearance of data collection instruments to be used in the evaluation of the Louis Stokes Alliance of Minority Participation (LSAMP) Program. The goal of this program is to increase the number of interested, academically qualified minority students receiving baccalaureate degrees in science, technology, engineering and math (STEM), continuing to graduate school to attain a STEM graduate degree, and entering the STEM workforce. The program makes awards to alliances, which are composed of institutional

partnerships (e.g., with two- and four-year higher education institutions, business, research labs, and local, state, and federal agencies). LSAMP projects fund students, offer a range of student support services, and undertake systemic reform of undergraduate education in STEM (particularly curricular improvement and faculty professional development). This mixed-methods study will gather data through telephone interviews with project staff, a survey questionnaire of program graduates, and in person interviews with faculty, staff, and students at three selected case study sites. The process evaluation component of this study will identify strategies that accelerate or inhibit the attainment of project goals, strategies employed to promote linkages among Alliance partners, and the manner in which the LSAMP model has evolved since its inception. The impact evaluation component of this study will examine program impact on institutions of higher education in promoting diversity in STEM, and participant career outcomes.

**2. Expected Respondents**

The expected respondents are project directors and/or managers of all 27 projects; LSAMP graduates who received program funding and who earned STEM baccalaureate degrees between 1992 and 1997; ad, faculty, staff, and student participants at the three selected case study sites.

**3. Burden on the Public**

The total elements for this collection are 308 burden hours for a maximum of 795 participants annually, assuming a 90–100% response rate. The average annual reporting burden is under 1 hour per respondent. The burden on the public is negligible because the study is limited to project participants that have received funding from the LSAMP Program.

Dated: December 10, 2001.

**Suzanne H. Plimpton,**

*NSF Reports Clearance Officer.*

[FR Doc. 01–30893 Filed 12–13–01; 8:45 am]

BILLING CODE 7555–01–M

## NUCLEAR REGULATORY COMMISSION

### Enforcement Program and Alternative Dispute Resolution Request for Comments

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Request for comments.

**SUMMARY:** The Nuclear Regulatory Commission (NRC) is announcing its intent to evaluate the use of Alternative Dispute Resolution (ADR) in the NRC's enforcement program, which is governed by the NUREG–1600, ''General Statement of Policy and Procedure for NRC Enforcement Actions'' (Enforcement Policy). The NRC is undertaking this evaluation because ADR techniques have proven to be efficient and effective in resolving a wide range of disputes government-wide. The Commission is seeking public comment in the form of answers to questions presented in the **SUPPLEMENTARY INFORMATION** section of this notice.

**DATES:** The comment period expires January 28, 2002.

**ADDRESSES:** Submit written responses to the questions presented in the Supplementary Information section of this notice to Michael Lesar, Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, Mail Stop T–6 D59, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Hand deliver comments to: 11555 Rockville Pike, Rockville, Maryland, between 7:30 a.m. and 4:15 p.m. on Federal workdays. Copies of comments received may be examined at the NRC Public Document Room, 11555 Rockville Pike, Rockville, MD 20852. Comments may also be sent electronically to Mr. Lesar, E-mail *mtl@nrc.gov.*

**FOR FURTHER INFORMATION CONTACT:** Terrence Reis, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001 (301) 415–3281, E-mail *txr@nrc.gov,* or Francis X. Cameron, NRC ADR Specialist, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington DC 20555–0001, (301) 415–1642, E-mail *fxc@nrc.gov.*

**SUPPLEMENTARY INFORMATION:** ''ADR'' is a term that refers to a number of voluntary processes, such as mediation and facilitated dialogues, that can be used to assist parties in resolving disputes and potential conflicts. The Administrative Dispute Resolution Act of 1996 (ADR Act) encourages the use of ADR by Federal agencies, and defines ADR as ''any procedure that is used to resolve issues in controversy, including but not limited to, conciliation, facilitation, mediation, fact finding, minitrials, arbitration, and use of an ombudsman, or any combination thereof'' (5 U.S.C. 571(3)). These techniques involve the use of a neutral third party, either from within the agency or from outside the agency, and are typically voluntary processes in terms of the decision to participate, the type of process used, and the content of the final agreement. Federal agency experience with ADR has demonstrated that the use of these techniques can result in more efficient resolution of issues, more effective outcomes, and improved relationships between the agency and the other party.

The NRC has a general ADR policy (57 FR 36678; August 14, 1992) that supports and encourages the use of ADR in NRC activities. In addition, the NRC has used ADR effectively in a variety of circumstances, including rulemaking and policy development, and EEO disputes. Section 2.203 of the Commission's regulations provides for the use of ''settlement and compromise'' in proceedings dealing with enforcement issues. In addition, § 2.337 of the Commission's proposed revisions to the NRC hearing process provides for ADR in NRC proceedings (see, 66 FR 19610, 19645; April 16, 2001). In at least one instance, an NRC enforcement case has been resolved through the use of a ''settlement judge'' from the Atomic Safety and Licensing Board Panel pursuant to 10 CFR 2.203 of the Commission's regulations, but there has been no systematic evaluation of the need for ADR in the enforcement process. The NRC's participation in a 1998 interagency initiative to encourage the use of ADR by Federal agencies, and the NRC's receipt of a request to use ADR in a recent enforcement case, have prompted the agency to consider whether a new, specific ADR policy would be beneficial in the enforcement area.

*Use of ADR by the NRC and other Federal Agencies.* In order to encourage Federal agencies to take advantage of the benefits of ADR, Congress enacted the ADR Act. The Act requires each agency to do the following:

1. Adopt a policy that addresses the use of ADR;
2. Designate a senior official to be the dispute resolution specialist for the agency;
3. Provide ADR training on a regular basis; and
4. Review each standard agency agreement for contracts, grants, and other assistance with an eye towards encouraging the use of ADR.

As noted above, ''ADR'' is a term that describes a set of processes which assist parties in resolving their disputes quickly and efficiently. Mediation, early neutral evaluation, facilitated dialogues, and arbitration are examples of these ADR processes. Central to each ADR process is the use of an objective third party or neutral, for example, a

facilitator or mediator, to assist the parties in resolving their dispute. Experience has shown that ADR can resolve disputes in a manner that is quicker, cheaper, and less adversarial than the traditional litigation process. In ADR, parties meet with each other directly, under the guidance of a neutral professional who is trained and experienced in handling disputes. The parties talk about the problems that led to the dispute and discuss possible resolution strategies. With the assistance of the neutral professional, the parties are able to retain control over their own disputes and work collaboratively to find creative, effective solutions that are agreeable to all sides. ADR commonly involves mediation and facilitation, in which a third party neutral assists the parties in coming to agreement. The neutral in these cases does not impose any decision on the parties.

Many Federal agencies have established or are considering the use of ADR in civil enforcement actions. For example, the Environmental Protection Agency has used ADR to assist in the resolution of numerous disputes related to the enforcement of Superfund and other environmental statutes that EPA administers. Mediated negotiations have ranged from two-party Clean Water Act cases to Superfund disputes involving upwards of 1200 parties. The U.S. Navy has entered into an innovative partnering agreement with the State of Florida to address compliance with environmental regulations at naval installations. The Federal Energy Regulatory Commission has established an alternative licensing process that provides for a facilitated dialogue to assist parties in negotiating licensing agreements. The Federal Mine Safety and Health Review Commission has proposed the use of settlement judges serving as mediators to assist parties in reaching settlement prior to an administrative hearing on contested compliance cases arising under the Federal Mine Safety and Health Act of 1997. The NRC staff has consulted several of these agencies that are experienced in the application of ADR to enforcement cases. These discussions have highlighted a number of important points for the NRC to consider in the course of its evaluation:

*The use of ADR should be understood broadly.* ADR encompasses many different techniques that might be employed at various points in the enforcement process. For example, although mediation is the most commonly used ADR technique in the enforcement arena, techniques such as neutral fact-finding or facilitated negotiation can also assist in resolving disputes and avoiding potential conflicts. In addition, ADR can be used at any point in the enforcement process where a discussion or negotiation between the parties takes place.

*ADR should not be viewed as an alternative to settlement.* Agencies, including the NRC, have traditionally attempted to settle disputes in the enforcement area. ADR is simply a set of additional tools that an agency can use to more effectively address potential settlement issues, whether in the enforcement area or elsewhere. A key distinguishing feature of ADR-assisted settlement discussions is the presence of a neutral third party (i.e., a mediator, a facilitator) with expertise in conflict resolution techniques. ''Effectiveness'' in this context may include a faster and more systematic settlement process, as well as better and more enduring outcomes, reduced transaction costs, and improved relationships between the parties. However, the potential effectiveness of ADR must be evaluated within the context of an agency's mission, process, and procedures.

*The use of ADR is not appropriate in all circumstances.* There will always be cases that should go to litigation, rather than be settled, for example, because of an important policy objective or in cases of first impression.

Although there are many potential beneficial uses of ADR, the ADR Act also identifies several situations where an agency should consider not using ADR:

1. A definitive or authoritative resolution of the matter is required for precedential value;
2. The matter involves significant questions of government policy that require additional procedures before a final resolution is made;
3. Maintaining established policies is of special importance so that variations among individual decisions are not increased;
4. The matter significantly affects persons or organizations that are not parties to the proceeding;
5. A full public record of the proceeding is important and a dispute resolution proceeding cannot provide such a record; and
6. The agency must maintain continuing jurisdiction over the matter with authority to alter the disposition of the matter in light of changed circumstances.

The NRC intends to consider these factors, along with the public comments on this notice, in evaluating whether, and to what extent, a specific ADR policy in the enforcement area is needed.

*The NRC Enforcement Process.* The NRC's Enforcement Process is generally based on open, fact-finding and evaluative processes that rely on the principles of transparency to the public and early and full discourse to the party responsible for the apparent violation.[1]

In brief, the agency's enforcement process, as governed by the Enforcement Policy (NUREG–1600, General Statement of Policy and Procedure for NRC Enforcement Actions, February 16, 2001), can be summarized as follows:

Agency enforcement actions arise from the results of inspections and investigations. Following identification of potentially escalated enforcement actions the issue is brought to a multi-disciplinary NRC staff panel to achieve consensus that a violation of NRC requirements has occurred and that the violation warrants escalated enforcement action. Enforcement actions also include the issuance of orders to modify, suspend or revoke a license which may be based on a violation or noncompliance with a requirement or other public health and safety issue. If consensus is reached, the licensee or individual is then formally notified that the NRC considers an issue an apparent violation and is told the basis for the apparent violation. The licensee or individual is then offered an opportunity to have a conference with the NRC or provide its position in writing. The licensee or individual subject to the action is always asked to state whether it agrees or disagrees with apparent violations as stated. After the licensee or individual presents its case, the multi-disciplinary panel meets again to determine what enforcement action, if any, is appropriate. If it is determined that a civil penalty is warranted in accordance with the enforcement policy, that decision and the basis for it are formally transmitted to the licensee or individual in the form of a Notice of Violation and Proposed Civil Penalty. At this stage the licensee or individual has the opportunity to restate its case in writing. If after reviewing the response, the NRC continues to maintain the action is appropriate, the civil penalty is imposed by order. After imposition, the licensee or individual then has the opportunity to request a hearing and proceed with adjudication. After a hearing has been requested, settlement is subject to the provisions in 10 CFR 2.203.

If only a Notice of Violation is proposed, such is normally the case for issues dispositioned under the Reactor

[1] Investigations, however, are confidential, and enforcement conferences involving wrongdoing are closed.

Oversight Process, the licensee is required to respond to the violation and may contest it. However, in such cases there are no hearing rights as there are in cases where an Order is issued or a civil penalty is imposed.

Data on enforcement cases suggest that the agency's current enforcement process offers ample opportunity for settlement and avoids costly litigation without specifically employing ADR techniques. Since 1988, out of approximately 1300 civil penalties proposed, there have been 222 Orders imposing civil monetary penalties, and 29 related requests for hearings (out of a total of 79 enforcement related hearing requests). The majority of those requests were settled prior to hearing. However, these statistics do not provide insights as to whether there might be additional opportunities to use ADR at various points in the enforcement process or whether existing settlement discussions might be improved by the use of ADR.

*Specific Issues.* The NRC has identified a number of issues that it believes must be evaluated in order to determine whether an enforcement specific ADR policy is needed. Two of the more notable issues are:

*At what point in the enforcement process should ADR be used?* If the agency is to pursue implementing ADR in its enforcement processes, it must decide what types of disputes would be appropriate for resolution through ADR. Enforcement is intended to act as a deterrence and to ensure appropriate and lasting corrective action to prevent the recurrence of a non-compliance; in this sense, it is one means by which the agency ensures compliance with its regulations and license requirements, which, in turn, supports the ''adequate protection'' standard of the Atomic Energy Act. Enforcement sanctions are a function of the significance of violations. Viewing ADR from a narrow perspective, one could argue that, in terms of the enforcement program, only disputes pertinent to the existence and significance of a violation need be considered. The NRC's rules of practice for enforcement, as set forth in Subpart B of 10 CFR Part 2, provide the right to request a hearing in connection with orders imposing civil penalties, orders modifying, suspending, or revoking a license, or orders restricting an individual's right to engage in a licensed activity. There are no hearing rights for notices of violation issued without a corresponding civil penalty. Given the limited scope of issues in dispute in the enforcement arena—existence and significance of violations, and in the case of civil penalties, the appropriate amount—should the use of ADR techniques be reserved only for those issues that are eligible to be adjudicated?

*What are the implications of ADR for the confidentiality of settlement discussions in the enforcement area?* The ADR Act (5 U.S.C. 571–584) provides for confidentiality of ''dispute resolution communications'' in ''dispute resolution proceedings'' involving a Federal agency ''administrative program.'' A Federal agency ''administrative program'' includes any Federal function which involves the protection of the public interest and the determination of the rights, privileges, and obligations of private persons through rulemaking, adjudication, licensing or investigation. NRC enforcement processes and proceedings would fall under this definition. A ''dispute resolution proceeding'' is any process in which an alternative means of dispute resolution is used to resolve an issue in controversy in which a neutral is appointed and specified parties participate. The ADR Act provides for a broad reading of the term ''dispute resolution proceeding'' and incorporates all ADR forms and techniques, including convening, facilitation, mediation, and fact-finding. The neutral may be a private person or a Federal government employee who is acceptable to the parties. The ADR Act supports the use of neutrals to assist parties during all stages of the resolution of a disagreement, from the convening of the participants and design of an effective process to the conduct of settlement discussions. ''Confidential Information,'' in the context of a dispute resolution proceeding, means information that a neutral or a party cannot, by law or agreement, voluntarily disclose to anyone, or if disclosed, cannot be admitted into evidence in any future legal proceeding. Note that a key distinction between ''dispute resolution proceedings'' under the ADR Act and traditional settlement discussions conducted by the NRC and other agencies is the presence of a neutral who functions specifically to aid the parties in resolving the controversy.

Settlement discussions between NRC staff and licensees or other parties have traditionally been closed and the information kept confidential. Like the practice under the ADR Act, the settlement agreement itself must be disclosed. Unlike the ADR Act, oral and written communications by the parties during joint sessions may be kept confidential. No discovery has been allowed on the issues in settlement discussions in NRC enforcement cases.

Confidentiality can be a critical component of a successful ADR process. Guarantees of confidentiality, whether in joint session of all the parties with the neutral, or in a caucus involving the neutral and one party, allow parties to freely engage in candid, informal discussions of their interests in order to reach the best possible settlement of their claims. A promise of confidentiality allows parties to speak openly without fear that statements made during an ADR process will be used against them later. Confidentiality can reduce ''posturing'' and destructive dialogue among parties during the settlement process. Neutrals try to promote a candid and informal exchange regarding events of concern, as well as about the parties' perceptions of and attitudes toward these events, and encourage parties to think constructively and creatively about ways in which their differences might be resolved. This frank exchange may be achieved only if the participants know that what is said in the ADR process will not be used to their detriment in some later proceeding or in some other manner. These considerations would seem to apply regardless of whether a neutral was involved in the settlement discussions.

However, some ADR practitioners believe that mediation and other forms of ADR will work without confidentiality and that there is no need to preserve confidentiality in an ADR process. As noted above, the ADR Act does not provide confidentiality to statements or written comments by the parties made during joint session. Therefore, it may be possible to limit confidentiality to the caucuses involving the neutral and one of the parties, and still open the information provided in the joint sessions to public scrutiny, if not public observation. In addition, public policies that place an emphasis on access rather than confidentiality may lead to disclosure of information in joint ADR sessions. In fact, to the extent that settlement discussions on enforcement issues are public, there may be a value in having these sessions assisted by a neutral.

The policy choice may not be between ADR-assisted settlement discussions and traditional settlement discussions without the assistance of a neutral. Rather, the choice seems to be whether or not to engage in any confidential settlement discussions on enforcement issues, particularly certain types of enforcement issues, such as when wrongdoing is involved.

*Questions for Public Comment.* In order for the NRC to evaluate whether, and to what extent, ADR should be used

in the enforcement arena, the NRC has identified a number of issues for public comment. The NRC is seeking public comment on the following specific questions and also invites general comments on the questions, and also invites general comments on the use of ADR in NRC enforcement cases.

It should be noted that the NRC's Discrimination Task Group already addressed and initially rejected the use of ADR in employment discrimination cases in its draft report which has been released for public comment (66 FR 32966 dated June 19, 2001 and *http://www.nrc.gov*—;Electronic Reading Room, ADAMS Accession No. ML011200244). The Commission, however, desires to more thoroughly examine the use of ADR in enforcement proceedings, including discrimination cases. Accordingly, the Discrimination Task Group will await evaluation of comments received as a result of this **Federal Register** Notice before finalizing its recommendation on the use of ADR.

The specific questions are as follows.

1. Is there a need to provide additional avenues, beyond the encouragement of settlement in 10 CFR 2.203, for the use of ADR in NRC enforcement activities?

2. What are the potential benefits of using ADR in the NRC enforcement process?

3. What are the potential disadvantages of using ADR in the NRC enforcement process?

4. What should be the scope of disputes in which ADR techniques could be utilized?

5. At what points in the existing enforcement process might ADR be used?

6. What types of ADR techniques might be used most effectively in the NRC enforcement process?

7. Does the nature of the existing enforcement process for either reactor or materials licensees limit the effectiveness of ADR?

8. Would any need for confidentiality in the ADR process be perceived negatively by the public?

9. For policy reasons, are there any enforcement areas where ADR should not be used, e.g., wrongdoing, employment discrimination, or precedent-setting areas?

10. What factors should be considered in instituting an ADR process for the enforcement area?

11. What should serve as the source of neutrals for use in the ADR process for enforcement?

Dated at Rockville, Maryland, this 10th day of December 2001.

For the Nuclear Regulatory Commission.

**Frank J. Congel,**

*Director, Office of Enforcement.*

[FR Doc. 01–30926 Filed 12–13–01; 8:45 am]

BILLING CODE 7590–01–P

## NUCLEAR REGULATORY COMMISSION

### Draft Regulatory Guide; Issuance, Availability

The Nuclear Regulatory Commission has issued for public comment a draft of a new guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public such information as methods acceptable to the NRC staff for implementing specific parts of the NRC's regulations, techniques used by the staff in evaluating specific problems or postulated accidents, and data needed by the staff in its review of applications for permits and licenses.

The draft guide, temporarily identified by its task number, DG–1111 (which should be mentioned in all correspondence concerning this draft guide), is ''Atmospheric Relative Concentrations for Control Room Radiological Habitability Assessments at Nuclear Power Plants.'' This draft guide is being developed to provide guidance on determining atmospheric relative concentration (X/Q) values in support of design basis control room radiological habitability assessments at nuclear power plants. This guide describes methods acceptable to the NRC staff for determining X/Q values that will be used in control room radiological habitability assessments performed in support of applications for licenses and license amendment requests.

This draft guide has not received complete staff approval and does not represent an official NRC staff position.

Comments may be accompanied by relevant information or supporting data. Written comments may be submitted to the Rules and Directives Branch, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Copies of comments received may be examined at the NRC Public Document Room, 11555 Rockville Pike, Rockville, MD. Comments will be most helpful if received by March 15, 2002.

You may also provide comments via the NRC's interactive rulemaking web site through the NRC home page (*http://www.nrc.gov*). This site provides the ability to upload comments as files (any format) if your web browser supports that function. For information about the interactive rulemaking web site, contact Ms. Carol Gallagher, (301) 415–5905; e-mail *CAG@NRC.GOV*. For information about the draft guide and the related documents, contact Mr. S.F. LaVie at (301) 415–1081; e-mail *SFL@NRC.GOV*.

Although a time limit is given for comments on this draft guide, comments and suggestions in connection with items for inclusion in guides currently being developed or improvements in all published guides are encouraged at any time.

Regulatory guides are available for inspection at the NRC's Public Document Room, 11555 Rockville Pike, Rockville, MD; the PDR's mailing address is USNRC PDR, Washington, DC 20555; telephone (301) 415–4737 or (800) 397–4205; fax (301) 415–3548; email *PDR@NRC>GOV*. Requests for single copies of draft or final guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future draft guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Reproduction and Distribution Services Section; or by e-mail to <*DISTRIBUTION@NRC.GOV*>; or by fax to (301) 415–2289. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them. (5 U.S.C. 552(a))

Dated at Rockville, Maryland, this 29th day of November 2001.

For the Nuclear Regulatory Commission.

**Gina F. Thompson,**

*Senior Budget Analyst, Program Management, Policy Development and Analysis Staff, Office of Nuclear Regulatory Research.*

[FR Doc. 01–30928 Filed 12–13–01; 8:45 am]

BILLING CODE 7590–01–P

## PENSION BENEFIT GUARANTY CORPORATION

### Required Interest Rate Assumption for Determining Variable-Rate Premium; Interest Assumptions for Multiemployer Plan Valuations Following Mass Withdrawal

**AGENCY:** Pension Benefit Guaranty Corporation.

**ACTION:** Notice of interest rates and assumptions.

**SUMMARY:** This notice informs the public of the interest rates and assumptions to be used under certain Pension Benefit Guaranty Corporation regulations. These rates and assumptions are published elsewhere (or can be derived from rates published elsewhere), but are collected and published in this notice for the convenience of the public. Interest rates

are also published on the PBGC's Web site (*http://www.pbgc.gov*).

**DATES:** The required interest rate for determining the variable-rate premium under part 4006 applies to premium payment years beginning in December 2001. The interest assumptions for performing multiemployer plan valuations following mass withdrawal under part 4281 apply to valuation dates occurring in January 2002.

**FOR FURTHER INFORMATION CONTACT:** Harold J. Ashner, Assistant General Counsel, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005, 202–326–4024. (TTY/TDD users may call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4024.)

**SUPPLEMENTARY INFORMATION:**

## Variable-Rate Premiums

Section 4006(a)(3)(E)(iii)(II) of the Employee Retirement Income Security Act of 1974 (ERISA) and § 4006.4(b)(1) of the PBGC's regulation on Premium Rates (29 CFR part 4006) prescribe use of an assumed interest rate (the ''required interest rate'') in determining a single-employer plan's variable-rate premium. The required interest rate is the ''applicable percentage'' (currently 85 percent) of the annual yield on 30-year Treasury securities for the month preceding the beginning of the plan year for which premiums are being paid (the ''premium payment year''). The yield figure is reported in Federal Reserve Statistical Releases G.13 and H.15.

The required interest rate to be used in determining variable-rate premiums for premium payment years beginning in December 2001 is 4.35 percent (*i.e.,* 85 percent of the 5.12 percent yield figure for November 2001).

The following table lists the required interest rates to be used in determining variable-rate premiums for premium payment years beginning between January 2001 and December 2001.

| For premium payment years beginning in: | The required interest rate is: |
|---|---|
| January 2001 | 4.67 |
| February 2001 | 4.71 |
| March 2001 | 4.63 |
| April 2001 | 4.54 |
| May 2001 | 4.80 |
| June 2001 | 4.91 |
| July 2001 | 4.82 |
| August 2001 | 4.77 |
| September 2001 | 4.66 |
| October 2001 | 4.66 |
| November 2001 | 4.52 |
| December 2001 | 4.35 |

## Multiemployer Plan Valuations Following Mass Withdrawal

The PBGC's regulation on Duties of Plan Sponsor Following Mass Withdrawal (29 CFR part 4281) prescribes the use of interest assumptions under the PBGC's regulation on Allocation of Assets in Single-employer Plans (29 CFR part 4044). The interest assumptions applicable to valuation dates in January 2002 under part 4044 are contained in an amendment to part 4044 published elsewhere in today's **Federal Register**. Tables showing the assumptions applicable to prior periods are codified in appendix B to 29 CFR part 4044.

Issued in Washington, DC, on this 11th day of December 2001.

**Steven A. Kandarian,**

*Executive Director, Pension Benefit Guaranty Corporation.*

[FR Doc. 01–30964 Filed 12–13–01; 8:45 am]

BILLING CODE 7708–01–P

# SECURITIES AND EXCHANGE COMMISSION

## Sunshine Act Meeting

**FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT:** [66 FR 63422, December 6, 2001].

**STATUS:** Open Meeting.

**PLACE:** 450 Fifth Street, NW., Washington, DC.

**DATE AND TIME OF PREVIOUSLY ANNOUNCED MEETING:** Thursday, December 13, 2001 at 10 a.m.

**CHANGE IN THE MEETING:** Cancellation of Meeting/Additional Meetings.

The open meeting schedule for Thursday, December 11, 2001, has been cancelled, and rescheduled for Wednesday, December 19, 2001, at 10 a.m., in Room 1C30, the William O. Douglas Room. In addition to the open meeting scheduled for Wednesday, December 19, 2001, the Commission will hold a closed meeting on Tuesday, December 18, 2001, at 10 a.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(2)(5), (7), (9)(A), (9)(B), and (10) and 17 CFR 200.402(a)(5), (7), 9(i), 9(ii) and (10), permit consideration of the scheduled matters at the closed meeting.

The subject matter of the closed meeting scheduled for Tuesday, December 18, 2001 will be:

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings of an enforcement nature; and

Formal orders of investigation.

The subject matter of the open meeting scheduled for Wednesday, December 19, 2001 will be:

1. The Commission will consider the Nasdaq Stock Market, Inc.'s request that the Commission interpret section 28(e) of the Securities Exchange Act of 1934 to apply to riskless principal transactions in certain securities in light of recent amendments to Nasdaq's trade reporting rules.

For further information, please contact Catherine McGuire or Joseph Corcoran, Division of Market Regulation, at (202) 942–0073).

2. The Commission will consider whether to extend an order exempting broker-dealers from the requirement of Securities Exchange Act of 1934 section 17(e)(1)(B) and rule 17a–5(c) to regularly send certain financial information to their customers. To take advantage of the exemption, a broker-dealer must send its customers certain net capital information and must provide its customers instructions for obtaining the remainder of its required financial disclosures on its web site or by dialing a toll-free number for a paper copy. The curernt order (Exchange Act Release No. 42222, December 10, 1999) granted the exemption for two yeaers as a pilot program ending December 31, 2001.

For further informataion please contact Thomas K. McGowan, Assistant Director, Division of Market Regulation, at (202) 942–4886.

3. The Commission will consider whether to adopt amendments to the disclosure requirements under the Securities Exchange Act of 1934 applicable to annual reports filed on Forms 10–K and 10–KSB and to proxy and information statements. The amendments will enhance disclosure about equity compensation plans, including the number of outstanding options, warrants and rights, as well as the number of securities remaining available for future issuance. The amendments require registrants to provide information separately for plans that have not been approved by security holders.

For further information, please contact Mark A. Borges, Office of Rulemaking, Division of Corporation Finance, at (202) 942–2910.

4. The Commission will consider whether to adopt an amendment to rule

135b under the Securities Act of 1933. The amendment will clarify that an Options Disclosure Document prepared pursuant to rule 0b–1 under the Securities Exchange Act of 1934 is not a prospectus and therefore is not subject to liability under section 12(a)(2) of the Exchange Act.

For further information, please contact Ray Be, Office of Rulemaking, Division of Corporation Finance, at (202) 942–2910.

5. The Commission will consider whether to propose an amendment to rule 146 under the Securities Act of 1933. The proposed amendment provides a definition of the term ''qualified purchaser'' for purposes of section 18(b)(3) of the Securities Act and thus posits an additional ''covered security'' preempting state securities registration and review.

For further information, please contact Marva Simpson, Office of Small Business Policy, Division of Corporation Finance, at (202) 942–2950.

At times, changes in Commission priorities require alternations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: The Office of the Secretary at (202) 942–7070.

Dated: December 11, 2001.

**Jonathan G. Katz,**

*Secretary.*

[FR Doc. 01–30979 Filed 12–12–01; 11:43 am]

BILLING CODE 8010–01–M

## SECURITIES AND EXCHANGE COMMISSION

### Sunshine Act Meeting

*Federal Register Citation of Previous Announcement:* 66 FR 63422, December 6, 2001.

*Status:* Closed meeting.

*Place:* 450 Fifth Street, NW., Washington, DC

*Date and Time of Previously Announced Meeting:* Thursday, December 13, 2001 at 10:00 a.m.

*Change in the Meeting:* Time Change.

The closed meeting scheduled for Thursday, December 13, 2001 at 10 a.m. has been changed to Friday, December 14, 2001 at 10 a.m.

Dated: December 12, 2001.

**Jonathan G. Katz,**

*Secretary.*

[FR Doc. 01–31031 Filed 12–12–01; 4:02 pm]

BILLING CODE 8010–01–P

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–44138; File No. SR–NYSE–2001–42]**

### Self-Regulatory Organizations; Order Approving a Proposed Rule Change by the New York Stock Exchange, Inc., Establishing the Fees for NYSE OpenBook™

December 7, 2001.

On October 15, 2001, the New York Stock Exchange, Inc. (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] a proposed rule change establishing the fees for its NYSE OpenBook service. The proposed rule change was published for comment in the **Federal Register** on October 29, 2001.[3] The Commission received one comment letter on the proposed rule change.[4] This order approves the proposed rule change.

### I. Description of the Proposed Rule Change

*A. Proposed Fees for NYSE OpenBook Service*

The Exchange proposes to establish certain fees for its NYSE OpenBook service. NYSE OpenBook is a compilation of limit order data that the Exchange will provide to market data vendors, broker-dealers, private network providers, and other entities through a data feed. According to the Exchange, for every limit price, NYSE OpenBook will include the aggregate order volume. The Exchange will make the NYSE OpenBook data feed available through the Exchange's Common Access Point (''CAP'') network. Initially, the Exchange will update NYSE OpenBook every ten seconds.

The Exchange has proposed two fees. First, the Exchange proposes to collect a fee equal to $5,000 per month from each entity that elects to receive the NYSE OpenBook data feed. Second, the Exchange proposes to collect an end-user fee of $50.00[5] per month for each terminal through which the end user is able to display the NYSE OpenBook.

*B. NYSE OpenBook Service Agreements*

The Exchange will require each NYSE OpenBook data feed recipient to enter into the existing form of ''vendor'' agreement. That agreement will authorize the data feed recipient to provide NYSE OpenBook display services to its customers or to distribute the data internally. In addition, the Exchange represents that it will require each end-user that receives NYSE OpenBook displays from a vendor or broker-dealer to execute the existing ''subscriber'' agreement.

The Exchange intends to supplement the vendor agreements with additional terms that are unique to NYSE OpenBook. First, the vendor agreements prohibit a data feed recipient that redisseminates the NYSE OpenBook outside of its organization from enhancing, integrating, or consolidating the redisseminated NYSE OpenBook data with limit order data of other markets or trading systems (*i.e.,* the data feed recipient may only redisseminate the display of the NYSE's OpenBook in a separate ''window''[6] marked ''NYSE OpenBook™''). A vendor, however, may place other markets' limit order displays on the same page as the NYSE OpenBook window. This restriction only applies to vendors that redisseminate the NYSE OpenBook outside of their organization. It does not apply to those entities that receive the data feed for their own internal use. In other words, data feed recipients will be permitted to enhance, integrate, or consolidate the NYSE OpenBook data with other markets' or trading systems' limit order data for their own internal use.

Second, the vendor agreement precludes a data feed recipient from retransmitting the NYSE OpenBook data feed. Thus, any entity that wishes to receive the data feed so that it may enhance, integrate, or consolidate the data with other markets' data for its own internal use must obtain the data feed from the NYSE. The Exchange, however,

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 44962 (October 19, 2001), 66 FR 54562.

[4] *See* Letter from W. Hardy Callcott, Senior Vice President and General Counsel, Charles Schwab & Co., Inc. to Jonathan G. Katz, Secretary, Commission, dated November 20, 2001 (''Schwab Letter'').

[5] The Exchange noted that although no other exchange currently offers a limit order data compilation, a few markets offer services that provide a point of reference. According to the Exchange, the Nasdaq Stock Market charges $50 per terminal for its Nasdaq Level II service for professional interrogation devices, which provides the best bid and offer from all market makers and ECNs (although it does not otherwise provide depth-of-book or depth-of-market information). The Exchange also believes that the London Stock Exchange charges $144–$219 per terminal for the price and size of limit orders in stocks that are included in the FTSE 250 index. Further, the Exchange believes that the Toronto Stock Exchange charges $30 per terminal for its order books.

[6] The ''window'' requirement does not literally require a separate window, only separate displays. In other words, a vendor could format multiple displays in a single window.

has represented that once it and the marketplace gains experience with the product, the Exchange will permit retransmission of the NYSE OpenBook data feed by vendors.

## II. Summary of Comments

The Commission received one comment letter on the proposal.[7] Generally, the commenter supports the Exchange's efforts in making its depth-of-book information available to investors as soon as possible. However, the commenter believes that the fee structure and the restrictions on how the NYSE OpenBook data can be used are unreasonable and unfairly discriminate against individual retail investors.

The commenter believes that the proposed fee structure deprives retail investors of equal and fair access to the same type of information as institutions and professionals because the proposed end-user fee is prohibitively expensive. Therefore, the commenter believes that retail firms, and in particular, firms with a large online retail client base, are placed at an unfair competitive disadvantage to firms that cater to institutional investors or serve their clients solely through telephone and in-person service. The commenter also states that the NYSE did not justify or attempt to explain the reasonableness of the $50 per device or end-user fee. Therefore, without a cost-effective alternative for retail investors, the commenter believes that the proposal does not meet investor protection standards.

In addition, the commenter states that the proposal unduly restricts the availability of critically important market data on a fair and equal basis. The commenter believes that the restrictions on the form and content of OpenBook would result in retail investors getting an inferior information product than would be available to institutions and professionals because retail investors would only receive a one-size-fits-all information product (*i.e.*, the NYSE OpenBook display), as opposed to enhanced or consolidated market information.[8]

In response to the commenter, the Exchange stated that the commenter's concerns generally focused on the absence of a retail online fee. The Exchange argued that as a product innovator, it was simply exercising its perogative to roll out NYSE OpenBook in phases, as dictated by demand.

## III. Discussion

After careful review, the Commission finds that the Exchange's proposed rule change to establish fees for NYSE OpenBook service is consistent with the requirements of the Act, and the rules and regulations thereunder applicable to a national securities exchange.[9] In particular, the Commission finds that the fee proposal is consistent with section 6(b)(4) of the Act,[10] which requires that exchange rules provide for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers, and other persons using its facilities.

Specifically, the Commission believes that the Exchange's proposed charges of $5,000 per month for receipt of the NYSE OpenBook data feed, and $50 per month for the end-user fee per terminal are reasonable when compared to similar types of service provided by other markets.[11]

The Commission considered the commenter's concern that the Exchange's proposed fees unfairly discriminate against retail investors. The Exchange, however, has represented that as it gains experience with NYSE OpenBook, it may design a data product that is more suitable for use by registered representatives, and should ademand develop, it would consider designing a limit order data product for the retail, nonprofessional customer.

The Commission notes that this order only approves the filing submitted by the NYSE, for the fees for the NYSE OpenBook service. Therefore, the Commission is not approving or disapproving the terms of the NYSE's vendor or subscriber agreements. The NYSE's proposed restrictions on vendor redissemination of OpenBook data, including the prohibition on providing the full data feed and providing enhanced, integrated, or consolidated data found in these agreements are on their face discriminatory, and may raise fair access under the Act.[12]

## IV. Conclusion

*It is therefore ordered*, pursuant to section 19(b)(2) of the Act,[13] that the proposed rule change (SR–NYSE–2001–42) be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to the delegated authority.[14]

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 01–30879 Filed 12–13–01; 8:45 am]

BILLING CODE 8010–01–M

[7] *See* Schwab Letter, note 4, *supra.*

[8] The commenter questioned whether the restriction on redissemination applied only to the redissemination of the data feed itself for whether it was a complete ban on external redistribution of the OpenBook display. The NYSE clarified that the restriction on redissemination applied only to the redissemination of the data feed.

[9] In approving this rule, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[10] 15 U.S.C. 78f(b)(4).

[11] *See* note 5, *supra.*

[12] For a complete discussion of the relevant provisions of the Act, *see* Securities Exchange Act Release No. 44962 (October 19, 2001), 66 FR 54562 (October 29, 2001).

[13] 15 U.S.C. 78s(b)(2).

[14] 17 CFR 200.30–3(a)(12).

## SMALL BUSINESS ADMINISTRATION

**[Declaration of Disaster #3379]**

### State of Tennessee (and Contiguous Counties in the State of Arkansas, Kentucky and Mississippi)

Henry and Shelby Counties and the contiguous Counties of Benton, Carroll, Fayette, Stewart, Tipton and Weakley in the State of Tennessee; Crittenden County in the State of Arkansas; Calloway and Graves Counties in the State of Kentucky; and DeSoto and Marshall Counties in the State of Mississippi constitute a disaster area due to damages caused by tornadoes and heavy rains that occurred on November 21, 2001 and continued through November 30, 2001. Applications for loans for physical damage may be filed until the close of business on February 5, 2002 and for economic injury until the close of business on September 6, 2002 at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 2 Office, One Baltimore Place, Suite 300, Atlanta, GA 30308.

The interest rates are:

| | Percent |
|---|---|
| *For Physical Damage:* | |
| Homeowners With Credit Available Elsewhere | 6.500 |
| Homeowners Without Credit Available Elsewhere | 3.250 |
| Businesses With Credit Available Elsewhere | 8.000 |
| Businesses and Non-Profit Organizations Without Credit Available Elsewhere | 4.000 |
| Others (Including Non-Profit Organizations) With Credit Available Elsewhere | 6.375 |
| *For Economic Injury:* | |
| Businesses and Small Agricultural Cooperatives Without Credit Available Elsewhere | 4.000 |

The numbers assigned to this disaster for physical damage are 337912 for Tennessee; 338012 for Arkansas; 338112 for Kentucky; and 338212 for Mississippi. For economic injury, the

numbers are 9N6800 for Tennessee; 9N6900 for Arkansas; 9N7000 for Kentucky; and 9N7100 for Mississippi.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: December 6, 2001.

**Hector V. Barreto,**

*Administrator.*

[FR Doc. 01–30841 Filed 12–13–01; 8:45 am]

BILLING CODE 8025–01–P

## OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

### Renewal of Treatment on Government Procurement of Products From Countries Designated Under the Caribbean Basin Economic Recovery Act

**AGENCY:** Office of the United States Trade Representative.

**ACTION:** Renewal of treatment on government procurement of products from countries designated under the Caribbean Basin Economic Recovery Act

Under the authority delegated to me by the President in section 1–201 of Executive Order 12260 of December 31, 1980, I hereby direct that products of countries, listed below, designated by the President as beneficiaries under the Caribbean Basin Economic Recovery Act (19 U.S.C. 2701, et seq.), with the exception of the Dominican Republic, Honduras, and Panama, shall continue to be treated as eligible products for purposes of section 1–101 of the Executive Order. Such treatment shall not apply to products originating in these countries that are excluded from duty free treatment under 19 U.S.C. 2703(b). Decisions on the continued application of this treatment will be based on ongoing evaluation of beneficiaries' efforts to improve domestic procurement practices, on their support for relevant international initiatives, such as those in the World Trade Organization (WTO) Working Group on Transparency in Government Procurement and the Free Trade Area of the Americas (FTAA) Negotiating Group on Government Procurement, and on their progress toward acceding to the WTO Government Procurement Agreement. Beneficiaries' performance with respect to the foregoing factors will be analyzed annually in September, although changes in the application of this treatment may be made at any time. Notice of any changes in this treatment with respect to any beneficiary will be published in the **Federal Register**.

List of Countries Designated as Beneficiary Countries for Purpose of the Caribbean Basin Economic Recovery Act (CBERA): Antigua and Barbuda, Aruba, the Bahamas, Barbados, Belize, Costa Rica, Dominica, the Dominican Republic; El Salvador; Grenada, Guatemala, Guyana, Haiti, Honduras, Jamaica, Nicaragua, Panama, St. Lucia, St. Vincent and the Grenadines, Trinidad and Tobago, Montserrat, Netherlands Antilles, Saint Kitts-Nevis, British Virgin Islands.

**Robert B. Zoellick,**

*United States Trade Representative.*

[FR Doc. 01–30857 Filed 12–13–01; 8:45 am]

BILLING CODE 3190–01–M

## OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

### Extension of Deadline for the Submission of Public Comments on Draft Environmental Review of the Proposed U.S.-Chile Free Trade Agreement

**AGENCY:** Office of the United States Trade Representative.

**ACTION:** Extension of deadline for submission of comments via E-mail or Fax on the Draft Environmental Review of the Proposed U.S.-Chile Free Trade Agreement.

**SUMMARY:** The Office of the U.S. Trade Representative, through the Trade Policy Staff Committee, is extending the deadline for the submission of public comments via fax or E-mail for the draft environmental review of the proposed U.S.-Chile Free Trade Agreement form November 20, 2001 to January 9, 2002. The draft environmental review is available at *http://www.ustr.gov/environment/environmental.shtml.*

**DATES:** The new deadline for comments is January 9, 2002. Please note the comments at the present time may only be sent by fax to (202) 395–5141 or by E-mail to *FR0002@ustr.gov.*

**FOR FURTHER INFORMATION CONTACT:** Darci Vetter, Office of the U.S. Trade Representative, Environment and Natural Resources Section, telephone 202–395–7320.

**SUPPLEMENTARY INFORMATION:** The draft environmental review for the U.S.-Chile Free Trade Agreement was conducted pursuant to Executive Order 13141 on Environmental Review of Trade Agreements (64 FR 63169, Nov. 18, 1999) and its accompanying guidelines (65 FR 79442, Dec. 19, 2000), both of which are available at *http://www.ustr.gov/environment/environmental.shtml.* On November 5 of 2001, the Office of the U.S. Trade Representative requested public comments on the draft environmental review. The deadline for comments has been extended to reflect the extension of the U.S.-Chile FTA negotiations into early 2002. A final environmental review will be made publicly available following the conclusion of the U.S.-Chile Free Trade Agreement negotiations.

**Carmen Suro-Bredie,**

*Chair, Trade Policy Staff Committee.*

[FR Doc. 01–30965 Filed 12–12–01; 11:26 am]

BILLING CODE 3190–01–M

## DEPARTMENT OF TRANSPORTATION

### Coast Guard

**[USCG 2001–11105]**

### Collection of Information Under Review by Office of Management and Budget (OMB): OMB Control Number 2115–0638.

**AGENCY:** Coast Guard, DOT.

**ACTION:** Request for comments.

**SUMMARY:** In compliance with the Paperwork Reduction Act of 1995, the Coast Guard intends to seek the approval of OMB for the renewal of one Information Collection Request (ICR). The ICR concerns the National Survey of Recreational Boating. Before submitting the ICR to OMB, the Coast Guard is requesting comments on it.

**DATES:** Comments must reach the Coast Guard on or before February 12, 2002.

**ADDRESSES:** To make sure that your comments and related material do not enter the docket [USCG 2001–11105] more than once, please submit them by only one of the following means:

(1) By mail to the Docket Management Facility, U.S. Department of Transportation, room PL–401, 400 Seventh Street SW., Washington, DC 20590–0001. Caution: Because of recent delays in the delivery of mail, your comments may reach the Facility more quickly if you choose one of the other means described below.

(2) By delivery to room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

(3) By fax to the Docket Management Facility at 202–493–2251.

(4) Electronically through the Web Site for the Docket Management System at *http://dms.dot.gov.*

The Docket Management Facility maintains the public docket for this

notice. Comments and material received from the public, as well as documents mentioned in this notice as being available in the docket, will become part of this docket and will be available for inspection or copying at room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at *http://dms.dot.gov*.

Copies of the complete ICR are available through this docket on the Internet at *http://dms.dot.gov*, and also from Commandant (G–CIM–2), U.S. Coast Guard Headquarters, room 6106 (Attn: Barbara Davis), 2100 Second Street SW., Washington, DC 20593–0001. The telephone number is 202–267–2326.

**FOR FURTHER INFORMATION CONTACT:** Barbara Davis, Office of Information Management, 202–267–2326, for questions on this document; or Dorothy Beard, Chief, Documentary Services Division, U.S. Department of Transportation, 202–366–5149, for questions on the docket.

**Request for Comments**

The Coast Guard encourages interested persons to submit comments. Persons submitting comments should include their names and addresses, identify this document [USCG 2001–11105], and give the reasons for the comments. Please submit all comments and attachments in an unbound format no larger than 8½ by 11 inches, suitable for copying and electronic filing. Persons wanting acknowledgment of receipt of comments should enclose stamped self-addressed postcards or envelopes.

**Information Collection Request**

*Title:* The National Survey of Recreational Boating.

*OMB Control Number:* 2115–0638.

*Summary:* The mission of the national program of the U.S. Coast Guard on Safety of Recreational Boating to minimize the loss of life, the personal injury, the property damage, and the environmental impact associated with the use of recreational boats. The purpose of the national survey of recreational boating is to capture information from recreational boaters nationwide so we can better serve their needs and more effectively accomplish our mission. Information captured from the survey will enable us to better understand current boating practices, the types and number of boats used in each State, and the various types of activities associated with recreational boating. Our collecting this type of information from boaters across the nation is critical in our efforts to implement effective safety initiatives and activities with our partners in the States.

*Need:* In compliance with the Government Performance and Results Act (GPRA), the collection of information is necessary to: (1) Link the effectiveness of the national program to reductions in a person's risk of having a boating accident, (2) improve the effectiveness of the program by implementing well-defined goals, and (3) enhance policymaking by the Administration and Congress, spending decisions, and superintendence of the program using the best performance measures and safety indicators.

*Respondents:* Recreational boaters.

*Frequency:* Every three to five years.

*Burden:* The estimated burden is 11,458 hours a year.

Dated: December 7, 2001.

**V.S. Crea,**

*Director of Information and Technology.*

[FR Doc. 01–30839 Filed 12–13–01; 8:45 am]

BILLING CODE 4910–15–P

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## DEPARTMENT OF TRANSPORTATION

## Coast Guard

**[USCG–2001–11138]**

## International Maritime Security Initiative

**AGENCY:** Coast Guard, DOT.

**ACTION:** Notice of public meeting; request for comments.

**SUMMARY:** The Coast Guard announces a public meeting on January 3, 2002 to discuss a proposed United States submission to the Maritime Safety Committee (MSC) of the International Maritime Organization (IMO) on maritime security.

**DATES:** This meeting will be held on January 3, 2002, from 9 a.m. to 5 p.m. Comments and related material must reach the Docket Management Facility on or before February 7, 2001.

**ADDRESSES:** The public meeting will be held in Room 2415 at U.S. Coast Guard Headquarters, 2100 Second St. SW., Washington, DC 20593.

To make sure your comments and related material may be considered if you are unable to attend, please submit them by only one of the following means:

(1) By mail to the Docket Management Facility [USCG–2001–11138], U.S. Department of Transportation, room PL–401, 400 Seventh Street SW., Washington, DC 20590–0001.

(2) By hand delivery to room PL–401, 400 Seventh Street SW., Washington, DC 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–267–1492.

(3) By fax to the Docket Management Facility at 202–493–2251.

(4) Electronically through the Web Site for the Docket Management System at *http://dms.dot.gov.*

The Docket Management Facility maintains the public docket for this public meeting. Comments and material received from the public, as well as documents mentioned in this notice as being available in the docket, will become part of this docket and will be available for inspection or copying at room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at *http://dms.dot.gov.*

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this notice or general information regarding the meeting, contact Martin L. Jackson, Office of Standards Evaluation and Development, (G–MSR–2), U.S. Coast Guard Headquarters, telephone 202–267–6826, fax 202–267–4547 or E-mail *mjackson@comdt.uscg.mil.* If you have questions on viewing or submitting material to the docket, call Dorothy Beard, Chief, Dockets, Department of Transportation, telephone 202–366–5149.

**SUPPLEMENTARY INFORMATION:**

**Request for Comments**

This notice announces a public meeting where the U.S. Coast Guard is soliciting comments from the public on measures that should be included in a U.S. submission to IMO on maritime security. We encourage you to participate by submitting comments and related material. If you do so, please include your name and address, identify this docket (USCG–2001–11138), and indicate the specific concerns and reasons for each comment. You may submit your comments and materials by mail or hand delivery. Submit them in an unbound format, no larger than 8½ × 11 inches, suitable for copying and electronic filing to the DOT Docket Management Facility at the address under **ADDRESSES**. If you submit them by mail and would like confirmation of receipt, please enclose a stamped, self-addressed postcard or envelope. Comments and material should be received prior to February 7, 2002.

## Public Meeting

The Coast Guard will hold a public meeting regarding international maritime security initiatives on Thursday, January 3, 2002 from 9 a.m. to 5 p.m. The meeting will be held at the address under **ADDRESSES**.

## Background

At the recently concluded (November 19–29, 2001) 22nd Session of the International Maritime Organization (IMO) Assembly, the Secretary General of IMO proposed a resolution on review of measures and procedures to prevent acts of terrorism which threaten the security of passengers and crews and the safety of ships (Resolution A.924(22)), which was adopted by the Assembly. In view of the importance of the matter, the Assembly further agreed to convene an international conference on maritime security in December 2002, with a view towards adopting maritime security related amendments to the International Convention on the Safety of Life at Sea (SOLAS). Proposals to be considered at this conference will first be considered at the 75th session of the Maritime Safety Committee (MSC) during May 2002.

To adequately prepare for the upcoming MSC session in May 2002, the Assembly has agreed to convene an MSC intersessional working group meeting on February 11–15, 2002 at IMO. The United States Coast Guard is preparing a paper to present at this working group meeting.

This notice announces a public meeting where the U.S. Coast Guard is soliciting comments from the public on measures that should be included in a U.S. submission to IMO on maritime security. We will place the draft on the docket for this notice as soon as it is available.

The Coast Guard is also scheduling a public workshop to discuss security procedures, programs, and capabilities within marine transportation systems. The public workshop is a separate meeting from this public meeting and a separate notice will be published in the **Federal Register**.

## Information on Service for Individuals With Disabilities

For information on facilities or services for individuals with disabilities or to request special assistance at the public meeting, contact Martin Jackson at the phone number under **FOR FURTHER INFORMATION CONTACT**.

Dated: December 10, 2001.

**Joseph J. Angelo,**

*Director of Standards, Marine Safety and Environmental Protection.*

[FR Doc. 01–30910 Filed 12–13–01; 8:45 am]

BILLING CODE 4910–15–P

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# DEPARTMENT OF TRANSPORTATION

## Surface Transportation Board

**[STB Finance Docket No. 34069 (Sub-No. 1)]**

## Central Montana Rail, Inc.—Trackage Rights Exemption—The Burlington Northern and Santa Fe Railway Company

**AGENCY:** Surface Transportation Board.

**ACTION:** Notice of exemption.

**SUMMARY:** The Board, under 49 U.S.C. 10502, exempts the trackage rights described in STB Finance Docket No. 34069[1] to permit the trackage rights to expire, as they relate to the operations in the vicinity of Moccasin, MT, on January 1, 2003.

**DATES:** This exemption is effective on January 13, 2002. Petitions for stay must be filed by December 26, 2001. Petitions to reopen must be filed by January 3, 2002.

**ADDRESSES:** An original and 10 copies of all pleadings referring to STB Finance Docket No. 34069 (Sub-No. 1) must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001. In addition, a copy of all pleadings must be served on petitioners' representatives: (1) Tammy Wyatt-Shaw, Esq., Phillips & Bohyer, P.C., PO Box 8569, Missoula, MT 59807; and (2) Yolanda Grimes Brown, Esq., 2500 Lou Menk Drive, PO Box 961039, Fort Worth, TX 76161–0039.

**FOR FURTHER INFORMATION CONTACT:** Joseph H. Dettmar, (202) 565–1600. [TDD for the hearing impaired: 1 (800) 877–8339.]

**SUPPLEMENTARY INFORMATION:** Additional information is contained in the Board's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: Dā 2 Dā Legal, Suite 405, 1925 K Street, NW., Washington, DC 20006. Telephone: (202) 293–7776. [Assistance for the hearing impaired is available through TDD services 1 (800) 877–8339.]

Board decisions and notices are available on our Web site at *www.stb.dot.gov*.

Decided: December 7, 2001.

By the Board, Chairman Morgan, Vice Chairman Clyburn, and Commissioner Burkes.

**Vernon A. Williams,**

*Secretary.*

[FR Doc. 01–30935 Filed 12–13–01; 8:45 am]

BILLING CODE 4915–00–P

[1] On October 29, 2001, Central Montana Rail, Inc. (CMR) filed a notice of exemption under the Board's class exemption procedures at 49 CFR 1180.2(d)(7). The notice covered the trackage rights agreement (agreement) by which The Burlington Northern and Santa Fe Railway Company (BNSF) granted temporary overhead trackage rights to CMR over BNSF's line between milepost 134.4 and milepost 134.57, in the vicinity of Moccasin, MT, a distance of 0.17 miles. *See Central Montana Rail, Inc.—Trackage Rights Exemption—The Burlington Northern and Santa Fe Railway Company*, STB Finance Docket No. 34069 (STB served Nov. 16, 2001). The agreement is scheduled to expire on January 1, 2003. The trackage rights operations under the exemption were scheduled to be consummated on November 5, 2001.

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# DEPARTMENT OF THE TREASURY

## Bureau of Alcohol, Tobacco and Firearms

## Proposed Collection; Comment Request

**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 Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Licensed Firearms Dealers Records of Acquisition, Disposition and Supporting Data.

**DATES:** Written comments should be received on or before February 12, 2002, to be assured of consideration.

**ADDRESSES:** Direct all written comments to Bureau of Alcohol, Tobacco and Firearms, Linda Barnes, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8930.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the form(s) and instructions should be directed to Gary Thomas, Chief, Firearms Programs Division, 650 Massachusetts Avenue, NW., Washington, DC 20026, (202) 927–7770.

**SUPPLEMENTARY INFORMATION:**

*Title:* Licensed Firearms Dealers Records of Acquisition, Disposition and Supporting Data.

*OMB Number:* 1512–0490.

*Form Number:* ATF F 4473 (5300.24) Part I(LV), Firearms Transaction Record Part I Low Volume, Over-the-Counter and ATF F 4473 (5300.25) Part II(LV), Firearms Transaction Record Part II Low Volume, Intra-State Non-Over-the-Counter.

*Recordkeeping Requirement ID Number:* ATF REC 7570/2.

*Abstract:* These records furnish specific information indispensable to ATF's mission to enforce the firearms laws and regulations. The low volume forms are used only by Federal firearms licensees disposing of 50 or fewer firearms per 12-month period. They are kept at the licensee's option, in lieu of ATF F 4473 and records of acquisition and disposition. The record retention requirement for this information collection is 20 years.

*Current Actions:* There are no changes to this information collection and it is being submitted for extension purposes only.

*Type of Review:* Extension.

*Affected Public:* Business or other for-profit, individuals or households.

*Estimated Number of Respondents:* 5,000.

*Estimated Time Per Respondent:* 6 minutes.

*Estimated Total Annual Burden Hours:* 1,042.

*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 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.

Dated: December 5, 2001.

**William T. Earle,**

*Assistant Director (Management) CFO.*

[FR Doc. 01–30899 Filed 12–13–01; 8:45 am]

**BILLING CODE 4810–31–P**

## DEPARTMENT OF THE TREASURY

### Bureau of Alcohol, Tobacco and Firearms

### Proposed Collection; Comment Request

**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 Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Bond Covering Removal To and Use of Wine At Vinegar Plant.

**DATES:** Written comments should be received on or before February 12, 2002, to be assured of consideration.

**ADDRESSES:** Direct all written comments to Bureau of Alcohol, Tobacco and Firearms, Linda Barnes, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8930.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the form(s) and instructions should be directed to Tom Crone, Chief, Regulations Division, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8210.

**SUPPLEMENTARY INFORMATION:**

*Title:* Bond Covering Removal To and Use of Wine At Vinegar Plant.

*OMB Number:* 1512–0529.

*Form Number:* ATF F 1676 (5510.2).

*Abstract:* ATF F 1676 (5510.2) is a bond form which serves as a contact between the proprietor of a vinegar plant and a surety. The bond coverage stated on the form is in an amount sufficient to cover the federal excise tax on wine in transit to and stored on the vinegar plant premises until the wine becomes vinegar.

*Current Actions:* There are no changes to this information collection and it is being submitted for extension purposes only.

*Type of Review:* Extension.

*Affected Public:* Business or other for profit.

*Estimated Number of Respondents:* 25.

*Estimated Time Per Respondent:* 1 hour.

*Estimated Total Annual Burden Hours:* 25.

*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.

Dated: December 5, 2001.

**William T. Earle,**

*Assistant Director (Management) CFO.*

[FR Doc. 01–30900 Filed 12–13–01; 8:45 am]

**BILLING CODE 4810–31–P**

## DEPARTMENT OF THE TREASURY

### Bureau of Alcohol, Tobacco and Firearms

### Proposed Collection; Comment Request

**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 Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Firearms Transaction Record, Part II Non-Over-The-Counter.

**DATES:** Written comments should be received on or before February 12, 2002 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Bureau of Alcohol, Tobacco and Firearms, Linda Barnes, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8930.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or

copies of the form(s) and instructions should be directed to Gary Thomas, Chief, Firearms Programs Division, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–7770.

**SUPPLEMENTARY INFORMATION:**

*Title:* Firearms Transaction Record, Part II Non-Over-The-Counter.

*OMB Number:* 1512–0130.

*Form Number:* ATF F 4473 (5300.9) Part II.

*Abstract:* ATF F 4473 (5300.9) Part II is used to determine the eligibility under the Gun Control Act (GCA) of a person to receive a firearm from a Federal firearms licensee. It is also used to establish the identity of the buyer. The form is also used in law enforcement in investigations/inspections to trace firearms or to confirm criminal activity of persons violating the GCA. The record retention requirement for this information collection is 20 years.

*Current Actions:* There are no changes to this information collection and it is being submitted for extension purposes only.

*Type of Review:* Extension.

*Affected Public:* Individuals or households.

*Estimated Number of Respondents:* 20,900.

*Estimated Time Per Respondent:* 6 minutes.

*Estimated Total Annual Burden Hours:* 9,057.

*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.

Dated: December 5, 2001.

**William T. Earle,**

*Assistant Director (Management), CFO.*

[FR Doc. 01–30901 Filed 12–13–01; 8:45 am]

BILLING CODE 4810–31–P

## DEPARTMENT OF THE TREASURY

### Bureau of Alcohol, Tobacco and Firearms

### Proposed Collection; Comment Request

**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 Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Bond-Export Warehouse Proprietor, Export Bond-Customs Bonded Cigar Manufacturing Warehouse, Extension of Coverage of Bond, Bond Under 26 U.S.C. 6423, Bond—Manufacturer of Tobacco Products.

**DATES:** Written comments should be received on or before February 12, 2002 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Bureau of Alcohol, Tobacco and Firearms, Linda Barnes, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8930.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the form(s) and instructions should be directed to Tom Crone, Chief, Regulations Division, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8210.

**SUPPLEMENTARY INFORMATION:**

*Title:* Bond—Export Warehouse Proprietor, ATF F 2103 (5220.5), Export Bond-Customs Bonded Cigar Manufacturing Warehouse, ATF F 2104 (5200.15), Extension of Coverage of Bond, ATF F 2105 (5000.7), Bond Under 26 U.S.C. 6423, ATF F 2490 (5620.10), Bond-Manufacturer of Tobacco Products, ATF 3070 (5210.13).

*OMB Number:* 1512–0534.

*Form Number:* See Titles.

*Abstract:* These forms provide an efficient method of collecting the required information for the excise tax on wine, and provides a statutory system of controls for securing payment of taxes properly due. The record retention requirement for this information collection is 2 years.

*Current Actions:* There are no changes to this information collection and it is being submitted for extension purposes only.

*Type of Review:* Extension.

*Affected Public:* Business or other for-profit.

*Estimated Number of Respondents:* 15.

*Estimated Time Per Respondent:* 1 hour and 40 minutes.

*Estimated Total Annual Burden Hours:* 25.

*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.

Dated: December 5, 2001.

**William T. Earle,**

*Assistant Director (Management) CFO.*

[FR Doc. 01–30902 Filed 12–13–01; 8:45 am]

BILLING CODE 4810–31–P

## DEPARTMENT OF THE TREASURY

### Bureau of Alcohol, Tobacco and Firearms

### Proposed Collection; Comment Request

**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 Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Search for Artifacts and Memorabilia.

**DATES:** Written comments should be received on or before February 12, 2002 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Bureau of Alcohol, Tobacco and Firearms, Linda Barnes, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8930.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the form(s) and instructions should be directed to Sheila Roscoe, New Building Projects Office, 800 K Street, NW., Washington, DC 20226, (202) 927–3500.

**SUPPLEMENTARY INFORMATION:**

*Title:* Search for Artifacts and Memorabilia.

*OMB Number:* 1512–0568.

*Abstract:* The search document is used to aid the Commemorative Artifacts and Memorabilia Program with discovering and obtaining artifacts and memorabilia pertaining to the history, mission, and spirit of the Bureau of Alcohol, Tobacco and Firearms to develop exhibits for the new National Laboratory and Headquarters building.

*Current Actions:* There are no changes to this information collection and it is being submitted for extension purposes only.

*Type of Review:* Extension.

*Affected Public:* Individuals or households.

*Estimated Number of Respondents:* 1,900.

*Estimated Time Per Respondent:* 10 minutes.

*Estimated Total Annual Burden Hours:* 317.

*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.

Dated: December 5, 2001.

**William T. Earle,**

*Assistant Director (Management) CFO.*

[FR Doc. 01–30903 Filed 12–13–01; 8:45 am]

**BILLING CODE 4810–31–P**

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## DEPARTMENT OF THE TREASURY

### Bureau of Alcohol, Tobacco and Firearms

### Proposed Collection; Comment Request

**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 Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Computer Security Incident Report.

**DATES:** Written comments should be received on or before February 12, 2002, to be assured of consideration.

**ADDRESSES:** Direct all written comments to Bureau of Alcohol, Tobacco and Firearms, Linda Barnes, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8930.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the form(s) and instructions should be directed to Katanya Dottin, Information Services Division, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–7870.

**SUPPLEMENTARY INFORMATION:**

*Title:* Computer Security Incident Report.

*OMB Number:* 1512–0567.

*Form Number:* ATF F 7500.1.

*Abstract:* ATF F 7500.1 is used to report computer security incidents that occur within the Bureau of Alcohol, Tobacco and Firearms and enables the Bureau to timely assess and resolve possible automated information systems vulnerabilities. ATF must make a report of any serious incident adversely effecting Bureau information technology equipment within 4 hours.

*Current Actions:* There are no changes to this information collection and it is being submitted for extension purposes only.

*Type of Review:* Extension.

*Affected Public:* Individuals or households, Federal Government.

*Estimated Number of Respondents:* 5,500.

*Estimated Time Per Respondent:* 30 minutes.

*Estimated Total Annual Burden Hours:* 2,750.

*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.

Dated: December 5, 2001.

**William T. Earle,**

*Assistant Director (Management) CFO.*

[FR Doc. 01–30904 Filed 12–13–01; 8:45 am]

**BILLING CODE 4810–31–P**

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## DEPARTMENT OF VETERANS AFFAIRS

### Notice of Insufficient VA Appropriations To Implement Requirements for Notification, Evaluation, and Reduction of Lead Based Paint Hazards in VA-Acquired Properties

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Notice.

**SUMMARY:** This document provides notice of a determination by the Department of Veterans Affairs (VA) that it lacks appropriations sufficient to cover the costs of implementing certain regulations concerning Lead Based Paint hazards in single family properties acquired by VA in the operation of the VA guaranteed home loan program.

**FOR FURTHER INFORMATION CONTACT:** William Lutes, Assistant Director for Property Management and Strategic Development, (263), Loan Guaranty Service, Veterans Benefits Administration, Department of Veterans

Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 273–7379.

**SUPPLEMENTARY INFORMATION:** This Notice sets forth a determination by VA that it lacks appropriations sufficient to cover the costs of implementing certain regulations for notification, evaluation, and reduction of Lead Based Paint hazards in VA-acquired properties.

On September 5, 1999, the Department of Housing and Urban Development (HUD) published in the **Federal Register** (64 FR 50140) a final rule to ensure that housing receiving Federal assistance and Federally-owned housing that is to be sold does not pose lead-based paint hazards to young children. These regulations were designed to implement the Residential Lead-Based Paint Hazard Reduction Act of 1992, which is Title X of the Housing and Community Development Act of 1992; 42 U.S.C. 4851 *et seq.* These HUD rules are codified at 24 CFR part 35.

Requirements for the disposition of residential property owned by a Federal agency other than HUD are contained in 24 CFR, part 35, subpart C. Such requirements do not apply if appropriations to the agency are insufficient to cover the costs of implementing such statute and regulations. 42 U.S.C. 4822(a)(3)(C) and 24 CFR part 35.115(b).

VA hereby gives notice that, pursuant to 24 CFR 35.115(b), it has made a determination that it does not have appropriations sufficient to cover the costs of implementing 42 U.S.C. 4822(a)(3)(A)–(B) and 24 CFR, part 35, subpart C.

Dated: December 6, 2001.

**Anthony J. Principi,**

*Secretary of Veterans Affairs.*

[FR Doc. 01–30936 Filed 12–13–01; 8:45 am]

BILLING CODE 8320–01–M

# Corrections

Federal Register

Vol. 66, No. 241

Friday, December 14, 2001

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### 26 CFR Part 1

**[REG–142499–01]**

**RIN 1545–BA24**

### Catch-Up Contributions for Individuals Age 50 and Over

*Correction*

In proposed rule document 01–26566 beginning on page 53555 in the issue of Tuesday, October 23, 2001, make the following correction:

**§ 1.414 (v)-1 [Corrected]**

On page 53562, in the second column, in §1.414(v)-1 (g)(1), in the fourth line, ''includable'' should read, ''includible''.

On the same page, in the same column, in §1.414(v)-1 (g)(2), in the sixth line, ''includable'' should read, ''includible''.

[FR Doc. C1–26566 Filed 12–13–01; 8:45 am]

BILLING CODE 1505–01–D

## DEPARTMENT OF VETERANS AFFAIRS

### 38 CFR Part 17

**RIN 2900–AK50**

### Copayments for Inpatient Hospital Care and Outpatient Medical Care

*Correction*

In rule document 01–30182 beginning on page 63446 in the issue of Thursday, December 6, 2001, make the following correction:

On page 63446, in the first column, in the **ACTION:** heading, in the first line, ''Interim and Final Rule'' should read ''Interim Final Rule''.

[FR Doc. C1–30182 Filed 12–13–01; 8:45 am]

BILLING CODE 1505–01–D

## GENERAL SERVICES ADMINISTRATION

### Record of Decision: Programmatic Development Plan and Phase 1 Implementation for the Suitland Federal Center (SFC) in Suitland, MD

*Correction*

In notice document 01–29128 beginning on page 58495 in the issue of Wednesday, November 21, 2001 make the following correction:

On page 58499, the table is corrected to read as set forth below:

| Impacted areas | Phase | Mitigation measure |
|---|---|---|
| * * * * * | ..... | |
| Transportation Systems ..... | . | |
| | Phase 2 ..... | • Undertake necessary roadway and signal improvements to ensure that intersections surrounding the SFC operate at acceptable LOS. |
| | ..... | • Prepare a TMP. |
| * * * * * | ..... | |

[FR Doc. C1–29128 Filed 12–13–01; 8:45 am]

BILLING CODE 1505–01–D

Federal Register

Friday,
December 14, 2001

# Part II

# The President

## Executive Order 13239—Designation of Afghanistan and the Airspace Above as a Combat Zone

Federal Register
Vol. 66, No. 241
Friday, December 14, 2001

# Presidential Documents

**Title 3—**

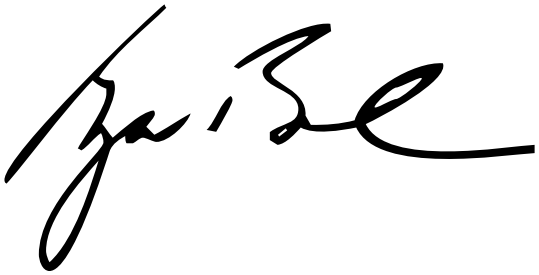
## The President

**Executive Order 13239 of December 12, 2001**

## Designation of Afghanistan and the Airspace Above as a Combat Zone

Pursuant to the authority vested in me as President by the Constitution and the laws of the United States of America, including section 112 of the Internal Revenue Code of 1986 (26 U.S.C. 112), I designate, for purposes of that section, Afghanistan, including the airspace above, as an area in which Armed Forces of the United States are and have been engaged in combat.

For purposes of this order, I designate September 19, 2001, as the date of the commencement of combatant activities in such zone.



THE WHITE HOUSE,
*December 12, 2001.*

[FR Doc. 01–31119
Filed 12–13–01; 11:38 am]
Billing code 3195–01–P

# Reader Aids

**Federal Register**

Vol. 66, No. 241

Friday, December 14, 2001

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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/plawcurr.html*.

The text of laws is not published in the **Federal Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at *http://www.access.gpo.gov/nara/nara005.html*. Some laws may not yet be available.

**S. 1459/P.L. 107–80**

To designate the Federal building and United States courthouse located at 550 West Fort Street in Boise, Idaho, as the "James A. McClure Federal Building and United States Courthouse". (Dec. 12, 2001; 115 Stat. 810)

**S. 1573/P.L. 107–81**

Afghan Women and Children Relief Act of 2001 (Dec. 12, 2001; 115 Stat. 811)

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## TABLE OF EFFECTIVE DATES AND TIME PERIODS—DECEMBER 2001

**Editorial Note:** Due to the closing of Federal government executive departments and agencies on Monday, December 24, 2001 (Executive Order 13238), the effective dates chart for December 2001 has been revised.

This table is used by the Office of the Federal Register to compute certain dates, such as effective dates and comment deadlines, which appear in agency documents. In computing these dates, the day after publication is counted as the first day.

When a date falls on a weekend or holiday, the next Federal business day is used. (See 1 CFR 18.17)

A new table will be published in the first issue of each month.

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